



2009 ASSEMBLY BILL 76

February 20, 2009 – Introduced by Representatives VRUWINK, RICHARDS, SHILLING, ROYS, PASCH, SCHNEIDER, SINICKI, SMITH, A. WILLIAMS, BERCEAU, STONE, KERKMAN, SEIDEL and ZEPNICK, cosponsored by Senators KREITLOW, HANSEN, ERPENBACH, LASSA, LEHMAN, COGGS and VINEHOUT. Referred to Committee on Health and Healthcare Reform.

1 **AN ACT to amend** 343.17 (3) (b); and **to create** 343.177 of the statutes; **relating**
2 **to:** requiring the Department of Transportation to establish rules allowing
3 living will and health care power of attorney information to be included on
4 driver’s licenses, providing an exemption from emergency rule procedures, and
5 granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, any person at least 18 years of age and of sound mind may voluntarily execute a declaration to physicians (commonly known as a “living will”) authorizing the withholding or withdrawal of life-sustaining procedures or of feeding tubes when the person is in a terminal condition or is in a persistent vegetative state. Also, under current law, any person at least 18 years of age and of sound mind may voluntarily execute a power of attorney for health care, under which, if the person is found to be incapacitated, the person’s designated agent may make health care decisions on behalf of the person. The Department of Health Services (DHS) must prepare and provide copies of living will and health care power of attorney forms, in quantities, to health care professionals, hospitals, nursing homes, county clerks, and local bar associations, and individually to private persons.

This bill requires the Department of Transportation (DOT) to establish by rule a procedure that allows any person who has been issued a regular operator’s license and who has executed a living will or health care power of attorney to write, in a space provided on the back of the operator’s license, the identity of an individual who has

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custody of the person’s living will or designated as the person’s agent under a health care power of attorney.

The bill also requires DOT to make available on its Internet Web site the living will and health care power of attorney forms prepared by DHS.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 343.17 (3) (b) of the statutes is amended to read:

2 343.17 **(3)** (b) The reverse side of the license shall contain an explanation of any
3 restriction codes or endorsement abbreviations used on the front of the license, in
4 sufficient detail to identify the nature of the restrictions or endorsements to a law
5 enforcement officer of this state or another jurisdiction. Except for a commercial
6 driver license, a part of the reverse side of each license shall be printed to serve as
7 a record of gift under s. 157.06 (2) (t) or a record of refusal under s. 157.06 (2) (u).
8 A part of the reverse side of each license shall be printed to allow a licensee to write
9 on the license document information authorized by rule under s. 343.177 (1).

10 **SECTION 2.** 343.177 of the statutes is created to read:

11 **343.177 Living will and health care power of attorney information. (1)**

12 The department shall, by rule, establish a procedure that allows any person who has
13 been issued a regular license, as described in s. 343.03 (3) (a), and who has executed
14 a declaration to physicians under ch. 154 or a power of attorney for health care under
15 ch. 155 to write, in a space provided on the back of the license document, the identity
16 of an individual having custody of the person’s declaration to physicians or
17 designated as the person’s agent under a power of attorney for health care or, as
18 applicable, of both such individuals. The rules shall require the licensee, if the
19 licensee revokes a declaration to physicians under ch. 154 or a power of attorney for

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1 health care under ch. 155, or changes the individual previously identified on the
2 license document as having custody of the declaration to physicians or designated as
3 the licensee's agent under a power of attorney for health care, to promptly cross out
4 any inaccurate or outdated information written by the licensee on the license
5 document under authority of this subsection.

6 (2) The department shall make available, at no charge, on a portion of its
7 Internet Web site related to driver licensing the declaration to physicians form
8 specified in s. 154.03 (2) (intro.) and the power of attorney for health care form
9 specified in s. 155.30 (3) (intro.). If these forms are available on the Internet Web site
10 of the department of health services, the department of transportation may, in lieu
11 of posting the forms on its own Web site, provide a link to the forms on the Web site
12 of the department of health services.

SECTION 3. Nonstatutory provisions.

13
14 (1) The department of transportation shall submit in proposed form the rules
15 required under section 343.177 (1) of the statutes, as created by this act, to the
16 legislative council staff under section 227.15 (1) of the statutes no later than the first
17 day of the 6th month beginning after the effective date of this subsection.

18 (2) Using the emergency rules procedure under section 227.24 of the statutes,
19 the department of transportation shall promulgate the rules required under section
20 343.177 (1) of the statutes, as created by this act, for the period before the effective
21 date of the rules submitted under subsection (1). The department shall promulgate
22 these emergency rules no later than the first day of the 6th month beginning after
23 the effective date of this subsection. Notwithstanding section 227.24 (1) (c) and (2)
24 of the statutes, these emergency rules may remain in effect until July 1, 2011, or the
25 date on which permanent rules take effect, whichever is sooner. Notwithstanding

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1 section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide
2 evidence that promulgating a rule under this subsection as an emergency rule is
3 necessary for the preservation of the public peace, health, safety, or welfare and is
4 not required to provide a finding of emergency for a rule promulgated under this
5 subsection.

6 **SECTION 4. Initial applicability.**

7 (1) This act first applies to operator's licenses issued on the effective date of this
8 subsection.

9 **SECTION 5. Effective dates.** This act takes effect on the first day of the 6th
10 month beginning after publication, except as follows:

11 (1) SECTION 3 (1) and (2) of this act takes effect on the day after publication.

12 (END)