

SENATE BILL 116 (LRB -1683)

An Act to amend 48.685 (5) (bm) 4., 346.65 (2) (am) 5., 346.65 (2) (f), 346.65 (2c) and 346.65 (7); and to create 346.65 (2) (am) 6. and 346.65 (2) (am) 7. of the statutes; relating to: repeat drunken driving offenders and providing a penalty. (FE)

2007

03-27. S. Introduced by Senators **Sullivan, Roessler, Leibham, Breske, Darling, Grothman, Coggs and Kedzie**; cosponsored by Representatives **Staskunas, Ziegelbauer, Kerkman, Hubler, Black, Jeskewitz, Hahn, Benedict, Gundrum, Hebl, Mason, Berceau, Gunderson, Wasserman, Cullen, Molepske, Fields, Lothian and Hraychuck.**

03-27. S. Read first time and referred to committee on Judiciary and Corrections 149

04-06. S. Fiscal estimate received.

04-06. S. Fiscal estimate received.

04-16. S. Fiscal estimate received.

07-11. S. Public hearing held.

09-11. S. Senate amendment 1 offered by Senator Sullivan (**LRB a0660**) 327

09-11. S. Senate amendment 2 offered by Senator Sullivan (**LRB a0659**) 327

10-17. S. Senate amendment 3 offered by Senator Sullivan (**LRB a0733**) 359

11-06. S. Rereferred to committee on Judiciary, Corrections, and Housing, by committee on Senate Organization, pursuant to Senate Rule 20 (1)(c) 410

12-04. S. Executive action taken.

12-07. S. Report adoption of Senate Amendment 1 recommended by committee on Judiciary, Corrections, and Housing, Ayes 5, Noes 0 455

12-07. S. Report adoption of Senate Amendment 3 recommended by committee on Judiciary, Corrections, and Housing, Ayes 5, Noes 0 455

12-07. S. Report passage as amended recommended by committee on Judiciary, Corrections, and Housing, Ayes 5, Noes 0 455

12-07. S. Available for scheduling.

2008

01-09. S. Placed on calendar 1-15-2008 by committee on Senate Organization.

01-15. S. Read a second time 504

01-15. S. Senate amendment 1 **adopted** 504

01-15. S. Senate amendment 3 **adopted** 504

01-15. S. Ordered to a third reading 504

01-15. S. Rules suspended 504

01-15. S. Read a third time and **passed** 504

01-15. S. Senator Kanavas added as a coauthor 503

01-15. S. Senator Carpenter added as a coauthor 503

01-15. S. Ordered immediately messaged 508

01-17. A. Received from Senate 445

01-17. A. Read first time and referred to committee on Rules 446

01-23. A. Rules suspended to withdraw from committee on Rules and take up.

01-23. A. Read a second time.

01-23. A. Ordered to a third reading.

01-23. A. Rules suspended.

01-23. A. Read a third time and **concurred in**.

01-23. A. Ordered immediately messaged.

01-24. S. Received from Assembly concurred in.

**2007
ENROLLED BILL**

07en SB-1163

ADOPTED DOCUMENTS:

Orig **Engr** **SubAmdt**

07 -1683 / 11

Amendments to above (if none, write "NONE"): a 0660/1 - SA1 to SB116
a 0733/1 - SA3 to SB116

Corrections - show date (if none, write "NONE"): CCC to SA-1 to SB116
in enrolling - 1/24/08

Topic REPEAT DRUNKEN DRIVING OFFENDERS

1/24/08 cmH
Date **Enrolling Drafter**

ELECTRONIC PROCEDURE:

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2007 SENATE BILL 116

March 27, 2007 - Introduced by Senators SULLIVAN, ROESSLER, LEIBHAM, BRESKE, DARLING, GROTHMAN, COGGS and KEDZIE, cosponsored by Representatives STASKUNAS, ZIEGELBAUER, KERKMAN, HUBLER, BLACK, JESKEWITZ, HAHN, BENEDICT, GUNDRUM, HEBL, MASON, BERCEAU, GUNDERSON, WASSERMAN, CULLEN, MOLEPSKE, FIELDS, LOTHIAN and HRAYCHUCK. Referred to Committee on Judiciary and Corrections.

1 **AN ACT to amend** 48.685 (5) (bm) 4., 346.65 (2) (am) 5., 346.65 (2) (f), 346.65 (2c)
2 and 346.65 (7); and **to create** 346.65 (2) (am) 6. and 346.65 (2) (am) 7. of the
3 statutes; **relating to:** repeat drunken driving offenders and providing a
4 penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who commits his or her fifth or subsequent offense related to drunken driving or driving under the influence of an intoxicant or other drug is guilty of a Class H felony and may be fined not less than \$600 nor more than \$10,000 and imprisoned for not less than six months nor more than six years, or both.

