him or her incapable of safely driving or while the person has a detectable amount of a restricted controlled substance in his or her blood or has a prohibited alcohol or tetrahydrocannabinols concentration and which is criminal under s. 346.63 (2).

SECTION 83. 343.31 (2) of the statutes is amended to read:

343.31 **(2)** The department shall revoke the operating privilege of any resident upon receiving notice of the conviction of such person in another jurisdiction for an offense therein which, if committed in this state, would have been cause for revocation under this section or for revocation under s. 343.30 (1q). Such offenses shall include violation of any law of another jurisdiction that prohibits a person from using a motor vehicle while intoxicated or under the influence of a controlled substance or controlled substance analog, or a combination thereof; with an excess or specified range of alcohol or tetrahydrocannabinols concentration; while under the influence of any drug to a degree that renders the person incapable of safely driving; or while having a detectable amount of a restricted controlled substance in his or her blood, as those or substantially similar terms are used in that jurisdiction's laws. Upon receiving similar notice with respect to a nonresident, the department shall revoke the privilege of the nonresident to operate a motor vehicle in this state. Such revocation shall not apply to the operation of a commercial motor vehicle by a nonresident who holds a valid commercial driver license issued by another state.

SECTION 84. 343.315 (2) (a) 2. of the statutes is amended to read:

343.315 **(2)** (a) 2. Section 346.63 (1) (b) or (5) (a) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1) (b) or (5) (a) or the law of another jurisdiction prohibiting driving or operating a commercial motor vehicle while the person's alcohol concentration is 0.04 or more or with an excess or specified range of

alcohol or tetrahydrocannabinols concentration, as those or substantially similar terms are used in that jurisdiction's laws.

SECTION 85. 343.315 (2) (a) 5. of the statutes is amended to read:

343.315 **(2)** (a) 5. Section 343.305 (7) or (9) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 343.305 (7) or (9) or the law of another jurisdiction prohibiting refusal of a person driving or operating a motor vehicle to submit to chemical testing to determine the person's alcohol or tetrahydrocannabinols concentration or intoxication or the amount of a restricted controlled substance in the person's blood, or prohibiting positive results from such chemical testing, as those or substantially similar terms are used in that jurisdiction's laws.

SECTION 86. 343.315 (2) (a) 6. of the statutes is amended to read:

343.315 **(2)** (a) 6. Section 346.63 (2) or (6), 940.09 (1) or 940.25 or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (2) or (6), 940.09 (1) or 940.25, or the law of another jurisdiction prohibiting causing or inflicting injury, great bodily harm or death through use of a motor vehicle while intoxicated or under the influence of alcohol, tetrahydrocannabinols, a controlled substance, a controlled substance analog or a combination thereof, or with an alcohol concentration of 0.04 or more or with an excess or specified range of alcohol or tetrahydrocannabinols concentration, while under the influence of any drug to a degree that renders the person incapable of safely driving, or while having a detectable amount of a restricted controlled substance in the person's blood, as those or substantially similar terms are used in that jurisdiction's laws.

SECTION 87. 343.315 (2) (bm) 2. of the statutes is amended to read:

343.315 **(2)** (bm) 2. The offense relates to a vehicle operator's alcohol or tetrahydrocannabinols concentration or intoxication or the amount of a restricted controlled substance in the operator's blood.

SECTION 88. 343.32 (2) (bj) of the statutes is amended to read:

343.32 **(2)** (bj) The scale adopted by the secretary shall assess, for each conviction, 6 demerit points for a violation of s. 346.63 (6), 4 demerit points for a violation of s. 346.63 (2m) or (2p), and 3 demerit points for a violation of s. 346.63 (7) (a) 3. The scale adopted by the secretary shall not assess any demerit points for conviction of a violation of s. 346.63 (5) or (7) (a) 1. or 2.

SECTION 89. 344.576 (2) (b) of the statutes is amended to read:

344.576 **(2)** (b) The damage occurs while the renter or authorized driver operates the private passenger vehicle in this state while under the influence of an intoxicant or other drug, as described under s. 346.63 (1) (a), (am), or (b) ~~or~~, (2m), or (2p).

SECTION 90. 346.63 (1) (b) of the statutes is amended to read:

346.63 **(1)** (b) The person has a prohibited alcohol or tetrahydrocannabinols concentration.

