

1 346.63 (1) (d) In an action under par. (am) that is based on the defendant
 2 allegedly having a detectable amount of methamphetamine, or
 3 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood or
 4 in an action under par. (b) that is based on the defendant allegedly having a
 5 prohibited tetrahydrocannabinols concentration, the defendant has a defense if he
 6 or she proves by a preponderance of the evidence that at the time of the incident or
 7 occurrence he or she had a valid prescription for methamphetamine or one of its
 8 metabolic precursors, gamma-hydroxybutyric acid, or
 9 delta-9-tetrahydrocannabinol.

History: 1971 c. 40 s. 93; 1971 c. 219; 1977 c. 193; 1984 c. 20, 184; 1983 a. 74, 459, 521; 1985 a. 32, 337; 1987 a. 3, 27; 1989 a. 105, 275; 1991 a. 277; 1995 a. 436, 448; 1997 a. 27, 252; 1999 a. 85; 2003 a. 30, 97.

10 **SECTION 84.** 346.63 (2) (a) 2. of the statutes is amended to read:

11 346.63 (2) (a) 2. The person has a prohibited alcohol or tetrahydrocannabinols
 12 concentration.

History: 1971 c. 40 s. 93; 1971 c. 219; 1977 c. 193; 1984 c. 20, 184; 1983 a. 74, 459, 521; 1985 a. 32, 337; 1987 a. 3, 27; 1989 a. 105, 275; 1991 a. 277; 1995 a. 436, 448; 1997 a. 27, 252; 1999 a. 85; 2003 a. 30, 97.

13 **SECTION 85.** 346.63 (2) (b) 1. of the statutes is amended to read:

14 346.63 (2) (b) 1. In an action under this subsection, the defendant has a defense
 15 if he or she proves by a preponderance of the evidence that the injury would have
 16 occurred even if he or she had been exercising due care and he or she had not been
 17 under the influence of an intoxicant, tetrahydrocannabinols, a controlled substance
 18 analog or a combination thereof, under the influence of any other drug to a degree
 19 which renders him or her incapable of safely driving, or under the combined
 20 influence of an intoxicant and any other drug to a degree which renders him or her
 21 incapable of safely driving, did not have a prohibited alcohol or

1 tetrahydrocannabinols concentration described under par. (a) 2., or did not have a
2 detectable amount of a restricted controlled substance in his or her blood.

History: 1971 c. 40 s. 93; 1971 c. 219; 1977 c. 193; 1991 c. 20, 184; 1983 a. 74, 459, 521; 1985 a. 32, 337; 1987 a. 3, 27; 1989 a. 105, 275; 1991 a. 277; 1995 a. 436, 448; 1997 a. 27, 252; 1999 a. 85; 2003 a. 30, 97.

3 **SECTION 86.** 346.63 (2) (b) 2. of the statutes is amended to read:

4 346.63 (2) (b) 2. In an action under par. (a) 3. that is based on the defendant
5 allegedly having a detectable amount of methamphetamine, or
6 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood or
7 in an action under par. (a) 2. that is based on the defendant allegedly having a
8 prohibited tetrahydrocannabinols concentration, the defendant has a defense if he
9 or she proves by a preponderance of the evidence that at the time of the incident or
10 occurrence he or she had a valid prescription for methamphetamine or one of its
11 metabolic precursors, gamma-hydroxybutyric acid, or
12 delta-9-tetrahydrocannabinol.

History: 1971 c. 40 s. 93; 1971 c. 219; 1977 c. 193; 1991 c. 20, 184; 1983 a. 74, 459, 521; 1985 a. 32, 337; 1987 a. 3, 27; 1989 a. 105, 275; 1991 a. 277; 1995 a. 436, 448; 1997 a. 27, 252; 1999 a. 85; 2003 a. 30, 97.

13 **SECTION 87.** 346.63 (2p) of the statutes is created to read:

14 346.63 (2p) If a person has not attained the legal age, as defined in s. 961.70
15 (1), the person may not drive or operate a motor vehicle while he or she has an
16 tetrahydrocannabinol^s concentration of more than 0.0 but not more than 5.0. One
17 penalty for violation of this subsection is suspension of a person's operating privilege
18 under s. 343.30 (1p). The person is eligible for an occupational license under s. 343.10
19 at any time. If a person arrested for a violation of this subsection refuses to take a
20 test under s. 343.305, the refusal is a separate violation and the person is subject to
21 revocation of the person's operating privilege under s. 343.305 (10) (em).

22 **SECTION 88.** 346.65 (2q) of the statutes is amended to read:

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1 346.65 (2q) Any person violating s. 346.63 (2m) or (2p) shall forfeit \$200. If
2 there was a minor passenger under 16 years of age in the motor vehicle at the time
3 of the violation that gave rise to the conviction under 346.63 (2m) or (2p), the person
4 shall be fined \$400.

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 136, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111; 2009 a. 100, 180; 2011 a. 258; 2013 a. 39.

5 **SECTION 89.** 349.03 (2m) of the statutes is amended to read:

6 349.03 (2m) Notwithstanding sub. (2), a municipal court may suspend a license
7 for a violation of a local ordinance in conformity with s. 346.63 (1) ~~or~~, (2m), or (2p).

History: 1971 c. 234, 277; 1973 c. 86, 87, 336; 1979 c. 59; 1981 c. 20, 165; 1983 a. 535; 1985 a. 194; 1987 a. 3, 27; 1989 a. 105; 1993 a. 113; 1999 a. 150 s. 672; 2007 a. 11; 2009 a. 129.

8 **SECTION 90.** 349.06 (1m) of the statutes is amended to read:

9 349.06 (1m) Notwithstanding sub. (1), a municipal court may suspend a license
10 for a violation of a local ordinance in conformity with s. 346.63 (1) ~~or~~, (2m), or (2p).

History: 1971 c. 277, 278, 307; 1973 c. 336; 1975 c. 248; 1981 c. 20; 1987 a. 3, 27; 1993 a. 198, 256; 1995 a. 44; 1997 a. 190, 277; 2013 a. 39.

11 **SECTION 91.** 350.01 (10v) (a) of the statutes is amended to read:

12 350.01 (10v) (a) A controlled substance included in schedule I under ch. 961
13 ~~other than a tetrahydrocannabinol.~~

History: 1971 c. 219, 277; 1973 c. 298; 1981 c. 79 s. 18; 1981 c. 295; 1983 a. 27 s. 2202 (38); 1983 a. 189, 459; 1985 a. 146 s. 8; 1985 a. 331, 332; 1987 a. 399; 1989 a. 51, 359; 1991 a. 39; 1995 a. 61, 436, 448; 1997 a. 34, 35, 248, 267; 1999 a. 9; 2001 a. 16, 56; 2003 a. 97.

14 **SECTION 92.** 350.01 (10v) (e) of the statutes is repealed.

15 **SECTION 93.** 350.01 (21g) of the statutes is created to read:

16 350.01 (21g) "Tetrahydrocannabinols concentration" has the meaning given in
17 s. 23.33 (1) (k) [∧]

18 **SECTION 94.** 350.101 (1) (bg) of the statutes is created to read:

19 350.101 (1) (bg) *Operating with tetrahydrocannabinols concentration at or*
20 *above specified levels.* No person may engage in the operation of a snowmobile while
21 the person has a tetrahydrocannabinols concentration of 5.0 or more.

