

**2011 DRAFTING REQUEST**

**Bill**

Received: **05/19/2011**

Received By: **phurley**

Wanted: **As time permits**

Companion to LRB:

For: **Josh Zepnick (608) 266-1707**

By/Representing:

May Contact:

Drafter: **phurley**

Subject: **Drunk Driving - other**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Zepnick@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Impoundment of vehicles for OWI offenses

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L Crime
/1	phurley 05/19/2011	nnatzke 05/19/2011	mduchek 05/19/2011	_____	lparisi 05/19/2011		S&L Crime
/2	phurley 09/22/2011	wjackson 09/28/2011	jfrantze 09/28/2011	_____	lparisi 09/28/2011	mbarman 10/14/2011	

FE Sent For:

*atwtr 12/7*

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1/2 Wlj 9/28      Jb 9/28

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Impoundment of vehicles for OWI offenses

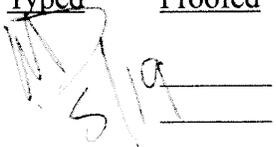
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See attached

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/?	phurley	/1 nwn 5/19					

FE Sent For:

<END>

## Hurley, Peggy

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**From:** Mueller, Eric  
**Sent:** Thursday, April 14, 2011 2:51 PM  
**To:** Michalak, Shelle  
**Cc:** Hurley, Peggy; Gary, Aaron  
**Subject:** RE: Draft Request: Rep. Zepnick RE: OWI offenses & automobile impounds

Shelle,

I'll be handling this draft. It's been assigned LRB number LRB-1925. Please let me know if you have any questions or further instructions.

Eric Mueller  
Attorney, Legislative Reference Bureau  
Phone: (608)261-7032  
eric.mueller@legis.wisconsin.gov

---

**From:** Gary, Aaron  
**Sent:** Thursday, April 14, 2011 2:01 PM  
**To:** Michalak, Shelle  
**Cc:** Schroeder, Ryan; Mueller, Eric; Hurley, Peggy  
**Subject:** RE: Draft Request: Rep. Zepnick RE: OWI offenses & automobile impounds

Hi Shelle,

I think Eric or Peggy will be the drafter on this request, so I have cc'd them on this e-mail. Aaron

Aaron R. Gary  
Attorney, Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

---

**From:** Michalak, Shelle  
**Sent:** Thursday, April 14, 2011 12:38 PM  
**To:** Gary, Aaron  
**Cc:** Schroeder, Ryan  
**Subject:** Draft Request: Rep. Zepnick RE: OWI offenses & automobile impounds

Hi Gary,

I am following up from the voicemail I just left for you.

Rep. Zepnick would like to have a bill drafted (at the request of a constituent) that when a person is arrested for a first offense OWI that the vehicle they were driving it is impounded immediately for 30 – 60 days (regardless of ownership of the auto).

For the 2<sup>nd</sup> offense OWI the vehicle should be impounded for up to 6 months. The goal is to have the violator recognize the privilege of driving an automobile and learn from the hardships of having that vehicle held temporarily held due to their choice of consuming alcohol and getting behind the wheel.

Feel free to call the office with any questions or concerns.

I am in the Zepnick office mornings until 1:00 pm. Also, I apologize if this email is not the most organized and scattered – I've had a bit too much coffee this morning ☺

Thanks & hope all is well,

Shelle

***Shelle Michalak***

Office of Rep. Josh Zepnick  
9th Assembly District

(608) 266-1707

State Capitol, Room 7 North



nwn

# 2011 BILL

SA ✓  
X-ref ✓

Vehicle related to operating a  
vehicle while intoxicated or  
improperly refusing to be tested  
for intoxication (OWI offense)  
Gen.

today  
5-19-11

1 AN ACT ...; relating to: impounding vehicles used in certain drunken driving  
2 offenses and creating a penalty.

### Analysis by the Legislative Reference Bureau

Under current law, no one may operate a motor vehicle while having a prohibited alcohol concentration (0.08 in most circumstances) or while under the influence of alcohol, a controlled substance, or both, and no one may improperly refuse to be tested for possible intoxication (OWI offense). A person who commits a first OWI offense is subject to a forfeiture of not less than \$150 nor more than \$300. A second OWI offense is a crime and is punishable by a fine of not less than \$350 nor more than \$1,100, imprisonment for not less than five days nor more than six months, or both. Subsequent OWI offenses are punishable by fines and periods of imprisonment that increase with every subsequent offense.

Under this bill, in addition to the penalties available under current law for an OWI offense, a person who commits a first OWI offense will have the vehicle he or she used in the offense impounded for not less than 30 or more than 60 days. A person who commits a second or subsequent OWI offense will have the vehicle he or she used in the offense impounded for not less than 30 days or more than six months. Under the bill, the person who committed the offense is responsible for paying the costs of impoundment.

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

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

move  
to p.2

**BILL**

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

*insert from p. 1*

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

**SECTION 1.** 346.65<sup>^</sup> (8) of the statutes is created to read:

346.65 (8) (a) In addition to any penalty imposed for<sup>a</sup> violation of s. 346.63 (1), (5) or (7), 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, or in addition to any revocation under s. 343.305 (10), the court shall order that the vehicle used in the violation or improper refusal be seized and impounded for the following period:

1. Except as provided in subd. 2., not less than 30 days or more than 60 days.

2. Not less than 30 days or more than 6 months, if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307 (1) equals 2 or more, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one.

*committed the violation*

(b) The court shall order a law enforcement officer to seize and impound the vehicle used in the violation or improper refusal. A law enforcement agency may contract for seizure and impoundment of vehicles under this subsection. If the person who violated s. 346.63 (1) or a local ordinance in conformity therewith or whose operation privilege was revoked under s. 343.305 (10) is not the same person as the owner of the vehicle, the court shall provide a copy of the order to the owner of the vehicle.