SECTION 91. 346.63 (1) (d) of the statutes is amended to read:

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

metabolic precursors, gamma–hydroxybutyric acid, or delta–9–tetrahydrocannabinol.

SECTION 92. 346.63 (2) (a) 2. of the statutes is amended to read:

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

SECTION 93. 346.63 (2) (b) 1. of the statutes is amended to read:

346.63 **(2)** (b) 1. In an action under this subsection, the defendant has a defense if he or she proves by a preponderance of the evidence that the injury would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant, tetrahydrocannabinols, a controlled substance, a controlled substance analog or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, did not have a prohibited alcohol or tetrahydrocannabinols concentration described under par. (a) 2., or did not have a detectable amount of a restricted controlled substance in his or her blood.

SECTION 94. 346.63 (2) (b) 2. of the statutes is amended to read:

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

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

3 **SECTION 95.** 346.63 (2p) of the statutes is created to read:

4 346.63 **(2p)** If a person has not attained the legal age, as defined in s. 961.70
5 (1), the person may not drive or operate a motor vehicle while he or she has an
6 tetrahydrocannabinols concentration of more than 0.0 but not more than 5.0. One
7 penalty for violation of this subsection is suspension of a person's operating privilege
8 under s. 343.30 (1p). The person is eligible for an occupational license under s. 343.10
9 at any time. If a person arrested for a violation of this subsection refuses to take a
10 test under s. 343.305, the refusal is a separate violation and the person is subject to
11 revocation of the person's operating privilege under s. 343.305 (10) (em).

12 **SECTION 96.** 346.65 (2m) (a) of the statutes is amended to read:

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

22 **SECTION 97.** 346.65 (2q) of the statutes is amended to read:

23 346.65 **(2q)** Any person violating s. 346.63 (2m) <u>or (2p)</u> shall forfeit $200. If
24 there was a minor passenger under 16 years of age in the motor vehicle at the time

of the violation that gave rise to the conviction under 346.63 (2m) or (2p), the person shall be fined $400.

SECTION 98. 349.03 (2m) of the statutes is amended to read:

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

SECTION 99. 349.06 (1m) of the statutes is amended to read:

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

SECTION 100. 350.01 (10v) (a) of the statutes is amended to read:

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

SECTION 101. 350.01 (10v) (e) of the statutes is repealed.

SECTION 102. 350.01 (21g) of the statutes is created to read:

350.01 **(21g)** "Tetrahydrocannabinols concentration" has the meaning given in s. 23.33 (1) (k).

SECTION 103. 350.101 (1) (bg) of the statutes is created to read:

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

SECTION 104. 350.101 (1) (cg) of the statutes is created to read:

350.101 **(1)** (cg) *Operating with tetrahydrocannabinols concentration at or above specified levels.* If a person has not attained the age of 21, the person may not engage in the operation of a snowmobile while he or she has a tetrahydrocannabinols concentration of more than 0.0 but not more than 5.0.

SECTION 105. 350.101 (1) (d) of the statutes is amended to read:

350.101 **(1)** (d) *Related charges.* A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of par. (a), (b), (bg), or (bm) for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of par. (a), (b), (bg), or (bm), the offenses shall be joined. If the person is found guilty of any combination of par. (a), (b), (bg), or (bm) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under s. 350.11 (3) (a) 2. and 3. Paragraphs (a), (b), (bg), and (bm) each require proof of a fact for conviction which the others do not require.

SECTION 106. 350.101 (1) (e) of the statutes is amended to read:

350.101 **(1)** (e) *Defenses.* In an action under par. (bm) that is based on the defendant allegedly having a detectable amount of methamphetamine~~,~~ or gamma–hydroxybutyric acid~~, or delta–9–tetrahydrocannabinol~~ in his or her blood or in an action under par. (bg) or (cg) that is based on the defendant allegedly having a prohibited tetrahydrocannabinols concentration, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma–hydroxybutyric acid, or delta–9–tetrahydrocannabinol.