22 **SECTION 95.** 350.101 (1) (cg) of the statutes is created to read:

1 metabolic precursors, gamma-hydroxybutyric acid, or
2 delta-9-tetrahydrocannabinol.

3 History: 1987 a. 399; 1989 a. 275; 1995 a. 436; 2003 a. 30, 97, 326.

3 **SECTION 98.** 350.101 (2) (bg) of the statutes is created to read:

4 350.101 (2) (bg) *Causing injury with tetrahydrocannabinols concentrations at*
5 *or above specified levels.* No person who has a tetrahydrocannabinols concentration
6 of 5.0 or more may cause injury to another person by the operation of a snowmobile.

7 **SECTION 99.** 350.101 (2) (c) of the statutes is amended to read:

8 350.101 (2) (c) *Related charges.* A person may be charged with and a prosecutor
9 may proceed upon a complaint based upon a violation of any combination of par. (a),
10 (b), (bg), or (bm) for acts arising out of the same incident or occurrence. If the person
11 is charged with violating any combination of par. (a), (b), (bg), or (bm) in the
12 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty
13 of any combination of par. (a), (b), (bg), or (bm) for acts arising out of the same incident
14 or occurrence, there shall be a single conviction for purposes of sentencing and for
15 purposes of counting convictions under s. 350.11 (3) (a) 2. and 3. Paragraphs (a), (b),
16 (bg), and (bm) each require proof of a fact for conviction which the others do not
17 require.

18 History: 1987 a. 399; 1989 a. 275; 1995 a. 436; 2003 a. 30, 97, 326.

18 **SECTION 100.** 350.101 (2) (d) 1. of the statutes is amended to read:

19 350.101 (2) (d) 1. In an action under this subsection, the defendant has a
20 defense if he or she proves by a preponderance of the evidence that the injury would
21 have occurred even if he or she had been exercising due care and he or she had not
22 been under the influence of an intoxicant or did not have an alcohol concentration

1 of 0.08 or more or a tetrahydrocannabinols concentration of 5.0 or more or a
2 detectable amount of a restricted controlled substance in his or her blood.

3 History: 1987 a. 399; 1989 a. 275; 1995 a. 436; 2003 a. ~~30~~^X, 97, 326.

SECTION 101. 350.101 (2) (d) 2. of the statutes is amended to read:

4 350.101 (2) (d) 2. In an action under par. (bm) that is based on the defendant
5 allegedly having a detectable amount of methamphetamine, or
6 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood or
7 in an action under par. (bg) that is based on the defendant allegedly having a
8 prohibited tetrahydrocannabinols concentration in his or her blood, the defendant
9 has a defense if he or she proves by a preponderance of the evidence that at the time
10 of the incident or occurrence he or she had a valid prescription for methamphetamine
11 or one of its metabolic precursors, gamma-hydroxybutyric acid, or
12 delta-9-tetrahydrocannabinol.

13 History: 1987 a. 399; 1989 a. 275; 1995 a. 436; 2003 a. ~~30~~^X, 97, 326.

SECTION 102. 350.104 (4) of the statutes is amended to read:

14 350.104 (4) ADMISSIBILITY; EFFECT OF TEST RESULTS; OTHER EVIDENCE. The results
15 of a chemical test required or administered under sub. (1), (2) or (3) are admissible
16 in any civil or criminal action or proceeding arising out of the acts committed by a
17 person alleged to have violated the intoxicated snowmobiling law on the issue of
18 whether the person was under the influence of an intoxicant or the issue of whether
19 the person had alcohol or tetrahydrocannabinols concentrations at or above specified
20 levels or a detectable amount of a restricted controlled substance in his or her blood.
21 Results of these chemical tests shall be given the effect required under s. 885.235.
22 This section does not limit the right of a law enforcement officer to obtain evidence
23 by any other lawful means.

24 History: 1987 a. 399; 1989 a. 359; 1993 a. 105; 1995 a. ~~27~~^X s. 9126 (19); 2003 a. 97; 2007 a. 20 s. 9121 (6) (a).

SECTION 103. 350.11 (3) (d) of the statutes is amended to read:

1 350.11 (3) (d) *Alcohol, controlled substances or controlled substance analogs,*
 2 *or tetrahydrocannabinols; assessment.* In addition to any other penalty or order, a
 3 person who violates s. 350.101 (1) or (2) or 350.104 (5) or who violates s. 940.09 or
 4 940.25 if the violation involves the operation of a snowmobile, shall be ordered by the
 5 court to submit to and comply with an assessment by an approved public treatment
 6 facility for an examination of the person’s use of alcohol, controlled substances or
 7 controlled substance analogs, or tetrahydrocannabinols. The assessment order shall
 8 comply with s. 343.30 (1q) (c) 1. a. to c. Intentional failure to comply with an
 9 assessment ordered under this paragraph constitutes contempt of court, punishable
 10 under ch. 785.

History: 1971 c. 277; 1973 c. 218; 1975 c. 365; 1987 a. 399; 1991 a. 269; 1993 a. 119, 436; 1995 a. 417, 448; 1997 a. 27, 283; 2001 a. 109; 2003 a. 97.

11 **SECTION 104.** 885.235 (1) (d) 1. of the statutes is amended to read:
 12 885.235 (1) (d) 1. A controlled substance included in schedule I under ch. 961
 13 ~~other than a tetrahydrocannabinol.~~

History: 1971 c. 40; 1973 c. 102; 1981 c. 20, 184; 1982 a. 74, 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 399; 1989 a. 105; 1991 a. 277; 1995 a. 436, 448; 1997 a. 35, 198; 2003 a. 30, 97; 2005 a. 8; 2011 a. 208.

14 **SECTION 105.** 885.235 (1) (d) 5. of the statutes is repealed.

15 **SECTION 106.** 885.235 (1) (e) of the statutes is created to read:
 16 885.235 (1) (e) “Tetrahydrocannabinols concentration” has the meaning given
 17 in s. 23.33 (1) (k).

18 **SECTION 107.** 885.235 (1g) ^(intro.) of the statutes is amended to read:
 19 885.235 (1g) ^(intro.) In any action or proceeding in which it is material to prove that
 20 a person was under the influence of an intoxicant or had a prohibited alcohol or
 21 tetrahydrocannabinols concentration or a specified alcohol concentration while
 22 operating or driving a motor vehicle or, if the vehicle is a commercial motor vehicle,
 23 on duty time, while operating a motorboat, except a sailboat operating under sail
 24 alone, while operating a snowmobile, while operating an all-terrain vehicle or utility

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or tetrahydrocannabinols

1 terrain vehicle or while handling a firearm, evidence of the amount of alcohol in the
 2 person's blood at the time in question, as shown by chemical analysis of a sample of
 3 the person's blood or urine or evidence of the amount of alcohol in the person's breath,
 4 is admissible on the issue of whether he or she was under the influence of an
 5 intoxicant or had a prohibited alcohol or tetrahydrocannabinols concentration or a
 6 specified alcohol concentration if the sample was taken within 3 hours after the event
 7 to be proved. The chemical analysis shall be given effect as follows without requiring
 8 any expert testimony as to its effect:

History: 1971 c. 40; 1973 c. 102; 1981 c. 20, 184; 1983 a. 74, 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 399; 1989 a. 105; 1991 a. 277; 1995 a. 436, 448; 1997 a. 35, 198; 2003 a. 30, 97; 2005 a. 8; 2011 a. 208.