(c) The court shall order the person who violated s. 346.63 (1), (5), or (7), or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09

**BILL**

1 where the offense involved the use of a vehicle, or whose operating privilege was  
2 revoked under s. 343.305 (10), to pay all costs of seizing and impounding the vehicle  
3 used in the violation or improper refusal.

4 (d) Upon expiration of the period specified in par. (a) and payment of the costs  
5 under par. (c), the law enforcement agency or contractor that impounded the vehicle  
6 shall release the vehicle to its owner.

7 **SECTION 2. Initial applicability.**

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

12

(END)

D - note

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2115/Ph<sup>1</sup>

PJH:nwn

Date

Representative Zepnick: ✓

Please review this draft to ensure that it is consistent with your intent. ✓ Please note that the draft calls for a seizure and impoundment after the person has been convicted of an OWI-related offense or found by a court to have improperly refused a sobriety test. ✓

Please also note that this draft does not make any exceptions for undue hardship or for vehicles that are common carriers, commercial vehicles, or rented or leased vehicles. ✓ Please let me know if you want to create any exceptions. ✓

The draft calls for impoundment of vehicles used in the commission of drunken driving offenses under s. 346.63 (1), (5) or (7), or a local ordinance in conformity with any of those statutes, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, and any revocation under s. 343.305 (10). ✓ Please let me know if this is broader than you intended. ✓

If you have any questions or concerns about this draft, please let me know. ✓

Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: peggy.hurley@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2115/1dn  
PJH:nwn:md

May 19, 2011

Representative Zepnick:

Please review this draft to ensure that it is consistent with your intent. Please note that the draft calls for a seizure and impoundment after the person has been convicted of an OWI-related offense or found by a court to have improperly refused a sobriety test.

Please also note that this draft does not make any exceptions for undue hardship or for vehicles that are common carriers, commercial vehicles, or rented or leased vehicles. Please let me know if you want to create any exceptions.

The draft calls for impoundment of vehicles used in the commission of drunken driving offenses under s. 346.63 (1), (5), or (7), or a local ordinance in conformity with any of those statutes, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, and any revocation under s. 343.305 (10). Please let me know if this is broader than you intended.

If you have any questions or concerns about this draft, please let me know.

Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: [peggy.hurley@legis.wisconsin.gov](mailto:peggy.hurley@legis.wisconsin.gov)



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-2115/1  
PJH:nwn:md

+ Wlj ↑  
RMR

2011 BILL

9-22-11  
~~10-29-11~~ by 10 am  
9-29

Regen

1 AN ACT to create 346.65 (8) of the statutes; relating to: impounding vehicles  
2 used in certain drunken driving offenses and providing a penalty.

*Analysis by the Legislative Reference Bureau*

Under this bill, in addition to the penalties available under current law for an offense related to operating a vehicle while intoxicated or improperly refusing to be tested for intoxication (OWI offense), a person who commits a first OWI offense will have the vehicle he or she used in the offense impounded for not less than 30 or more than 60 days. A person who commits a second or subsequent OWI offense will have the vehicle he or she used in the offense impounded for not less than 30 days or more than six months. Under the bill, the person who committed the offense is responsible for paying the costs of impoundment. <sup>nor</sup> <sup>60</sup> <sup>nor</sup>

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.

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:*

3 SECTION 1. 346.65 (8) of the statutes is created to read:

**BILL****SECTION 1**

1           346.65 (8) (a) In addition to any penalty imposed for a violation of s. 346.63 (1),  
2           (5), or (7), or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25,  
3           or s. 940.09 where the offense involved the use of a vehicle, or in addition to any  
4           revocation under s. 343.305 (10), the court shall order that the vehicle used in the  
5           violation or improper refusal be seized and impounded for the following period:

6           1. Except as provided in subd. 2., not less than 30 days <sup>or</sup> ~~or~~ <sup>e nor</sup> more than 60 days.

7           2. Not less than ~~30~~ <sup>60</sup> days <sup>or</sup> ~~or~~ <sup>e nor</sup> more than 6 months, if the number of convictions  
8           under ss. 940.09 (1) and 940.25 plus the total number of suspensions, revocations,  
9           and other convictions counted under s. 343.307 (1) equals 2 or more, except that  
10          suspensions, revocations, or convictions arising out of the same incident or  
11          occurrence shall be counted as one.

12          (b) The court shall order a law enforcement officer to seize and impound the  
13          vehicle used in the violation or improper refusal. A law enforcement agency may  
14          contract for seizure and impoundment of vehicles under this subsection. If the  
15          person who committed the violation is not the same person as the owner of the  
16          vehicle, the court shall provide a copy of the order to the owner of the vehicle.

17          (c) The court shall order the person who violated s. 346.63 (1), (5), or (7), or a  
18          local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09  
19          where the offense involved the use of a vehicle, or whose operating privilege was  
20          revoked under s. 343.305 (10), to pay all costs of seizing and impounding the vehicle  
21          used in the violation or improper refusal.

22          (d) Upon expiration of the period specified in par. (a) and payment of the costs  
23          under par. (c), the law enforcement agency or contractor that impounded the vehicle  
24          shall release the vehicle to its owner.

**SECTION 2. Initial applicability.**

**BILL**

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

5

(END)

**Barman, Mike**

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**From:** Schroeder, Ryan  
**Sent:** Friday, October 14, 2011 10:26 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-2115/2 Topic: Impoundment of vehicles for OWI offenses

Please Jacket LRB 11-2115/2 for the ASSEMBLY.