SECTION 107. 350.101 (2) (bg) of the statutes is created to read:

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

SECTION 108. 350.101 (2) (c) of the statutes is amended to read:

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

SECTION 109. 350.101 (2) (d) 1. of the statutes is amended to read:

350.101 **(2)** (d) 1. In an action under this subsection, the defendant has a defense if he or she proves by a preponderance of the evidence that the injury would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant or did not have an alcohol concentration of 0.08 or more or a tetrahydrocannabinols concentration of 5.0 or more or a detectable amount of a restricted controlled substance in his or her blood.

SECTION 110. 350.101 (2) (d) 2. of the statutes is amended to read:

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

metabolic precursors, gamma–hydroxybutyric acid, or delta–9–tetrahydrocannabinol.

SECTION 111. 350.104 (4) of the statutes is amended to read:

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

SECTION 112. 350.11 (3) (d) of the statutes is amended to read:

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

SECTION 113. 885.235 (1) (d) 1. of the statutes is amended to read:

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

SECTION 114. 885.235 (1) (d) 5. of the statutes is repealed.

SECTION 115. 885.235 (1) (e) of the statutes is created to read:

885.235 **(1)** (e) "Tetrahydrocannabinols concentration" has the meaning given in s. 23.33 (1) (k).

SECTION 116. 885.235 (1g) (intro.) of the statutes is amended to read:

885.235 **(1g)** (intro.) In any action or proceeding in which it is material to prove that a person was under the influence of an intoxicant or had a prohibited alcohol <u>or tetrahydrocannabinols</u> concentration or a specified alcohol concentration while operating or driving a motor vehicle or, if the vehicle is a commercial motor vehicle, on duty time, while operating a motorboat, except a sailboat operating under sail alone, while operating a snowmobile, while operating an all–terrain vehicle or utility terrain vehicle or while handling a firearm, evidence of the amount of alcohol <u>or tetrahydrocannabinols</u> in the person's blood at the time in question, as shown by chemical analysis of a sample of the person's blood or urine or evidence of the amount of alcohol in the person's breath, is admissible on the issue of whether he or she was under the influence of an intoxicant or had a prohibited alcohol <u>or tetrahydrocannabinols</u> concentration or a specified alcohol concentration if the sample was taken within 3 hours after the event to be proved. The chemical analysis shall be given effect as follows without requiring any expert testimony as to its effect:

SECTION 117. 885.235 (1g) (ag) of the statutes is created to read:

885.235 **(1g)** (ag) The fact that the analysis shows that the person had an tetrahydrocannabinols concentration of more than 0.0 but less than 5.0 is relevant evidence on the issue of being under the combined influence of

1 tetrahydrocannabinols and alcohol, a controlled substance, a controlled substance
2 analog, or any other drug, but, except as provided in sub. (1L), is not to be given any
3 prima facie effect.

4 **SECTION 118.** 885.235 (1g) (cg) of the statutes is created to read:

5 885.235 **(1g)** (cg) The fact that the analysis shows that the person had an
6 tetrahydrocannabinols concentration of 5.0 or more is prima facie evidence that he
7 or she had an tetrahydrocannabinols concentration of 5.0 or more.

8 **SECTION 119.** 885.235 (1L) of the statutes is created to read:

9 885.235 **(1L)** In any action under s. 23.33 (4c) (a) 3g., 30.681 (1) (bn) 2., 346.63
10 (2p), or 350.101 (1) (cg), evidence of the amount of tetrahydrocannabinols in the
11 person's blood at the time in question, as shown by chemical analysis of a sample of
12 the person's blood or urine, is admissible on the issue of whether he or she had a
13 tetrahydrocannabinols concentration in the range specified in s. 23.33 (4c) (a) 3g.,
14 30.681 (1) (bn) 2., 346.63 (2p), or 350.101 (1) (cg) if the sample was taken within 3
15 hours after the event to be proved. The fact that the analysis shows that the person
16 had a tetrahydrocannabinols concentration of more than 0.0 but not more than 5.0
17 is prima facie evidence that the person had a tetrahydrocannabinols concentration
18 in the range specified in s. 23.33 (4c) (a) 3g., 30.681 (1) (bn) 2., 346.63 (2p), or 350.101
19 (1) (cg).