9 SECTION 108. 885.235 (1g) (ag) of the statutes is created to read:

10 885.235 (1g) (ag) The fact that the analysis shows that the person had an
 11 tetrahydrocannabinols concentration of more than 0.0 but less than 5.0 is relevant
 12 evidence on the issue of being under the combined influence of
 13 tetrahydrocannabinols, alcohol, and a controlled substance, a controlled substance
 14 analog or any other drug, but, except as provided in sub. (1L), is not to be given any
 15 prima facie effect.

16 SECTION 109. 885.235 (1g) (cg) of the statutes is created to read:

17 885.235 (1g) (cg) The fact that the analysis shows that the person had an
 18 tetrahydrocannabinols ^{concentration} of 5.0 or more is prima facie evidence that he or she had an
 19 tetrahydrocannabinols concentration of ^{5.0} 0.08 or more.

20 SECTION 110. 885.235 (1L) of the statutes is created to read:

21 885.235 (1L) In any action under s. 23.33 (4c) (a) ^{or 3g.} 2n. b. 30.681 (1) (bn) 2., 346.63
 22 (2p), or 350.101 (1) (cg), evidence of the amount of tetrahydrocannabinols in the
 23 person's blood at the time in question, as shown by chemical analysis of a sample of
 24 the person's blood or urine, is admissible on the issue of whether he or she had an

tetrahydrocannabinols

3g.

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alcohol concentration in the range specified in s. 23.33 (4c) (a) ^{2n.} 30.681 (1) (bn) 2.,

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346.63 (2p), or 350.101 (1) (cg) if the sample was taken within 3 hours after the event

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to be proved. The fact that the analysis shows that the person had a

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tetrahydrocannabinols concentration of more than 0.0 but not more than 5.0 is prima

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facie evidence that the person had a tetrahydrocannabinols concentration in the

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range specified in s. 23.33 (4c) (a) ^{3g.} ~~2n. b.~~, 30.681 (1) (bn) 2., 346.63 (2p), or 350.101 (1)

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(cg).

X

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SECTION 111. 885.235 (1m) of the statutes is amended to read:

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885.235 (1m) In any action under s. 23.33 (4c) (a) 3., 30.681 (1) (bn) 1., 346.63

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(2m) or (7), or 350.101 (1) (c), evidence of the amount of alcohol in the person's blood

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at the time in question, as shown by chemical analysis of a sample of the person's

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blood or urine or evidence of the amount of alcohol in the person's breath, is

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admissible on the issue of whether he or she had an alcohol concentration in the

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range specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn) 1., 346.63 (2m), or 350.101 (1)

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(c) or an alcohol concentration above 0.0 under s. 346.63 (7) if the sample was taken

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within 3 hours after the event to be proved. The fact that the analysis shows that

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the person had an alcohol concentration of more than 0.0 but not more than 0.08 is

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prima facie evidence that the person had an alcohol concentration in the range

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specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn) 1., 346.63 (2m), or 350.101 (1) (c) or an

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alcohol concentration above 0.0 under s. 346.63 (7).

History: 1971 c. 40; 1973 c. 102; 1981 c. 20, 184; 1983 a. 74, 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 399; 1989 a. 105; 1991 a. 277; 1995 a. 436, 448; 1997 a. 35, 198; 2003 a. 30, 97; 2005 a. 8; 2011 a. 208.

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SECTION 112. 885.235 (4) of the statutes is amended to read:

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885.235 (4) The provisions of this section relating to the admissibility of

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chemical tests for alcohol or tetrahydrocannabinols concentration or intoxication or

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for determining whether a person had a detectable amount of a restricted controlled

1 substance in his or her blood shall not be construed as limiting the introduction of
 2 any other competent evidence bearing on the question of whether or not a person was
 3 under the influence of an intoxicant, had a detectable amount of a restricted
 4 controlled substance in his or her blood, had a specified alcohol or
 5 tetrahydrocannabinols concentration, ~~or~~ had an alcohol concentration in the range
 6 specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn) 1., 346.63 (2m) or 350.101 (1) (c), or had
 7 a tetrahydrocannabinols concentration in the range specified in s. 23.33 (4c) (a) 2n. ^{3g.}
 8 b. 30.681 (1) (bn) 2., 346.63 (2p), or 350.101 (1) (cg).

History: 1971 c. 40; 1973 c. 102; 1981 c. 20, 184; 1983 a. 4, 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 399; 1989 a. 105; 1991 a. 277; 1995 a. 436, 448; 1997 a. 35, 198; 2003 a. 30, 97; 2005 a. 8; 2011 a. 208.

9 **SECTION 113.** 895.047 (3) (a) of the statutes is amended to read:

10 895.047 (3) (a) If the defendant proves by clear and convincing evidence that
 11 at the time of the injury the claimant was under the influence of any controlled
 12 substance or controlled substance analog to the extent prohibited under s. 346.63 (1)
 13 (a), or had an alcohol concentration, as defined in s. 340.01 (1v), of 0.08 or more or
 14 a tetrahydrocannabinols concentration, as defined in s. 233.33 (1) (k), of 5.0 or more,
 15 there shall be a rebuttable presumption that the claimant's intoxication or drug use
 16 was the cause of his or her injury.

History: 2011 a. 2.

17 **SECTION 114.** 905.04 (4) (f) of the statutes is amended to read:

18 905.04 (4) (f) *Tests for intoxication.* There is no privilege concerning the results
 19 of or circumstances surrounding any chemical tests for intoxication or for alcohol
 20 concentration, as defined in s. 340.01 (1v), or tetrahydrocannabinols concentration,
 21 as defined in s. 23.33 (1) (k).

History: Sup. Ct. Order, 59 Wis. 2d R121; 1975 c. 393; 1977 c. 418; 1979 c. 32 s. 92 (1); 1979 c. 221, 352; 1983 a. 400, 535; 1987 a. 233, 264; Sup. Ct. Order, 151 Wis. 2d xxi (1989); 1991 a. 32, 39, 160; 1993 a. 98; 1995 a. 77, 275, 436; 1997 a. 292; 1999 a. 22; 2001 a. 80; 2005 a. 387, 434; 2005 a. 443 s. 265; 2007 a. 53, 97, 130; 2009 a. 113.

22 **SECTION 115.** 939.22 (33) (a) of the statutes is amended to read:

1 **939.22 (33)** (a) A controlled substance included in schedule I under ch. 961
2 ~~other than a tetrahydrocannabinol.~~

History: 1971 c. 219; 1973 c. 336; 1977 c. 173; 1979 c. 89, 221; 1981 c. 79 s. 17; 1981 c. 89, 348; 1983 a. 17, 459; 1985 a. 146 s. 8; 1987 a. 332, 399; 1993 a. 98, 213, 227, 441, 486; 1995 a. 69, 436, 448; 1997 a. 143, 295; 2001 a. 109; 2003 a. 97, 223; 2005 a. 273, 277, 435; 2007 a. 27, 97, 127; 2009 a. 28, 276; 2011 a. 35.

3 **SECTION 116.** ~~939.22 (33)~~ (e) of the statutes is repealed.

4 **SECTION 117.** 939.22 (39g) of the statutes is created to read:

5 **939.22 (39g)** “Tetrahydrocannabinols concentration” has the meaning given in
6 s. 23.33 (1) (k).

7 **SECTION 118.** 940.09 (1) (bg) of the statutes is created to read:

8 **940.09 (1) (bg)** Causes the death of another by the operation or handling of a
9 vehicle while the person has a tetrahydrocannabinols concentration of 5.0 or more.

10 **SECTION 119.** 940.09 (1) (dg) of the statutes is created to read:

11 **940.09 (1) (dg)** Causes the death of an unborn child by the operation or
12 handling of a vehicle while the person has a tetrahydrocannabinols concentration of
13 5.0 or more.

14 **SECTION 120.** 940.09 (1g) (bg) of the statutes is created to read:

15 **940.09 (1g) (bg)** Causes the death of another by the operation or handling of
16 a firearm or airgun while the person has a tetrahydrocannabinols concentration of
17 5.0 or more.

18 **SECTION 121.** 940.09 (1g) (dg) of the statutes is created to read:

19 **940.09 (1g) (dg)** Causes the death of an unborn child by the operation or
20 handling of a firearm or airgun while the person has a tetrahydrocannabinols
21 concentration of 5.0 or more.

22 **SECTION 122.** 940.09 (1m) (a) of the statutes is amended to read:

23 **940.09 (1m) (a)** A person may be charged with and a prosecutor may proceed
24 upon an information based upon a violation of any combination of sub. (1) (a), (am),

1 ~~or~~ ^{or (bg)} (b); any combination of sub. (1) (a), (am), (bg), or (bm); any combination of sub. (1)
 2 (c), (cm), ~~or~~ (dg); any combination of sub. (1) (c), (cm), (dg), or (e); any
 3 combination of sub. (1g) (a), (am), ~~or~~ (bg) or; any combination of sub. (1g) (c),
 4 (cm), ~~or~~ (dg) for acts arising out of the same incident or occurrence.

History: 1977 c. 173; 1981 c. 20, 184, 314, 391; 1983 a. 469; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 32, 277; 1993 a. 317; 1995 a. 425, 436; 1997 a. 237, 295, 338; 1999 a. 32, 109; 2001 a. 16, 109; 2003 a. 30, 97; 2009 a. 100.

5 **SECTION 123.** 940.09 (1m) (b) of the statutes is amended to read:

6 940.09 (1m) (b) If a person is charged in an information with any of the
 7 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
 8 971.12. If the person is found guilty of more than one of the crimes so charged for
 9 acts arising out of the same incident or occurrence, there shall be a single conviction
 10 for purposes of sentencing and for purposes of counting convictions under s. 23.33
 11 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under s. 343.307 (1) or under s. 350.11
 12 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bg), (bm), (c), (cm), (d), (dg), and (e) each
 13 require proof of a fact for conviction which the others do not require, and sub. (1g)
 14 (a), (am), (b), (bg), (c), (cm), ~~and~~ (d), and (dg) each require proof of a fact for conviction
 15 which the others do not require.

History: 1977 c. 173; 1981 c. 20, 184, 314, 391; 1983 a. 469; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 32, 277; 1993 a. 317; 1995 a. 425, 436; 1997 a. 237, 295, 338; 1999 a. 32, 109; 2001 a. 16, 109; 2003 a. 30, 97; 2009 a. 100.

16 **SECTION 124.** 940.09 (2) (a) of the statutes is amended to read:

17 940.09 (2) (a) In any action under this section, the defendant has a defense if
 18 he or she proves by a preponderance of the evidence that the death would have
 19 occurred even if he or she had been exercising due care and he or she had not been
 20 under the influence of an intoxicant, did not have a detectable amount of a restricted
 21 controlled substance in his or her blood, did not have a tetrahydrocannabinols

1 concentration of 5.0 or greater, or did not have an alcohol concentration described
2 under sub. (1) (b), (bm), (d) or (e) or (1g) (b) or (d).

History: 1977 c. 173; 1981 c. 20, 184, 314, 391; 1983 a. 49; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 32, 277; 1993 a. 317; 1995 a. 425, 436; 1997 a. 237, 295, 338; 1999 a. 32, 109; 2001 a. 16, 109; 2003 a. 30, 97; 2009 a. 100.

3 **SECTION 125.** 940.09 (2) (b) of the statutes is amended to read:

4 940.09 (2) (b) In any action under sub. (1) (am) or (cm) or (1g) (am) or (cm) that
5 is based on the defendant allegedly having a detectable amount of
6 methamphetamine or gamma-hydroxybutyric acid or
7 ~~delta-9-tetrahydrocannabinol~~ in his or her blood or in any action under sub. (1) (bg)
8 or (dg) or (1g) (bg) or (dg) that is that is based on the defendant allegedly having a
9 tetrahydrocannabinols concentration that is 5.0 or greater, the defendant has a
10 defense if he or she proves by a preponderance of the evidence that at the time of the
11 incident or occurrence he or she had a valid prescription for methamphetamine or
12 one of its metabolic precursors or gamma-hydroxybutyric acid or
13 delta-9-tetrahydrocannabinol.

History: 1977 c. 173; 1981 c. 20, 184, 314, 391; 1983 a. 49; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 32, 277; 1993 a. 317; 1995 a. 425, 436; 1997 a. 237, 295, 338; 1999 a. 32, 109; 2001 a. 16, 109; 2003 a. 30, 97; 2009 a. 100.

14 **SECTION 126.** 940.25 (1) (bg) of the statutes is created to read:

15 940.25 (1) (bg) Causes great bodily harm to another human being by the
16 operation of a vehicle while the person has a tetrahydrocannabinols concentration
17 of 5.0 or more.

18 **SECTION 127.** 940.25 (1) (dg) of the statutes is created to read:

19 940.25 (1) (dg) Causes great bodily harm to an unborn child by the operation
20 of a vehicle while the person has a tetrahydrocannabinols concentration of 5.0 or
21 more.

22 **SECTION 128.** 940.25 (1m) of the statutes is amended to read:

1 940.25 (1m) (a) A person may be charged with and a prosecutor may proceed
 2 upon an information based upon a violation of any combination of sub. (1) (a), (am),
 3 ~~or (b), or (bg)~~; any combination of sub. (1) (a), (am), (bg), or (bm); any combination of
 4 sub. (1) (c), (cm), ~~or (d), or (dg)~~; or any combination of sub. (1) (c), (cm), (dg), or (e) for
 5 acts arising out of the same incident or occurrence.

6 (b) If a person is charged in an information with any of the combinations of
 7 crimes referred to in par. (a), the crimes shall be joined under s. 971.12. If the person
 8 is found guilty of more than one of the crimes so charged for acts arising out of the
 9 same incident or occurrence, there shall be a single conviction for purposes of
 10 sentencing and for purposes of counting convictions under s. 23.33 (13) (b) 2. and 3.,
 11 under s. 30.80 (6) (a) 2. or 3., under ss. 343.30 (1q) and 343.305 or under s. 350.11 (3)
 12 (a) 2. and 3. Subsection (1) (a), (am), (b), (bg), (bm), (c), (cm), (d), (dg), and (e) each
 13 require proof of a fact for conviction which the others do not require.

History: 1977 c. 193, 272; 1981 c. 20, 184; 1983 a. 459; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 277; 1993 a. 317, 428, 478; 1995 a. 425, 436; 1997 a. 237, 295; 1999 a. 32, 109, 186; 2001 a. 16, 109; 2003 a. 30, 97; 2005 a. 253; 2009 a. 100.

14 **SECTION 129.** 940.25 (2) of the statutes is amended to read:

15 940.25 (2) (a) The defendant has a defense if he or she proves by a
 16 preponderance of the evidence that the great bodily harm would have occurred even
 17 if he or she had been exercising due care and he or she had not been under the
 18 influence of an intoxicant, did not have a detectable amount of a restricted controlled
 19 substance in his or her blood, did not have a tetrahydrocannabinols concentration of
 20 5.0 or greater, or did not have an alcohol concentration described under sub. (1) (b),
 21 (bm), (d) or (e).

22 (b) In any action under this section that is based on the defendant allegedly
 23 having a detectable amount of methamphetamine, or gamma-hydroxybutyric acid,
 24 ~~or delta-9-tetrahydrocannabinol~~ in his or her blood or in any action under this

1 section that is based on the defendant allegedly having a tetrahydrocannabinols
2 concentration that is 5.0 or greater, the defendant has a defense if he or she proves
3 by a preponderance of the evidence that at the time of the incident or occurrence he
4 or she had a valid prescription for methamphetamine or one of its metabolic
5 precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.

History: 1977 c. 193, 272; 1981 c. 20, 184; 1983 a. 459; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 277; 1993 a. 317, 428, 478; 1995 a. 425, 436; 1997 a. 237, 295; 1999 a. 32, 109, 186; 2001 a. 16, 109; 2003 a. 30, 97; 2005 a. 253; 2009 a. 100.

6 **SECTION 130.** 941.20 (1) (bg) of the statutes is created to read:

7 941.20 (1) (bg) Operates or goes armed with a firearm while he or she has a
8 tetrahydrocannabinols concentration that is 5.0 or greater. A defendant has a
9 defense to any action under this paragraph if he or she proves by a preponderance
10 of the evidence that at the time of the incident or occurrence he or she had a valid
11 prescription for delta-9-tetrahydrocannabinol.

12 **SECTION 131.** 941.20 (1) (bm) of the statutes is amended to read:

13 941.20 (1) (bm) Operates or goes armed with a firearm while he or she has a
14 detectable amount of a restricted controlled substance in his or her blood. A
15 defendant has a defense to any action under this paragraph that is based on the
16 defendant allegedly having a detectable amount of methamphetamine, or
17 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,
18 if he or she proves by a preponderance of the evidence that at the time of the incident
19 or occurrence he or she had a valid prescription for methamphetamine or one of its
20 metabolic precursors, or gamma-hydroxybutyric acid, ~~or~~
21 delta-9-tetrahydrocannabinol.

History: 1977 c. 173; 1987 a. 399; 1989 a. 131; 1993 a. 94, 486; 1997 a. 248, 249; 1999 a. 32; 2001 a. 109; 2003 a. 97, 190; 2007 a. 11, 27, 130.

22 **SECTION 132.** 961.01 (14) of the statutes is renumbered 961.70 (3) and amended
23 to read:

1 **961.70 (3)** “Marijuana” means all parts of the plants of the genus Cannabis,
 2 whether growing or not, with a concentration of tetrahydrocannabinols that is
 3 greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted
 4 from any part of the plant; and every compound, manufacture, salt, derivative,
 5 mixture, or preparation of the plant, its seeds or resin, ~~including~~
 6 tetrahydrocannabinols. “Marijuana” does include the mature stalks if mixed with
 7 other parts of the plant, but does not include fiber produced from the stalks, oil or
 8 cake made from the seeds of the plant, any other compound, manufacture, salt,
 9 derivative, mixture, or preparation of the mature stalks (except the resin extracted
 10 therefrom), fiber, oil, or cake or the sterilized seed of the plant which is incapable of
 11 germination.

History: 1971 c. 219; 1979 c. 89; 1981 c. 200, 206; 1983 a. 50^x s. 43; 1989 a. 31; CSB 2.21; 1993 a. 87, 129, 138, 184, 281, 482; 1995 a. 281 s. 2; 1995 a. 448 ss. 112 to 143, 247, 248, 464 to 468; Stats. 1995 s. 961.01; 1997 a. 35 s. 338; 1997 a. 67; 1999 a. 85; 2003 a. 33; 2005 a. 14, 52; 2011 a. 32.

12 **SECTION 133.** 961.14 (4) (t) of the statutes is repealed.

13 **SECTION 134.** 961.34^x of the statutes is renumbered 961.75, and 961.75 (title),
 14 as renumbered, is amended to read:

15 **961.75 (title) ~~Controlled substances~~ Marijuana therapeutic research.**

History: 1981 c. 193; 1983 a. 189 s. 329 (18); 1985 a. 146 s. 8; 1995 a. 448 ss. 16 to 19; Stats. 1995 s. 961.34.

16 **SECTION 135.** 961.41 (1) (h) of the statutes is repealed.

17 **SECTION 136.** 961.41 (1m) (h) of the statutes is repealed.

18 **SECTION 137.** 961.41 (1q) of the statutes is repealed.

19 **SECTION 138.** 961.41 (1r)^x of the statutes is amended to read:

20 **961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE.** In determining amounts under
 21 s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight
 22 of cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin,
 23 psilocybin, amphetamine, methamphetamine, methcathinone or
 24 tetrahydrocannabinols or any controlled substance analog of any of these substances

1 together with any compound, mixture, diluent, plant material or other substance
2 mixed or combined with the controlled substance or controlled substance analog. In
3 addition, ~~in determining amounts under subs. (1) (h) and (1m) (h), the amount of~~
4 ~~tetrahydrocannabinols means anything included under s. 961.14 (4) (t) and includes~~
5 ~~the weight of any marijuana.~~

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 243; 1999 a. 21, 32, 48, 57; 2001 a. 16, 109; 2003 a. 33, 49, 139, 320, 325, 327; 2005 a. 14, 25, 52, 262; 2007 a. 20; 2009 a. 28, 180; 2011 a. 31; 2013 a. 20.

6 **SECTION 139.** 961.41 (3g) (c) of the statutes is amended to read:

7 961.41 (3g) (c) *Cocaine and cocaine base.* If a person possess or attempts to
8 possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine
9 base, the person shall be fined not more than \$5,000 and may be imprisoned for not
10 more than one year in the county jail upon a first conviction and is guilty of a Class
11 I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense
12 is considered a 2nd or subsequent offense if, prior to the offender's conviction of the
13 offense, the offender has at any time been convicted of any felony or misdemeanor
14 under this chapter or under any statute of the United States or of any state relating
15 to controlled substances, controlled substance analogs, narcotic drugs, ~~marijuana,~~
16 or depressant, stimulant, or hallucinogenic drugs.

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 243; 1999 a. 21, 32, 48, 57; 2001 a. 16, 109; 2003 a. 33, 49, 139, 320, 325, 327; 2005 a. 14, 25, 52, 262; 2007 a. 20; 2009 a. 28, 180; 2011 a. 31; 2013 a. 20.

17 **SECTION 140.** 961.41 (3g) (d) of the statutes is amended to read:

18 961.41 (3g) (d) *Certain hallucinogenic and stimulant drugs.* If a person
19 possesses or attempts to possess lysergic acid diethylamide, phencyclidine,
20 amphetamine, methcathinone, methylenedioxypropylamphetamine,
21 4-methylmethcathinone, psilocin or psilocybin, or a controlled substance analog of
22 lysergic acid diethylamide, phencyclidine, amphetamine, methcathinone,
23 methylenedioxypropylamphetamine, 4-methylmethcathinone, psilocin or psilocybin, the

1 person may be fined not more than \$5,000 or imprisoned for not more than one year
2 in the county jail or both upon a first conviction and is guilty of a Class I felony for
3 a 2nd or subsequent offense. For purposes of this paragraph, an offense is considered
4 a 2nd or subsequent offense if, prior to the offender's conviction of the offense, the
5 offender has at any time been convicted of any felony or misdemeanor under this
6 chapter or under any statute of the United States or of any state relating to controlled
7 substances, controlled substance analogs, narcotic drugs, ~~marijuana~~, or depressant,
8 stimulant, or hallucinogenic drugs.

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283; 1999 a. 21, 32, 48, 57; 2001 a. 16, 109; 2003 a. 33, 49, 139, 320, 325, 327; 2005 a. 14, 25, 52, 262; 2007 a. 20; 2009 a. 28, 180; 2011 a. 31; 2013 a. 20.

9 **SECTION 141.** 961.41 (3g) (e) of the statutes is repealed.

10 **SECTION 142.** 961.41 (3g) (em) of the statutes is amended to read:

11 961.41 (3g) (em) *Synthetic cannabinoids*. If a person possesses or attempts to
12 possess a controlled substance specified in s. 961.14 (4) (tb) to (ty), or a controlled
13 substance analog of a controlled substance specified in s. 961.14 (4) (tb) to (ty), the
14 person may be fined not more than \$1,000 or imprisoned for not more than 6 months
15 or both upon a first conviction and is guilty of a Class I felony for a 2nd or subsequent
16 offense. For purposes of this paragraph, an offense is considered a 2nd or subsequent
17 offense if, prior to the offender's conviction of the offense, the offender has at any time
18 been convicted of any felony or misdemeanor under this chapter or under any statute
19 of the United States or of any state relating to controlled substances, controlled
20 substance analogs, narcotic drugs, ~~marijuana~~, or depressant, stimulant, or
21 hallucinogenic drugs.

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283; 1999 a. 21, 32, 48, 57; 2001 a. 16, 109; 2003 a. 33, 49, 139, 320, 325, 327; 2005 a. 14, 25, 52, 262; 2007 a. 20; 2009 a. 28, 180; 2011 a. 31; 2013 a. 20.

22 **SECTION 143.** 961.47 (1) of the statutes is amended to read:

1 961.47 (1) Whenever any person who has not previously been convicted of any
2 offense under this chapter, or of any offense under any statute of the United States
3 or of any state or of any county ordinance relating to controlled substances or
4 controlled substance analogs, ~~or~~ narcotic drugs, ~~marijuana~~ or stimulant, depressant,
5 or hallucinogenic drugs, pleads guilty to or is found guilty of possession or attempted
6 possession of a controlled substance or controlled substance analog under s. 961.41
7 (3g) (b), the court, without entering a judgment of guilt and with the consent of the
8 accused, may defer further proceedings and place him or her on probation upon terms
9 and conditions. Upon violation of a term or condition, the court may enter an
10 adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the
11 terms and conditions, the court shall discharge the person and dismiss the
12 proceedings against him or her. Discharge and dismissal under this section shall be
13 without adjudication of guilt and is not a conviction for purposes of disqualifications
14 or disabilities imposed by law upon conviction of a crime, including the additional
15 penalties imposed for 2nd or subsequent convictions under s. 961.48. There may be
16 only one discharge and dismissal under this section with respect to any person.

History: 1971 c. 219; 1985 a. 29; 1989 a. 121; 1991 a. 3; 1995 a. 448 s. 285; Stats. 1995 s. 961.47.

17 **SECTION 144.** 961.48 (3) of the statutes is amended to read:

18 961.48 (3) For purposes of this section, a felony offense under this chapter is
19 considered a 2nd or subsequent offense if, prior to the offender's conviction of the
20 offense, the offender has at any time been convicted of any felony or misdemeanor
21 offense under this chapter or under any statute of the United States or of any state
22 relating to controlled substances or controlled substance analogs, narcotic drugs,
23 ~~marijuana~~ or depressant, stimulant or hallucinogenic drugs.

History: 1971 c. 219; 1985 a. 328; 1987 a. 339; 1989 a. 12; 1993 a. 98, 118, 482, 490; 1995 a. 402; 1995 a. 448 s. 288; Stats. 1995 s. 961.48; 1997 a. 35 ss. 340, 584; 1997 a. 220; 1999 a. 48; 2001 a. 109; 2003 a. 49.

24 **SECTION 145.** 961.48 (5) of the statutes is amended to read:

1 **961.70 Definitions.** In this subchapter:

2 (1) “Legal age” means 21 years of age.

3 (3g) “Permissible amount” means an amount that does not exceed one ounce
4 of marijuana, 16 ounces of marijuana-infused product in solid form, or 72 ounces of
5 marijuana-infused product in liquid form.

6 (3m) “Permittee” has the meaning given under s. 139.97 (9).[✓]

7 (4) “Tetrahydrocannabinols concentration” means percent of delta-9^Λ
8 tetrahydrocannabinol content per dry weight of any part of the plant Cannabis, or
9 per volume or weight of marijuana product, or the combined percent of delta-9^Λ
10 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant
11 Cannabis regardless of moisture content.

12 (5) “Underage person” means a person who has not attained the legal age.

13 **961.71 Underage persons prohibitions; penalties.** (1) (a) 1. No permittee
14 may sell, distribute, or transfer marijuana to any underage person.

15 2. No permittee may directly or indirectly permit an underage person to enter
16 or be on a permitted premises in violation of sub. (2) (d).[✓]

17 (b) A permittee who violates par. (a)[✓] may be subject to a forfeiture of not more
18 than \$500 and to a suspension of the permittee’s permit for an amount of time not
19 to exceed 30 days.

20 (c) In determining whether a permittee has violated par. (a),[✓] all relevant
21 circumstances surrounding the presence of the underage person or the selling,
22 transferring, or distributing of marijuana may be considered. In addition, proof of
23 all of the following facts by a permittee regarding a sale to an underage person is a
24 defense to any prosecution for a violation of par. (a):[✓]

1 1. That the purchaser falsely represented that he or she had attained the legal
2 age.

3 2. That the appearance of the purchaser was such that an ordinary and prudent
4 person would believe that the purchaser had attained the legal age.

5 3. That the sale was made in good faith and in reliance on the representation
6 and appearance of the purchaser in the belief that the purchaser had attained the
7 legal age.

8 4. That the underage person supported the representation under subd. 1. with
9 documentation that he or she had attained the legal age.

10 (2) Any underage person who does any of the following is subject to a forfeiture
11 of not less than \$250 nor more than \$500:

12 (a) Procures or attempts to procure marijuana from a permittee.

13 (b) Falsely represents his or her age for the purpose of receiving marijuana from
14 a permittee.

15 (c) Knowingly possesses or consumes marijuana.

16 (d) Knowingly enters or attempts to enter or be on any premises for which a
17 permit has been issued.

18 (3) An individual who has attained the legal age and who knowingly does any
19 of the following may be subject to a forfeiture that does not exceed \$1,000:

20 (a) Permits or fails to take action to prevent the illegal consumption of
21 marijuana by an individual who has not attained the legal age on premises owned
22 by the actor or under the actor's control.

23 (b) Encourages or contributes to a violation of sub. (2) (a).

1 **961.72 Restrictions; penalties.** (1) An individual who is not a permittee who
2 sells, distributes, or transfers marijuana, or possesses marijuana with the intent to
3 sell or distribute it, is guilty of the following:

4 (a) Except as provided in par. (b), a Class I felony.

5 (b) If the individual to whom the marijuana is, or is intended to be, sold,
6 distributed, or transferred has not attained the legal age and the actual or intended
7 seller, distributor, or transferor is at least 3 years older than the individual to whom
8 the marijuana is, or is intended to be, sold, distributed, or transferred, a Class H
9 felony.

10 (2) (a) An individual who is not a permittee who possesses an amount of
11 marijuana that exceeds the permissible amount but does not exceed 40 grams of
12 marijuana is subject to a civil forfeiture not to exceed \$1,000 or imprisonment not to
13 exceed 90 days or both.

14 (b) An individual who is not a permittee who possesses an amount of marijuana
15 that exceeds 40 grams of marijuana is guilty of a Class I felony.

16 (c) An individual who is not a permittee who cultivates marijuana is guilty of
17 a Class I felony.

18 (d) Whoever uses or displays marijuana in a public space is subject to a civil
19 forfeiture of not more than \$100.

20 **SECTION 152.** 967.055 (1) (a) of the statutes is amended to read:

21 967.055 (1) (a) The legislature intends to encourage the vigorous prosecution
22 of offenses concerning the operation of motor vehicles by persons under the influence
23 of an intoxicant, a controlled substance, a controlled substance analog or any
24 combination of an intoxicant, controlled substance and controlled substance analog,
25 under the influence of any other drug to a degree which renders him or her incapable

1 of safely driving, or under the combined influence of an intoxicant and any other drug
2 to a degree which renders him or her incapable of safely driving or having a
3 prohibited alcohol concentration, as defined in s. 340.01 (46m), or having a
4 tetrahydrocannabinols concentration of 5.0 or greater, offenses concerning the
5 operation of motor vehicles by persons with a detectable amount of a restricted
6 controlled substance in his or her blood, and offenses concerning the operation of
7 commercial motor vehicles by persons with an alcohol concentration of 0.04 or more.

8 **History:** 1981 c. 20, 184; 1983 a. 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 101; 1989 a. 105; 1991 a. 277; 1995 a. 113, 436, 448; 1997 a. 252; 2003 a. 30, 97.

SECTION 153. 967.055 (1) (b) of the statutes is amended to read:

9 967.055 (1) (b) The legislature intends to encourage the vigorous prosecution
10 of offenses concerning the operation of motorboats by persons under the influence of
11 an intoxicant, a controlled substance, a controlled substance analog or any
12 combination of an intoxicant, controlled substance and controlled substance analog
13 to a degree which renders him or her incapable of operating a motorboat safely, or
14 under the combined influence of an intoxicant and any other drug to a degree which
15 renders him or her incapable of operating a motorboat safely or having an alcohol
16 concentration of 0.08 or more or a tetrahydrocannabinols concentration of 5.0 or
17 greater.

18 **History:** 1981 c. 20, 184; 1983 a. 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 101; 1989 a. 105; 1991 a. 277; 1995 a. 113, 436, 448; 1997 a. 252; 2003 a. 30, 97.

SECTION 154. 967.055 (1m) (b) 1. of the statutes is amended to read:

19 967.055 (1m) (b) 1. A controlled substance included in schedule I under ch. 961
20 ~~other than a tetrahydrocannabinol.~~

21 **History:** 1981 c. 20, 184; 1983 a. 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 101; 1989 a. 105; 1991 a. 277; 1995 a. 113, 436, 448; 1997 a. 252; 2003 a. 30, 97.

SECTION 155. 967.055 (1m) (b) 5. of the statutes is repealed.

22 **SECTION 156.** 967.055 (2) (a) of the statutes is amended to read:

23 967.055 (2) (a) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss
24 or amend a charge under s. 346.63 (1) or (5) or a local ordinance in conformity

1 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the
2 use of a vehicle or an improper refusal under s. 343.305, the prosecutor shall apply
3 to the court. The application shall state the reasons for the proposed amendment or
4 dismissal. The court may approve the application only if the court finds that the
5 proposed amendment or dismissal is consistent with the public's interest in deterring
6 the operation of motor vehicles by persons who are under the influence of an
7 intoxicant, a controlled substance, a controlled substance analog or any combination
8 of an intoxicant, controlled substance and controlled substance analog, under the
9 influence of any other drug to a degree which renders him or her incapable of safely
10 driving, or under the combined influence of an intoxicant and any other drug to a
11 degree which renders him or her incapable of safely driving, in deterring the
12 operation of motor vehicles by persons with a detectable amount of a restricted
13 controlled substance in his or her blood, in deterring the operation of motor vehicles
14 by persons with a tetrahydrocannabinols concentration that is 5.0 or greater, or in
15 deterring the operation of commercial motor vehicles by persons with an alcohol
16 concentration of 0.04 or more. The court may not approve an application to amend
17 the vehicle classification from a commercial motor vehicle to a noncommercial motor
18 vehicle unless there is evidence in the record that the motor vehicle being operated
19 by the defendant at the time of his or her arrest was not a commercial motor vehicle.

20 **History:** 1981 c. 20, 184; 1983 a. 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 101; 1989 a. 105; 1991 a. 277; 1995 a. 113, 436, 448; 1997 a. 252; 2003 a. 30, 97.

SECTION 157. 971.365 (1) (a) of the statutes is amended to read:

21 971.365 (1) (a) In any case under s. 961.41 (1) (em), 1999 stats., or s. 961.41 (1)
22 (cm), (d), (e), (f), or (g) ~~or~~ (h) involving more than one violation, all violations may be

1 prosecuted as a single crime if the violations were pursuant to a single intent and
2 design.

3 **History:** 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 98, 118, 490; 1995 a. 448; 1999 a. 48; 2001 a. 109; 2003 a. 49.

SECTION 158. 971.365 (1) (b) of the statutes is amended to read:

4 971.365 (1) (b) In any case under s. 961.41 (1m) (em), 1999 stats., or s. 961.41
5 (1m) (cm), (d), (e), (f), or (g) ~~or (h)~~ involving more than one violation, all violations may
6 be prosecuted as a single crime if the violations were pursuant to a single intent and
7 design.

8 **History:** 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 98, 118, 490; 1995 a. 448; 1999 a. 48; 2001 a. 109; 2003 a. 49.

SECTION 159. 971.365 (1) (c) of the statutes is amended to read:

9 971.365 (1) (c) In any case under s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41
10 (3g) (dm), 1999 stats., or s. 961.41 (3g) (am), (c), (d), ~~(e)~~, or (g) involving more than
11 one violation, all violations may be prosecuted as a single crime if the violations were
12 pursuant to a single intent and design.

13 **History:** 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 98, 118, 490; 1995 a. 448; 1999 a. 48; 2001 a. 109; 2003 a. 49.

