

2013 DRAFTING REQUEST

Bill

Received: 1/21/2014 Received By: phurley  
 Wanted: As time permits Same as LRB:  
 For: Jon Richards (608) 266-0650 By/Representing: Adrienne  
 May Contact: Drafter: rnelson  
 Subject: Drunk Driving - other Addl. Drafters:  
 Extra Copies:

Submit via email: YES  
 Requester's email: Rep.Richards@legis.wisconsin.gov  
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Criminalize first offense OWI

Instructions:

- \* forfeiture to fine
- \* max of 30 days unless in a treatment county; then 5 days
- \* state to reimburse counties for jail days served by these offenders

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	rnelson 2/13/2014	wjackson 2/11/2014	jmurphy 2/11/2014	_____	lparisi 2/11/2014		State S&L Crime
/1	rnelson 2/18/2014	wjackson 2/13/2014	jmurphy 2/13/2014	_____	sbasford 2/13/2014	mbarman 2/17/2014	State S&L Crime
/2		wjackson	jmurphy	_____	sbasford	sbasford	State

Vers. Drafted

Reviewed  
2/18/2014

Typed  
2/18/2014

Proofed  
\_\_\_\_\_

Submitted  
2/18/2014

Jacketed  
2/18/2014

Required  
S&L  
Crime

FE Sent For:



At  
Intro.

<END>

## 2013 DRAFTING REQUEST

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/1		wjackson 2/13/2014	jmurphy 2/13/2014	_____	sbasford 2/13/2014	mbarman 2/17/2014	State S&L Crime

*1/2 WJ 2/18*

*jm  
2/18*

FE Sent For:

<END>

### 2013 DRAFTING REQUEST

#### Bill

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Wanted: As time permits Same as LRB:  
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Subject: Drunk Driving - other Addl. Drafters:  
Extra Copies:

Submit via email: YES  
Requester's email: Rep.Richards@legis.wisconsin.gov  
Carbon copy (CC) to:

#### Pre Topic:

No specific pre topic given

#### Topic:

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#### Instructions:

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/P1	rnelson 2/13/2014	wjackson 2/11/2014	jmurphy 2/11/2014	_____	lparisi 2/11/2014		State S&L Crime
/1		wjackson 2/13/2014	jmurphy 2/13/2014	_____	sbasford 2/13/2014		State S&L Crime

Per RPN

FE Sent For:

**<END>**

**2013 DRAFTING REQUEST**

**Bill**

Received: 1/21/2014 Received By: phurley  
Wanted: As time permits Same as LRB:  
For: Jon Richards (608) 266-0650 By/Representing: Adrienne  
May Contact: Drafter: rnelson  
Subject: Drunk Driving - other Addl. Drafters:  
Extra Copies:

Submit via email: YES  
Requester's email: Rep.Richards@legis.wisconsin.gov  
Carbon copy (CC) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Criminalize first offense OWI

**Instructions:**

- \* forfeiture to fine
- \* max of 30 days unless in a treatment county; then 5 days
- \* state to reimburse counties for jail days served by these offenders

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	rnelson 2/5/2014	wjackson 2/11/2014	jmurphy 2/11/2014	_____	lparisi 2/11/2014		State S&L Crime

1 wly 2/13

Jm 2/13

FE Sent For:

<END>

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Instructions:

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*2/4 Adrienne =  
 Do only Furl. -> Fine  
 w/ delayed date  
 to July, 2015*

Drafting History:

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/P1 rnelson

*pi wly 2/11*

*\_\_\_\_\_*  
*\_\_\_\_\_*  
*Jim R*  
*2/11*

FE Sent For:

<END>

**Nelson, Robert**

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**To:** Richards, Jon; Ramirez, Adrienne  
**Subject:** OWI draft

Adrienne,

Peggy Hurley has asked me to help with Rep. Richards request (LRB-4045) to make the first OWI violation a criminal offense. Attached is a bill from the 2009-11 session, 2009 AB 547, that would have criminalized OWI first offense and make some other changes regarding drunk driving. I also attached 3 fiscal estimates for that bill, which gives an idea of the costs involved.

I thought looking at this bill will help you think about what you may want to include in LRB-4045. I would like to discuss this request in more detail at your convenience, however I only work M-TH. My number is 267-9739.