20 **SECTION 120.** 885.235 (1m) of the statutes is amended to read:

21 885.235 **(1m)** In any action under s. 23.33 (4c) (a) 3., 30.681 (1) (bn) 1., 346.63
22 (2m) or (7), or 350.101 (1) (c), evidence of the amount of alcohol in the person's blood
23 at the time in question, as shown by chemical analysis of a sample of the person's
24 blood or urine or evidence of the amount of alcohol in the person's breath, is
25 admissible on the issue of whether he or she had an alcohol concentration in the

range specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn) 1., 346.63 (2m), or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7) if the sample was taken within 3 hours after the event to be proved. The fact that the analysis shows that the person had an alcohol concentration of more than 0.0 but not more than 0.08 is prima facie evidence that the person had an alcohol concentration in the range specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn) 1., 346.63 (2m), or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7).

SECTION 121. 885.235 (4) of the statutes is amended to read:

885.235 **(4)** The provisions of this section relating to the admissibility of chemical tests for alcohol or tetrahydrocannabinols concentration or intoxication or for determining whether a person had a detectable amount of a restricted controlled substance in his or her blood shall not be construed as limiting the introduction of any other competent evidence bearing on the question of whether or not a person was under the influence of an intoxicant, had a detectable amount of a restricted controlled substance in his or her blood, had a specified alcohol or tetrahydrocannabinols concentration, ~~or~~ had an alcohol concentration in the range specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn) 1., 346.63 (2m) or 350.101 (1) (c), or had a tetrahydrocannabinols concentration in the range specified in s. 23.33 (4c) (a) 3g., 30.681 (1) (bn) 2., 346.63 (2p), or 350.101 (1) (cg).

SECTION 122. 895.047 (3) (a) of the statutes is amended to read:

895.047 **(3)** (a) If the defendant proves by clear and convincing evidence that at the time of the injury the claimant was under the influence of any controlled substance or controlled substance analog to the extent prohibited under s. 346.63 (1) (a), or had an alcohol concentration, as defined in s. 340.01 (1v), of 0.08 or more or a tetrahydrocannabinols concentration, as defined in s. 233.33 (1) (k), of 5.0 or more,

there shall be a rebuttable presumption that the claimant's intoxication or drug use was the cause of his or her injury.

SECTION 123. 905.04 (4) (f) of the statutes is amended to read:

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

SECTION 124. 939.22 (33) (a) of the statutes is amended to read:

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

SECTION 125. 939.22 (33) (e) of the statutes is repealed.

SECTION 126. 939.22 (39g) of the statutes is created to read:

939.22 **(39g)** "Tetrahydrocannabinols concentration" has the meaning given in s. 23.33 (1) (k).

SECTION 127. 940.09 (1) (bg) of the statutes is created to read:

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

SECTION 128. 940.09 (1) (dg) of the statutes is created to read:

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

SECTION 129. 940.09 (1g) (bg) of the statutes is created to read:

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

1 **SECTION 130.** 940.09 (1g) (dg) of the statutes is created to read:

2 940.09 **(1g)** (dg) Causes the death of an unborn child by the operation or
3 handling of a firearm or airgun while the person has a tetrahydrocannabinols
4 concentration of 5.0 or more.

5 **SECTION 131.** 940.09 (1m) (a) of the statutes is amended to read:

6 940.09 **(1m)** (a) A person may be charged with and a prosecutor may proceed
7 upon an information based upon a violation of any combination of sub. (1) (a), (am),
8 ~~or~~ (b)<u>, or (bg)</u>; any combination of sub. (1) (a), (am), <u>(bg),</u> or (bm); any combination of
9 sub. (1) (c), (cm), ~~or~~ (d)<u>, or (dg)</u>; any combination of sub. (1) (c), (cm), <u>(dg),</u> or (e); any
10 combination of sub. (1g) (a), (am), ~~or~~ (b)<u>, or (bg)</u> or; any combination of sub. (1g) (c),
11 (cm), ~~or~~ (d)<u>, or (dg)</u> for acts arising out of the same incident or occurrence.

12 **SECTION 132.** 940.09 (1m) (b) of the statutes is amended to read:

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

23 **SECTION 133.** 940.09 (2) (a) of the statutes is amended to read:

24 940.09 **(2)** (a) In any action under this section, the defendant has a defense if
25 he or she proves by a preponderance of the evidence that the death would have

occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant, did not have a detectable amount of a restricted controlled substance in his or her blood, did not have a tetrahydrocannabinols concentration of 5.0 or greater, or did not have an alcohol concentration described under sub. (1) (b), (bm), (d) or (e) or (1g) (b) or (d).