SECTION 160. 971.365 (2) of the statutes is amended to read:

14 971.365 (2) An acquittal or conviction under sub. (1) does not bar a subsequent
15 prosecution for any acts in violation of s. 961.41 (1) (em), 1999 stats., s. 961.41 (1m)
16 (em), 1999 stats., s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41 (3g) (dm), 1999 stats.,
17 or s. 961.41 (1) (cm), (d), (e), (f), or (g), ~~or (h)~~, (1m) (cm), (d), (e), (f), or (g), ~~or (h)~~ or (3g)
18 (am), (c), (d), ~~(e)~~, or (g) on which no evidence was received at the trial on the original
19 charge.

20 **History:** 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 98, 118, 490; 1995 a. 448; 1999 a. 48; 2001 a. 109; 2003 a. 49.

SECTION 161. Effective date.

21 (1) This act takes effect on the first day of the 6th month beginning after
22 publication.

23

(END)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3671/P1ins
EVM/CMH/JK:sac:...

1 INSERT 8-10

2 **SECTION 1.** 30.681 (1) (b) (title) of the statutes is amended to read:

3 30.681 (1) (b) (title) *Operating after using a controlled substance or alcohol, or*
4 *marijuana.*

5 INSERT 13-3

6 **SECTION 2.** 139.87 (7) of the statutes is amended to read:

7 139.87 (7) "Tetrahydrocannabinols" means a substance ~~included in s. 961.14~~
8 ~~(4)-(t) in any form including tetrahydrocannabinols contained in marijuana,~~
9 ~~obtained from marijuana or chemically synthesized.~~

10 INSERT 27-22

11 **SECTION 3.** 343.10 (5) (a) 1. of the statutes is amended to read:

12 343.10 (5) (a) 1. In addition to any restrictions appearing on the former
13 operator's license of the applicant, the occupational license shall contain definite
14 restrictions as to hours of the day, not to exceed 12, hours per week, not to exceed 60,
15 type of occupation and areas or routes of travel which are permitted under the
16 license. The occupational license may permit travel to and from church during
17 specified hours if the travel does not exceed the restrictions as to hours of the day and
18 hours per week in this subdivision. The occupational license may permit travel
19 necessary to comply with a driver safety plan ordered under s. 343.30 (1q) or 343.305
20 if the travel does not exceed the restrictions as to hours of the day and hours per week
21 in this subdivision. The occupational license may contain restrictions on the use of
22 alcohol, of tetracannabinols, and of controlled substances and controlled substance
23 analogs in violation of s. 961.41.

1 **SECTION 4.** 343.10 (5) (a) 2. of the statutes is amended to read:

2 343.10 **(5)** (a) 2. If the applicant has 2 or more convictions, suspensions or
3 revocations, as counted under s. 343.307 (1), the occupational license shall prohibit
4 the applicant from driving or operating a motor vehicle while he or she has an alcohol
5 concentration of more than 0.0 or a tetrahydrocannabinols concentration of more
6 than 0.0.

7 INSERT 28-3

8 **SECTION 5.** 343.16 (2) (b) of the statutes is amended to read:

9 343.16 **(2)** (b) *Specific requirements.* The standards developed by the
10 department under par. (c) shall provide that the examination for persons making
11 their first application for an operator's license shall include a test of the applicant's
12 eyesight, ability to read and understand highway signs regulating, warning and
13 directing traffic, knowledge of the traffic laws, including ss. 346.072 and 346.26,
14 understanding of fuel-efficient driving habits and the relative costs and availability
15 of other modes of transportation, knowledge of the need for anatomical gifts and the
16 ability to make an anatomical gift through the use of a donor card issued under s.
17 343.175 (2), and an actual demonstration of ability to exercise ordinary and
18 reasonable control in the operation of a motor vehicle. The test of knowledge of the
19 traffic laws shall include questions on the provisions of ss. 343.30 (1q), 343.303 to
20 343.31 and 346.63 to 346.655, relating to the operation of a motor vehicle and the
21 consumption of alcohol beverages and tetrahydrocannabinols. The test of knowledge
22 may also include questions on the social, medical and economic effects of alcohol and
23 other drug abuse. The examination of applicants for authorization to operate 'Class
24 M' vehicles shall test an applicant's knowledge of Type 1 motorcycle safety, including
25 proper eye protection to be worn during hours of darkness. The department may

1 require persons changing their residence to this state from another jurisdiction and
2 persons applying for a reinstated license after termination of a revocation period to
3 take all or parts of the examination required of persons making their first application
4 for an operator's license. Any applicant who is required to give an actual
5 demonstration of ability to exercise ordinary and reasonable control in the operation
6 of a motor vehicle shall furnish a representative vehicle in safe operating condition
7 for use in testing ability.

8 INSERT 31-2

9 **SECTION 6.** 343.305 (3) (am) of the statutes is amended to read:

10 343.305 (3) (am) Prior to arrest, a law enforcement officer may request the
11 person to provide one or more samples of his or her breath, blood or urine for the
12 purpose specified under sub. (2) whenever a law enforcement officer detects any
13 presence of alcohol, tetrahydrocannabinols, a controlled substance, a controlled
14 substance analog or other drug, or a combination thereof, on a person driving or
15 operating or on duty time with respect to a commercial motor vehicle or has reason
16 to believe the person is violating or has violated s. 346.63 (7). Compliance with a
17 request for one type of sample does not bar a subsequent request for a different type
18 of sample. For the purposes of this paragraph, "law enforcement officer" includes
19 inspectors in the performance of duties under s. 110.07 (3).

20 INSERT 35-20

21 **SECTION 7.** 343.305 (9) (am) 5. a. of the statutes is amended to read:

22 343.305 (9) (am) 5. a. Whether the officer detected any presence of alcohol,
23 tetrahydrocannabinol, controlled substance, controlled substance analog or other
24 drug, or a combination thereof, on the person or had reason to believe that the person
25 was violating or had violated s. 346.63 (7).

1 **SECTION 8.** 343.305 (9) (am) 5. c. of the statutes is amended to read:

2 343.305 (9) (am) 5. c. Whether the person refused to permit the test. The person
3 shall not be considered to have refused the test if it is shown by a preponderance of
4 evidence that the refusal was due to a physical inability to submit to the test due to
5 a physical disability or disease unrelated to the use of alcohol,
6 tetrahydrocannabinols, controlled substances, controlled substance analogs or other
7 drugs.

8 INSERT 42-21

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

10 346.65 (2m) (a) In imposing a sentence under sub. (2) for a violation of s. 346.63
11 (1) (am) or (b) or (5) or a local ordinance in conformity therewith, the court shall
12 review the record and consider the aggravating and mitigating factors in the matter.
13 If the amount of alcohol in the person's blood or urine or the amount of a restricted
14 controlled substance or tetrahydrocannabinols in the person's blood is known, the
15 court shall consider that amount as a factor in sentencing. The chief judge of each
16 judicial administrative district shall adopt guidelines, under the chief judge's
17 authority to adopt local rules under SCR 70.34, for the consideration of aggravating
18 and mitigating factors.

19 INSERT 56-12

20 ~~**SECTION 10.** 961.14 (4) (t) of the statutes is renumbered 139.87 (7m) and~~
21 ~~amended to read:~~

22 ~~139.87 (7m) Tetrahydrocannabinols, commonly known as "THC", means a~~
23 ~~substance in any form including tetrahydrocannabinols contained in marijuana,~~
24 ~~obtained from marijuana or chemically synthesized.~~

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