



2005 SENATE BILL 530

January 27, 2006 - Introduced by Senator ROESSLER, cosponsored by Representatives KAUFERT, OWENS, ALBERS, BERCEAU, GUNDERSON, JESKEWITZ, KREIBICH and OTT. Referred to Committee on Judiciary, Corrections and Privacy.

1 **AN ACT to amend** 346.65 (2) (b), 346.65 (2) (c), 346.65 (2j) (b), 346.65 (2j) (c),
2 346.65 (3m) and 973.09 (1) (d) 1.; and **to create** 346.65 (2) (bm), 346.65 (2) (cm),
3 346.65 (2j) (bm), 346.65 (2j) (cm) and 346.65 (3r) of the statutes; **relating to:**
4 drunken driving and creating a penalty.

Analysis by the Legislative Reference Bureau

This bill creates a pilot program for sentencing persons in Winnebago county who are convicted of certain second or third offenses involving operating a motor vehicle with a prohibited alcohol concentration, or under the influence of an intoxicant, a controlled substance or its analog, or any combination thereof (OWI).

Under the bill, the minimum period of imprisonment for an OWI offense in Winnebago county is reduced if the violator successfully completes a period of probation that includes alcohol and other drug treatment. A person may opt to complete a treatment program and receive a reduced period of imprisonment only once.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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For further information see the *state and local* 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.** 346.65 (2) (b) of the statutes is amended to read:

2 346.65 (2) (b) Except as provided in ~~par.~~ pars. (bm) and (f), shall be fined not
3 less than \$350 nor more than \$1,100 and imprisoned for not less than 5 days nor more
4 than 6 months if the number of convictions under ss. 940.09 (1) and 940.25 in the
5 person's lifetime, plus the total number of suspensions, revocations, and other
6 convictions counted under s. 343.307 (1) within a 10-year period, equals 2, except
7 that suspensions, revocations, or convictions arising out of the same incident or
8 occurrence shall be counted as one.

9 **SECTION 2.** 346.65 (2) (bm) of the statutes is created to read:

10 346.65 (2) (bm) In Winnebago County, if the number of convictions under ss.
11 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
12 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
13 period, equals 2, except that suspensions, revocations, or convictions arising out of
14 the same incident or occurrence shall be counted as one, the fine shall be the same
15 as under par. (b), but the period of imprisonment shall be not less than 5 days, except
16 that if the person successfully completes a period of probation that includes alcohol
17 and other drug treatment, the period of imprisonment shall be not less than 2 days.
18 A person may be sentenced under this paragraph or under par. (cm) or sub. (2j) (bm)
19 or (cm) or (3r) once in his or her lifetime.

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

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1 346.65 (2) (c) Except as provided in pars. (cm), (f), and (g), shall be fined not
2 less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor
3 more than one year in the county jail if the number of convictions under ss. 940.09
4 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
5 revocations, and other convictions counted under s. 343.307 (1), equals 3, except that
6 suspensions, revocations, or convictions arising out of the same incident or
7 occurrence shall be counted as one.

8 **SECTION 4.** 346.65 (2) (cm) of the statutes is created to read:

9 346.65 (2) (cm) In Winnebago County, if the number of convictions under ss.
10 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
11 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
12 period, equals 3, except that suspensions, revocations, or convictions arising out of
13 the same incident or occurrence shall be counted as one, the fine shall be the same
14 as under par. (c), but the period of imprisonment shall be not less than 30 days, except
15 that if the person successfully completes a period of probation that includes alcohol
16 and other drug treatment, the period of imprisonment shall be not less than 7 days.
17 A person may be sentenced under this paragraph or under par. (bm) or sub. (2j) (bm)
18 or (cm) or (3r) once in his or her lifetime.

19 **SECTION 5.** 346.65 (2j) (b) of the statutes is amended to read:

20 346.65 (2j) (b) Except as provided in ~~par.~~ pars. (bm) and (d), shall be fined not
21 less than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor more
22 than 6 months if the number of prior convictions under ss. 940.09 (1) and 940.25 in
23 the person's lifetime, plus the total number of other convictions, suspension, and
24 revocations counted under s. 343.307 (2) within a 10-year period, equals 2.

25 **SECTION 6.** 346.65 (2j) (bm) of the statutes is created to read:

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1 346.65 (2j) (bm) In Winnebago County, if the number of convictions under ss.
2 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
3 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
4 period, equals 2, except that suspensions, revocations, or convictions arising out of
5 the same incident or occurrence shall be counted as one, the fine shall be the same
6 as under par. (b), but the period of imprisonment shall be not less than 5 days, except
7 that if the person successfully completes a period of probation that includes alcohol
8 and other drug treatment, the period of imprisonment shall be not less than 2 days.
9 A person may be sentenced under this paragraph or under par. (cm) or sub. (2) (bm)
10 or (cm) or (3r) once in his or her lifetime.

11 **SECTION 7.** 346.65 (2j) (c) of the statutes is amended to read:

12 346.65 (2j) (c) Except as provided in ~~par. (cm)~~ pars. (cm) and (d), shall be fined not
13 less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor
14 more than one year in the county jail if the number of convictions under ss. 940.09
15 (1) and 940.25 in the person's lifetime, plus the total number of other convictions,
16 suspensions, and revocations, counted under s. 343.307 (2), equals 3 or more.

17 **SECTION 8.** 346.65 (2j) (cm) of the statutes is created to read:

18 346.65 (2j) (cm) In Winnebago County, if the number of convictions under ss.
19 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
20 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
21 period, equals 3 or more, except that suspensions, revocations, or convictions arising
22 out of the same incident or occurrence shall be counted as one, the fine shall be the
23 same as under par. (c), but the period of imprisonment shall be not less than 30 days,
24 except that if the person successfully completes a period of probation that includes
25 alcohol and other drug treatment, the period of imprisonment shall be not less than

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1 7 days. A person may be sentenced under this paragraph or under par. (bm) or sub.
2 (2) (bm) or (cm) or (3r) once in his or her lifetime.

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

4 346.65 **(3m)** ~~Any~~ Except as provided in sub. (3r), any person violating s. 346.63
5 (2) or (6) shall be fined not less than \$300 nor more than \$2,000 and may be
6 imprisoned for not less than 30 days nor more than one year in the county jail. If
7 there was a minor passenger under 16 years of age in the motor vehicle at the time
8 of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense
9 is a felony, the applicable minimum and maximum fines or periods of imprisonment
10 for the conviction are doubled and the place of imprisonment shall be determined
11 under s. 973.02.

12 **SECTION 10.** 346.65 (3r) of the statutes is created to read:

13 346.65 **(3r)** In Winnebago County, any person violating s. 346.63 (2) or (6) shall
14 be fined the same as under sub. (3m), but the period of imprisonment shall be not
15 less than 60 days, except that if the person successfully completes a period of
16 probation that includes alcohol and other drug treatment, the period of
17 imprisonment shall be not less than 15 days. If there was a minor passenger under
18 16 years of age in the motor vehicle at the time of the violation that gave rise to the
19 conviction under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum
20 and maximum fines or periods of imprisonment for the conviction are doubled and
21 the place of imprisonment shall be determined under s. 973.02. A person may be
22 sentenced under this subsection or under sub. (2) (bm) or (cm) or (2j) (bm) or (cm) once
23 in his or her lifetime.

24 **SECTION 11.** 973.09 (1) (d) 1. of the statutes is amended to read:

