

board. Where the joint court is in more than one county, use the above rule.

This means, joint municipal court judges no longer have to file with the State Elections Board.

(over)



FROM THE DOT

August 1 Effective Date for Key Portions of New OWS/OAR Law

Suspension Versus Revocation.

Under the law going into effect August 1, persons driving while suspended will be guilty of a civil forfeiture. Persons driving while revoked may be subject to criminal penalties. After May 1, 2002, all persons driving while revoked will face criminal penalties.

OPERATING WHILE SUSPENDED 343.44(1)(a), Stats.

Section 343.44(1)(a), the **Operating While Suspended** paragraph of the new law, prohibits:

1. Driving while suspended, OR
2. Driving in violation of a restriction on an occupational license issued to a suspended driver.

Scienter is removed as an element in OWS cases. All OWS offenses result in a straightforward forfeiture of not less than \$50 nor more than \$200.

In addition, 1. On 1st, 2nd and 3rd offense OWS in a 5 year period, courts have the option of **suspending** the driver's operating privilege for additional time. 2. On 4th offense, the court **must revoke** the driver's operating privilege for 6 months. A shorter revocation may be ordered **if** the court places the reasons for ordering a shorter period on the record. If the court forgets to enter an order, DOT is required to impose the 6 month revocation by default.

OPERATING AFTER REVOCATION 343.44(10)(b), Stats.

Section 343.44(1)(b), the **Operating After Revocation** paragraph of the new law, prohibits:

1. Driving while revoked, OR
2. Driving in violation of a restriction on an occupational license issued to a revoked driver.

Because OARs will eventually all be criminal offenses, scienter remains as an element of the offense.

The general scheme of 1997 Wis. Act 84 was to make OWS offenses all civil forfeitures and OAR offenses all criminal offenses. However, until May 1, 2002, 1st offense OAR is a civil offense with a maximum forfeiture of \$600. Second and subsequent offense OAR (and 1st offense after 5/1/2002), are criminal offenses.

Suspensions and Revocations Last Until Reinstatement

New s. 343.44(1g) provides that suspensions or revocations remain in effect until a person reinstates his or her operating privilege. Thus, officers can rely on the driver record status line to know whether to issue an OWS or OAR citation. The analysis under the new law is straightforward:

1. If the driver is suspended, the citation will be for operating while suspended.
2. If the driver is revoked with no prior OAR convictions OAR (OWS convictions don't count) in the preceding 5 years, the citation will be a civil citation for 1st offense OAR.
3. If the driver is revoked and has one or more prior OAR convictions on his record within the preceding 5 year period, a criminal complaint will be needed.

For questions, contact the **Bureau of Driver Services** directly at (608) 267-1854, or e-mail at cnr.dmv@dot.state.wi.us