SECTION 134. 940.09 (2) (b) of the statutes is amended to read:

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

SECTION 135. 940.25 (1) (bg) of the statutes is created to read:

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

SECTION 136. 940.25 (1) (dg) of the statutes is created to read:

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

SECTION 137. 940.25 (1m) of the statutes is amended to read:

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

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

SECTION 138. 940.25 (2) of the statutes is amended to read:

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

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

concentration that is 5.0 or greater, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma–hydroxybutyric acid, or delta–9–tetrahydrocannabinol.

SECTION 139. 941.20 (1) (bg) of the statutes is created to read:

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

SECTION 140. 941.20 (1) (bm) of the statutes is amended to read:

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

SECTION 141. 961.01 (14) of the statutes is renumbered 961.70 (3) and amended to read:

961.70 **(3)** "Marijuana" means all parts of the plants of the genus Cannabis, whether growing or not, with a concentration of tetrahydrocannabinols that is greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted

from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin~~, including tetrahydrocannabinols~~. "Marijuana" does include the mature stalks if mixed with other parts of the plant, but does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

SECTION 142. 961.14 (4) (t) of the statutes is repealed.

SECTION 143. 961.34 of the statutes is renumbered 961.75, and 961.75 (title), as renumbered, is amended to read:

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

SECTION 144. 961.41 (1) (h) of the statutes is repealed.

SECTION 145. 961.41 (1m) (h) of the statutes is repealed.

SECTION 146. 961.41 (1q) of the statutes is repealed.

SECTION 147. 961.41 (1r) of the statutes is amended to read:

961.41 **(1r)** DETERMINING WEIGHT OF SUBSTANCE. In determining amounts under s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight of cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine, or methcathinone ~~or tetrahydrocannabinols~~ or any controlled substance analog of any of these substances together with any compound, mixture, diluent, plant material or other substance mixed or combined with the controlled substance or controlled substance analog. ~~In addition, in determining amounts under subs. (1) (h) and (1m) (h), the amount of~~

1 ~~tetrahydrocannabinols means anything included under s. 961.14 (4) (t) and includes~~
2 ~~the weight of any marijuana.~~

3 **SECTION 148.** 961.41 (3g) (c) of the statutes is amended to read:

4 961.41 **(3g)** (c) *Cocaine and cocaine base.* If a person possess or attempts to
5 possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine
6 base, the person shall be fined not more than $5,000 and may be imprisoned for not
7 more than one year in the county jail upon a first conviction and is guilty of a Class
8 I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense
9 is considered a 2nd or subsequent offense if, prior to the offender's conviction of the
10 offense, the offender has at any time been convicted of any felony or misdemeanor
11 under this chapter or under any statute of the United States or of any state relating
12 to controlled substances, controlled substance analogs, narcotic drugs, ~~marijuana,~~
13 or depressant, stimulant, or hallucinogenic drugs.

14 **SECTION 149.** 961.41 (3g) (d) of the statutes is amended to read:

15 961.41 **(3g)** (d) *Certain hallucinogenic and stimulant drugs.* If a person
16 possesses or attempts to possess lysergic acid diethylamide, phencyclidine,
17 amphetamine, methcathinone, methylenedioxypyrovalerone,
18 4–methylmethcathinone, psilocin or psilocybin, or a controlled substance analog of
19 lysergic acid diethylamide, phencyclidine, amphetamine, methcathinone,
20 methylenedioxypyrovalerone, 4–methylmethcathinone, psilocin or psilocybin, the
21 person may be fined not more than $5,000 or imprisoned for not more than one year
22 in the county jail or both upon a first conviction and is guilty of a Class I felony for
23 a 2nd or subsequent offense. For purposes of this paragraph, an offense is considered
24 a 2nd or subsequent offense if, prior to the offender's conviction of the offense, the
25 offender has at any time been convicted of any felony or misdemeanor under this

chapter or under any statute of the United States or of any state relating to controlled substances, controlled substance analogs, narcotic drugs, ~~marijuana,~~ or depressant, stimulant, or hallucinogenic drugs.

SECTION 150. 961.41 (3g) (e) of the statutes is repealed.

