



## 1997 SENATE BILL 279

August 26, 1997 - Introduced by Senators DRZEWIECKI, CLAUSING, HUELSMAN, RISSER, COWLES, ROESSLER, A. LASEE, FARROW and DARLING, cosponsored by Representatives OLSEN, RYBA, WASSERMAN, DOBYNS, HAHN, ZIEGELBAUER, HARSDDORF, WALKER, OTTE, KELSO, GREEN, GARD, GUNDERSON, GROTHMAN, ROBSON, HUEBSCH, AINSWORTH, LAZICH, HANSON, STASKUNAS, VRAKAS, LADWIG, OTT, HUTCHISON, PLOUFF, POWERS and PLALE. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

1     **AN ACT** *to repeal* 346.65 (2) (d) and (e); and *to amend* 346.65 (2) (c), 346.65 (2)  
2           (f), 346.65 (2c), 346.65 (2e) and 346.65 (7) of the statutes; **relating to:** driving  
3           while under the influence of an intoxicant and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the penalties that a person is subject to for the offense of driving while under the influence of an intoxicant (OWI) depend on the number of OWI-related convictions, suspensions or revocations that were imposed on the person during the previous 5-year or 10-year period. Currently, if a person is convicted of an OWI-related offense and he or she has 2 prior OWI-related convictions, suspensions or revocations in the past 10 years, the person is subject to a fine of not less than \$600 nor more than \$2,000 and imprisonment in a county jail for not less than 30 days nor more than one year. If the OWI-related offense is the person's 4th OWI-related conviction, suspension or revocation in the past 10 years, the only change in the penalties is an increase in the minimum jail sentence to 60 days. If the OWI-related offense is the person's 5th or greater OWI-related conviction, suspension or revocation in the past 10 years, the only change in the penalties is an increase in the minimum jail sentence to 6 months.

This bill consolidates the separate penalties for persons with 3, 4, 5 or more OWI-related convictions, suspensions or revocations in the past 10 years into one penalty provision for persons with 3 or more OWI-related convictions, suspensions or revocations in the past 10 years. Under the bill, the penalty for persons with 3 or more OWI-related convictions, suspensions or revocations in the past 10 years is a

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fine of not more than \$10,000 and imprisonment of not more than 2 years, the same penalty as for a Class E felony.

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

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

1           **SECTION 1.** 346.65 (2) (c) of the statutes is amended to read:

2           346.65 (2) (c) Except as provided in par. (f), shall be fined not less than \$600  
3           nor more than \$2,000 \$10,000 and imprisoned for not less than ~~30 days~~ nor more than  
4           ~~one year in the county jail~~ 2 years if the total number of suspensions, revocations and  
5           convictions counted under s. 343.307 (1) equals 3 or more in a 10-year period, except  
6           that suspensions, revocations or convictions arising out of the same incident or  
7           occurrence shall be counted as one.

8           **SECTION 2.** 346.65 (2) (d) and (e) of the statutes are repealed.

9           **SECTION 3.** 346.65 (2) (f) of the statutes is amended to read:

10          346.65 (2) (f) If there was a minor passenger under 16 years of age in the motor  
11          vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (1),  
12          the applicable minimum and maximum forfeitures, fines or imprisonment under par.  
13          (a), (b), or (c), ~~(d) or (e)~~ for the conviction are doubled. ~~An offense under s. 346.63 (1)~~  
14          ~~that subjects a person to a penalty under par. (c), (d) or (e) when there is a minor~~  
15          ~~passenger under 16 years of age in the motor vehicle is a felony and the place of~~  
16          ~~imprisonment shall be determined under s. 973.02.~~

17          **SECTION 4.** 346.65 (2c) of the statutes is amended to read:

18          346.65 (2c) In sub. (2) (b) ~~to (e)~~ and (c), the 5-year or 10-year period shall be  
19          measured from the dates of the refusals or violations that resulted in the revocation  
20          or convictions. If a person has a suspension, revocation or conviction for any offense

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1 under a local ordinance or a state statute of another state that would be counted  
2 under s. 343.307 (1), that suspension, revocation or conviction shall count as a prior  
3 suspension, revocation or conviction under sub. (2) (b) ~~to (e)~~ and (c).

4 **SECTION 5.** 346.65 (2e) of the statutes is amended to read:

5 346.65 **(2e)** If the court determines that a person does not have the ability to  
6 pay the costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), ~~(d)~~, ~~(e)~~ or (f),  
7 the court may reduce the costs, fine and forfeiture imposed and order the person to  
8 pay, toward the cost of the assessment and driver safety plan imposed under s. 343.30  
9 (1q) (c), the difference between the amount of the reduced costs and fine or forfeiture  
10 and the amount of costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), ~~(d)~~,  
11 ~~(e)~~ or (f).

12 **SECTION 6.** 346.65 (7) of the statutes is amended to read:

13 346.65 **(7)** A person convicted under sub. (2) (b), or (c), ~~(d)~~ ~~or (e)~~ or (2j) (b) or (c)  
14 shall be required to remain in the county jail for not less than a 48-consecutive-hour  
15 period.

16 **SECTION 7. Initial applicability.**

17 (1) This act first applies to offenses committed on the effective date of this  
18 subsection, but does not preclude the counting of other violations as prior  
19 convictions, suspensions or revocations for purposes of administrative action by the  
20 department of transportation or sentencing by a court.

21 (END)