Under this bill, the same penalty applies for a person who commits his or her fifth or sixth offense related to drunken driving or driving under the influence of an intoxicant or other drug. A person who commits his or her seventh, eighth, or ninth offense related to drunken driving or driving under the influence of an intoxicant or other drug is guilty of a Class G felony and may be fined not more than \$25,000 and imprisoned for not more than ten years or both. A person who commits his or her tenth or subsequent offense related to drunken driving or driving under the influence of an intoxicant or other drug is guilty of a Class F felony and may be fined not more than \$25,000 and imprisoned for not more than 12 years and six months or both.

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

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report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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:

INS
SA-3/1
SECTION 1. 48.685 (5) (bm) 4. of the statutes is amended to read:

1m. ← SA-3
2 48.685 (5) (bm) 4. A violation of s. 940.19 (3), 1999 stats., or of s. 125.075 (1),
3 125.085 (3) (a) 2., 125.105 (2) (b), 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (4), (5),
4 or (6), 940.20, 940.203, 940.205, 940.207, or 940.25, a violation of s. 346.63 (1), (2),
5 (5), or (6) that is a felony under s. 346.65 (2) (am) 5., 6., or 7., or (f), (2j) (d), or (3m),
6 or an offense under ch. 961 that is a felony, if committed not more than 5 years before
7 the date of the investigation under sub. (2) (am).

SECTION 2. 346.65 (2) (am) 5. of the statutes is amended to read:

8 346.65 (2) (am) 5. Except as provided in pars. (f) and (g), is guilty of a Class H
9 felony and shall be fined not less than \$600 and imprisoned for not less than 6 months
10 if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
11 plus the total number of suspensions, revocations and other convictions counted
12 under s. 343.307 (1), equals 5 or ~~more~~ 6, except that suspensions, revocations or
13 convictions arising out of the same incident or occurrence shall be counted as one.
14

SECTION 3. 346.65 (2) (am) 6. of the statutes is created to read:

15 346.65 (2) (am) 6. Except as provided in par. (f), is guilty of a Class G felony if
16 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
17 plus the total number of suspensions, revocations, and other convictions counted
18 under s. 343.307 (1), equals 7, 8, or 9, except that suspensions, revocations, or
19 convictions arising out of the same incident or occurrence shall be counted as one.
20

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1 **SECTION 4.** 346.65 (2) (am) 7. of the statutes is created to read:

2 346.65 (2) (am) 7. Except as provided in par. (f), is guilty of a Class F felony if
3 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
4 plus the total number of suspensions, revocations, and other convictions counted
5 under s. 343.307 (1), equals 10 or more except that suspensions, revocations, or
6 convictions arising out of the same incident or occurrence shall be counted as one.

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

8 346.65 (2) (f) If there was a minor passenger under 16 years of age in the motor
9 vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (1),
10 the applicable minimum and maximum forfeitures, fines, or imprisonment under
11 par. (am) for the conviction are doubled. An offense under s. 346.63 (1) that subjects
12 a person to a penalty under par. (am) 3., 4., ~~or 5., 6., or 7.~~ when there is a minor
13 passenger under 16 years of age in the motor vehicle is a felony and the place of
14 imprisonment shall be determined under s. 973.02.

15 **SECTION 6.** 346.65 (2c) of the statutes is amended to read:

16 346.65 (2c) In sub. (2) (am) 2., 3., 4., ~~and 5., 6., and 7.~~, the time period shall be
17 measured from the dates of the refusals or violations that resulted in the revocation
18 or convictions. If a person has a suspension, revocation, or conviction for any offense
19 under a local ordinance or a state statute of another state that would be counted
20 under s. 343.307 (1), that suspension, revocation, or conviction shall count as a prior
21 suspension, revocation, or conviction under sub. (2) (am) 2., 3., 4., ~~and 5., 6., and 7.~~

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

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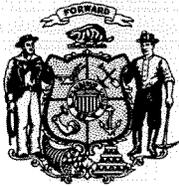
SECTION 7

1 346.65 (7) A person convicted under sub. (2) (am) 2., 3., 4., ~~or 5., 6., or 7.~~ or (2j)
2 (am) 2. or 3. shall be required to remain in the county jail for not less than a
3 48-consecutive-hour period.