SECTION 151. 961.41 (3g) (em) of the statutes is amended to read:

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

SECTION 152. 961.47 (1) of the statutes is amended to read:

961.47 **(1)** Whenever any person who has not previously been convicted of any offense under this chapter, or of any offense under any statute of the United States or of any state or of any county ordinance relating to controlled substances or controlled substance analogs, narcotic drugs, ~~marijuana~~ or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession or attempted possession of a controlled substance or controlled substance analog under s. 961.41 (3g) (b), the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him or her on probation upon terms

and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him or her. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for 2nd or subsequent convictions under s. 961.48. There may be only one discharge and dismissal under this section with respect to any person.

SECTION 153. 961.48 (3) of the statutes is amended to read:

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

SECTION 154. 961.48 (5) of the statutes is amended to read:

961.48 **(5)** This section does not apply if the person is presently charged with a felony under s. 961.41 (3g) (c), (d), ~~(e),~~ or (g).

SECTION 155. 961.49 (1m) (intro.) of the statutes is amended to read:

961.49 **(1m)** (intro.) If any person violates s. 961.41 (1) (cm), (d), (e), (f), or (g) ~~or (h)~~ by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (e), (f), or (g) ~~or (h)~~ by possessing with intent to deliver or distribute, cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine, or methcathinone ~~or any form of tetrahydrocannabinols~~ or a controlled substance analog of any of these substances and the delivery, distribution

or possession takes place under any of the following circumstances, the maximum term of imprisonment prescribed by law for that crime may be increased by 5 years:

SECTION 156. 961.571 (1) (a) 7. of the statutes is repealed.

SECTION 157. 961.571 (1) (a) 11. (intro.) of the statutes is amended to read:

961.571 **(1)** (a) 11. (intro.) Objects used, designed for use or primarily intended for use in ingesting, inhaling, or otherwise introducing ~~marijuana,~~ cocaine, hashish or hashish oil into the human body, such as:

SECTION 158. 961.571 (1) (a) 11. e. of the statutes is repealed.

SECTION 159. 961.571 (1) (a) 11. k. and L. of the statutes are repealed.

SECTION 160. Subchapter VIII of chapter 961 [precedes 961.70] of the statutes is created to read:

CHAPTER 961

SUBCHAPTER VIII

REGULATION OF MARIJUANA

961.70 Definitions. In this subchapter:

(1) "Legal age" means 21 years of age.

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(3g) "Permissible amount" means an amount that does not exceed one half ounce of usable marijuana, ~~16~~ 8 ounces of marijuana–infused product in solid form, or ~~72~~ 36 ounces of marijuana–infused product in liquid form.

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(3m) "Permittee" has the meaning given under s. 139.97 (9).

(4) "Tetrahydrocannabinols concentration" means percent of delta–9–tetrahydrocannabinol content per dry weight of any part of the plant Cannabis, or per volume or weight of marijuana product, or the combined percent of delta–9–tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant Cannabis regardless of moisture content.

(3e) "Marijuana-infused product" has the meaning given in s. 139.97 (7).

V(3)

(6) "Usable marijuana" has the meaning given in s. 139.97 (12)

1 **(5)** "Underage person" means a person who has not attained the legal age.

2 **961.71 Underage persons prohibitions; penalties. (1)** (a) 1. No permittee
3 may sell, distribute, or transfer marijuana to any underage person.

4 2. No permittee may directly or indirectly permit an underage person to enter
5 or be on a permitted premises in violation of sub. (2) (d).

6 (b) A permittee who violates par. (a) may be subject to a forfeiture of not more
7 than $500 and to a suspension of the permittee's permit for an amount of time not
8 to exceed 30 days.

9 (c) In determining whether a permittee has violated par. (a), all relevant
10 circumstances surrounding the presence of the underage person or the selling,
11 transferring, or distributing of marijuana may be considered. In addition, proof of
12 all of the following facts by a permittee regarding a sale to an underage person is a
13 defense to any prosecution for a violation of par. (a):

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

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

18 3. That the sale was made in good faith and in reliance on the representation
19 and appearance of the purchaser in the belief that the purchaser had attained the
20 legal age.

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

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

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

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

(c) Knowingly possesses or consumes marijuana.

