



2013 SENATE BILL 57

March 4, 2013 - Introduced by Senators DARLING, KEDZIE and CARPENTER, cosponsored by Representatives J. OTT, STONE, BIES, JACQUE, KERKMAN, KOOYENGA, T. LARSON, LEMAHIEU, A. OTT, SPIROS, STRACHOTA, STROEBEL and THIESFELDT. Referred to Committee on Transportation, Public Safety, and Veterans and Military Affairs.

1 **AN ACT** *to renumber and amend* 66.0114 (1) (b); *to amend* 800.035 (5) (a); and
2 *to create* 66.0114 (1) (b) 2., 345.26 (1) (b) 3. and 967.055 (2m) of the statutes;
3 **relating to:** requiring persons accused of violating traffic laws and ordinances
4 related to driving while intoxicated to appear in person in court.

Analysis by the Legislative Reference Bureau

Under current law, generally, a first violation of operating a vehicle while under the influence of an intoxicant, with a detectable amount of a restricted controlled substance in one's blood, or with a prohibited alcohol concentration (OWI-related violation), is a traffic violation punishable by a civil forfeiture. Current law allows local units of government to enact ordinances in conformity with the state traffic law that punishes most first OWI-related offenses as a civil violation.

Under current law, a person who receives a citation for an OWI-related civil traffic violation or who receives a citation for an ordinance in conformity with the OWI-related traffic violation may opt to appear in court to plead not guilty to the violation or may opt to pay the forfeiture associated with the violation and avoid an appearance in court. Generally, a person who pays the forfeiture associated with the violation is considered to have pled guilty or no contest to the charge.

Under this bill, a person who receives a citation for an OWI-related civil traffic violation or who receives a citation for an ordinance in conformity therewith is required to appear in court to plead guilty, no contest, or not guilty to the charge.

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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.** 66.0114 (1) (b) of the statutes is renumbered 66.0114 (1) (b) 1. and
2 amended to read:

3 66.0114 (1) (b) 1. Local ordinances, except as provided in this paragraph or ss.
4 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any
5 or all violations under those ordinances, may designate the manner in which the
6 stipulation is to be made, and may fix the penalty to be paid. ~~When~~ Except as
7 provided in subd. 2., when a person charged with a violation for which stipulation
8 of guilt or no contest is authorized makes a timely stipulation and pays the required
9 penalty, plus costs, fees, and surcharges imposed under ch. 814, to the designated
10 official, the person need not appear in court and no witness fees or other additional
11 costs, fees, or surcharges may be imposed under ch. 814 unless the local ordinance
12 so provides. ~~A court appearance is required for a violation of a local ordinance in~~
13 ~~conformity with s. 346.63 (1).~~

14 **SECTION 2.** 66.0114 (1) (b) 2. of the statutes is created to read:

15 66.0114 (1) (b) 2. A person who is charged with a violation of a local ordinance
16 in conformity with s. 346.63 (1) or (5) shall appear, in person, in court to plead guilty,
17 no contest, or not guilty.

18 **SECTION 3.** 345.26 (1) (b) 3. of the statutes is created to read:

19 345.26 (1) (b) 3. Subdivision 1. does not apply to a person who is charged with
20 a violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith and who

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1 is required to appear in person pursuant to s. 66.0114 (1) (b) 2., 800.035 (5) (a), or
2 967.055 (2m).

3 **SECTION 4.** 800.035 (5) (a) of the statutes is amended to read:

4 800.035 (5) (a) If a defendant is charged with a violation of an ordinance in
5 conformity with s. 346.63 (1) or (5), the municipality ~~may~~ shall, by ordinance, require
6 the defendant to appear in person before the court.

7 **SECTION 5.** 967.055 (2m) of the statutes is created to read:

8 967.055 (2m) PERSONAL APPEARANCE IN COURT. A person who is charged with a
9 civil violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith shall
10 appear in person in court to enter a plea of guilty, no contest, or not guilty to the
11 charge. In this subsection, "court" may mean a circuit court or a municipal court.

12 **SECTION 6. Initial applicability.**

13 (1) This act first applies to violations that occur on the effective date of this
14 subsection.

15 (END)