(END)

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SA-1



State of Wisconsin
2007-2008 LEGISLATURE

CORRECTIONS IN:

**SENATE AMENDMENT 1,
TO 2007 SENATE BILL 116**

Prepared by the Legislative Reference Bureau
(January 25, 2008)

In enrolling, the following correction was made:

1. Page 1, line 3: delete "7m" and substitute "7y".

(END)

**SENATE AMENDMENT 1,
TO 2007 SENATE BILL 116**

September 11, 2007 - Offered by Senator SULLIVAN.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 4, line 3: after that line insert:

3 **"SECTION 7m. Initial applicability.**

4 (1) This act first applies to violations committed or refusals occurring on the
5 effective date of this subsection, but does not preclude the counting of other
6 convictions, suspensions, or revocations as prior convictions, suspensions, or
7 revocations for purposes of administrative action by the department of
8 transportation, sentencing by a court, or revocation or suspension of motor vehicle
9 operating privileges."

10

(END)

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SA-1

**SENATE AMENDMENT 3,
TO 2007 SENATE BILL 116**

October 17, 2007 - Offered by Senator SULLIVAN.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 1: before that line insert:

3 **"SECTION 1g.** 20.435 (6) (hx) of the statutes is amended to read:

4 20.435 (6) (hx) *Services related to drivers, receipts.* The amounts in the
5 schedule for services related to drivers. All moneys received by the secretary of
6 administration from the driver improvement surcharge on court fines and
7 forfeitures authorized under s. 346.655 and all moneys transferred from the
8 appropriation account under s. 20.395 (5) (di) shall be credited to this appropriation.

9 The secretary of administration shall annually transfer to the appropriation account
10 under s. 20.395 (5) (ek) ~~3.76%~~ 9.75 percent of all moneys credited to this
11 appropriation from the driver improvement surcharge. Any unencumbered moneys
12 in this appropriation account may be transferred to sub. (7) (hy) and ss. 20.255 (1)
13 (hm), 20.285 (1) (ia), 20.395 (5) (ci) and (di), and 20.455 (5) (h) by the secretary of

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administration, after consultation with the secretaries of health and family services and transportation, the superintendent of public instruction, the attorney general, and the president of the University of Wisconsin System.

2. Page 2, line 1: substitute "SECTION 1m" for "SECTION 1".

3. Page 4, line 3: after that line insert:

"SECTION 7e. 346.655 (1) of the statutes is amended to read:

346.655 (1) If a court imposes a fine or a forfeiture for a violation of s. 346.63 (1) or (5), except for a first violation of s. 346.63 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall impose a driver improvement surcharge under ch. 814 in an amount of ~~\$355~~ \$365 in addition to the fine or forfeiture, plus costs, fees, and other surcharges imposed under ch. 814.

1WS
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SECTION 7m. 346.655 (2) (a) of the statutes is amended to read:

346.655 (2) (a) Except as provided in par. (b), the clerk of court shall collect and transmit the amount under sub. (1) to the county treasurer as provided in s. 59.40 (2) (m). The county treasurer shall then make payment of ~~38.5%~~ 40 percent of the amount to the secretary of administration as provided in s. 59.25 (3) (f) 2.

SECTION 7s. 346.655 (2) (b) of the statutes is amended to read:

346.655 (2) (b) If the forfeiture is imposed by a municipal court, the court shall transmit the amount to the treasurer of the county, city, town, or village, and that treasurer shall make payment of ~~38.5%~~ 40 percent of the amount to the secretary of administration as provided in s. 66.0114 (1) (bm). The treasurer of the city, town, or



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1 village shall transmit the remaining ~~61.5%~~ 60 percent of the amount to the treasurer
2 of the county.”

3 (END)

2007
CCG to SA 1 to SB 116
(January 25, 2008)

~~to enrolling~~

← In enrolling, the following correction was made: Ⓟ

Page 1, line 3: delete "7m" and substitute
"7y".

(End)

LRB 0660/1ccc-1
KJF



**SENATE AMENDMENT 1,
TO 2007 SENATE BILL 116**

September 11, 2007 - Offered by Senator SULLIVAN.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 4, line 3: after that line insert:

3 **"SECTION 7a. Initial applicability.**

4 (1) This act first applies to violations committed or refusals occurring on the
5 effective date of this subsection, but does not preclude the counting of other
6 convictions, suspensions, or revocations as prior convictions, suspensions, or
7 revocations for purposes of administrative action by the department of
8 transportation, sentencing by a court, or revocation or suspension of motor vehicle
9 operating privileges."

10

(END)

CCC-1

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SA-1



State of Wisconsin
2007-2008 LEGISLATURE

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(January 25, 2008)

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