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

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

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

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

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

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

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

(2) (a) An individual who is not a permittee who possesses an amount of marijuana that exceeds the permissible amount but does not exceed ~~40~~ 20 grams of marijuana is subject to a civil forfeiture not to exceed $1,000 or imprisonment not to exceed 90 days or both.

(b) An individual who is not a permittee who possesses an amount of marijuana that exceeds ~~40~~ 20 grams of marijuana is guilty of a Class I felony.

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

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

SECTION 161. 967.055 (1) (a) of the statutes is amended to read:

967.055 **(1)** (a) The legislature intends to encourage the vigorous prosecution of offenses concerning the operation of motor vehicles by persons under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination of an intoxicant, controlled substance and controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or having a prohibited alcohol concentration, as defined in s. 340.01 (46m), <u>or having a tetrahydrocannabinols concentration of 5.0 or greater,</u> offenses concerning the operation of motor vehicles by persons with a detectable amount of a restricted controlled substance in his or her blood, and offenses concerning the operation of commercial motor vehicles by persons with an alcohol concentration of 0.04 or more.

SECTION 162. 967.055 (1) (b) of the statutes is amended to read:

967.055 **(1)** (b) The legislature intends to encourage the vigorous prosecution of offenses concerning the operation of motorboats by persons under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination of an intoxicant, controlled substance and controlled substance analog to a degree which renders him or her incapable of operating a motorboat safely, or

under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of operating a motorboat safely or having an alcohol concentration of 0.08 or more or a tetrahydrocannabinols concentration of 5.0 or greater.

SECTION 163. 967.055 (1m) (b) 1. of the statutes is amended to read:

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

SECTION 164. 967.055 (1m) (b) 5. of the statutes is repealed.

SECTION 165. 967.055 (2) (a) of the statutes is amended to read:

967.055 **(2)** (a) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss or amend a charge under s. 346.63 (1) or (5) 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 an improper refusal under s. 343.305, the prosecutor shall apply to the court. The application shall state the reasons for the proposed amendment or dismissal. The court may approve the application only if the court finds that the proposed amendment or dismissal is consistent with the public's interest in deterring the operation of motor vehicles by persons who are under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination of an intoxicant, controlled substance and controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, in deterring the operation of motor vehicles by persons with a detectable amount of a restricted controlled substance in his or her blood, in deterring the operation of motor vehicles by persons with a tetrahydrocannabinols concentration that is 5.0 or greater, or in

deterring the operation of commercial motor vehicles by persons with an alcohol concentration of 0.04 or more. The court may not approve an application to amend the vehicle classification from a commercial motor vehicle to a noncommercial motor vehicle unless there is evidence in the record that the motor vehicle being operated by the defendant at the time of his or her arrest was not a commercial motor vehicle.

SECTION 166. 971.365 (1) (a) of the statutes is amended to read:

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

SECTION 167. 971.365 (1) (b) of the statutes is amended to read:

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

SECTION 168. 971.365 (1) (c) of the statutes is amended to read:

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

SECTION 169. 971.365 (2) of the statutes is amended to read:

971.365 **(2)** An acquittal or conviction under sub. (1) does not bar a subsequent prosecution for any acts in violation of s. 961.41 (1) (em), 1999 stats., s. 961.41 (1m) (em), 1999 stats., s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41 (3g) (dm), 1999 stats., or s. 961.41 (1) (cm), (d), (e), (f), <u>or</u> (g), ~~or (h),~~ (1m) (cm), (d), (e), (f), <u>or</u> (g), ~~or (h)~~ or (3g)

1 (am), (c), (d), ~~(e),~~ or (g) on which no evidence was received at the trial on the original
2 charge.

3 **SECTION 170. Effective date.**

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

6 **(END)**

1 Insert A

so that state law permits a nonresident of Wisconsin who is over the age of 21 to possess no more than a quarter ounce of marijuana, 4 ounces of marijuana–infused product in solid form, or 18 ounces of marijuana–infused product in liquid form. This bill also

2

3 Insert 62–17

4 one of the following:

5 (a) For a person who is a resident of Wisconsin,

6

7 Insert 62–20

8 (b) For a person who is not a resident of Wisconsin, an amount that does not

9 exceed one–quarter an ounce of useable marijuana, 4 ounces of marijuana–infused

10 product in solid form, or 18 ounces of marijuana–infused product in liquid form.