<https://docs.legis.wisconsin.gov/document/proposaltext/2009/REG/AB547>

[https://docs.legis.wisconsin.gov/2009/related/fe/ab547/ab547\\_DA.pdf](https://docs.legis.wisconsin.gov/2009/related/fe/ab547/ab547_DA.pdf)

[https://docs.legis.wisconsin.gov/2009/related/fe/ab547/ab547\\_SPD.pdf](https://docs.legis.wisconsin.gov/2009/related/fe/ab547/ab547_SPD.pdf)

[https://docs.legis.wisconsin.gov/2009/related/fe/ab547/ab547\\_DOC.pdf](https://docs.legis.wisconsin.gov/2009/related/fe/ab547/ab547_DOC.pdf)

Robert Nelson



WJ

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1 **AN ACT** <sup>Gen Cat</sup> **relating to:** making the first offense of operating a motor vehicle while  
2 under the influence of an intoxicant <sup>(OWI)</sup> a crime and providing a penalty.

**Analysis by the Legislative Reference Bureau**

Under current law, a first <sup>of operating a motor vehicle while</sup> OWI-related offense is a civil violation. A person who commits a first OWI-related offense is subject to a forfeiture of not less than \$150 nor more than \$300. Subsequent OWI-related offenses are crimes punishable by fines and periods of imprisonment that increase with every subsequent offense.

245

SP

Under this bill, a person who commits a first OWI-related offense on or after July 1, 2015, or the passage of the biennial budget bill, whichever is later, is guilty of a crime and may be fined not less than \$150 nor more than \$300 and imprisoned for not less than 5 days nor more than 30 days, or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

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

3 SECTION 1. 66.0114 (1) (b) of the statutes is amended to read:

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

History: 1971 c. 278; 1973 c. 336; 1975 c. 231; 1977 c. 29, 182, 269, 272, 305, 418, 447, 449; 1979 c. 32 s. 92 (17); 1979 c. 110 s. 60 (13); 1979 c. 331; 1981 c. 20, 317; 1983 a. 418 s. 8; 1987 a. 27, 389; Sup. Ct. Order, 146 Wis. 2d xiii (1988); 1989 a. 107; 1991 a. 39, 40, 189; 1993 a. 16, 167, 246, 491; 1995 a. 201, 349; 1997 a. 27; 1999 a. 9; 1999 a. 150 ss. 278 to 283; Stats. 1999 s. 66.0114; 2001 a. 16; 2003 a. 33, 139, 326.

11          **SECTION 2.** 85.53 (1) (d) of the statutes is amended to read:

12           85.53 (1) (d) "Operating while intoxicated" means a violation of s. 346.63 (1) ~~or~~  
13           (2m) or a local ordinance in conformity therewith or of s. 346.63 (1), (2), or (6), 940.09  
14           (1) or 940.25.

History: 1997 a. 27; 1999 a. 9, 185; 2013 a. 83.

15          **SECTION 3.** 343.16 (5) (a) of the statutes is amended to read:

16           343.16 (5) (a) The secretary may require any applicant for a license or any  
17           licensed operator to submit to a special examination by such persons or agencies as  
18           the secretary may direct to determine incompetency, physical or mental disability,  
19           disease, or any other condition that might prevent such applicant or licensed person  
20           from exercising reasonable and ordinary control over a motor vehicle. If the  
21           department requires the applicant to submit to an examination, the applicant shall  
22           pay for the examination. If the department receives an application for a renewal or  
23           duplicate license after voluntary surrender under s. 343.265 or receives a report from

1 a physician, physician assistant, as defined in s. 448.01 (6), advanced practice nurse  
 2 prescriber certified under s. 441.16 (2), or optometrist under s. 146.82 (3), or if the  
 3 department has a report of 2 or more arrests within a one-year period for any  
 4 combination of violations of s. 346.63 (1) or (5) or a local ordinance in conformity with  
 5 s. 346.63 (1) or (5) or a law of a federally recognized American Indian tribe or band  
 6 in this state in conformity with s. 346.63 (1) or (5), or s. 346.63 (1m), 1985 stats., or  
 7 s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a  
 8 vehicle, the department shall determine, by interview or otherwise, whether the  
 9 operator should submit to an examination under this section. The examination may  
 10 consist of an assessment. If the examination indicates that education or treatment  
 11 for a disability, disease or condition concerning the use of alcohol, a controlled  
 12 substance or a controlled substance analog is appropriate, the department may order  
 13 a driver safety plan in accordance with s. 343.30 (1q). If there is noncompliance with  
 14 assessment or the driver safety plan, the department shall revoke the person's  
 15 operating privilege in the manner specified in s. 343.30 (1q) (d).

**History:** 1971 c. 164 s. 83; 1973 c. 90, 176; 1975 c. 36, 199; 1977 c. 29 ss. 1456, 1654 (7) (a), (c); 1977 c. 273, 418; 1979 c. 34 ss. 1067m, 2102 (52) (a); 1979 c. 221, 345; 1981 c. 20; 1983 a. 74, 243, 534, 538; 1985 a. 65, 337; 1987 a. 3, 40, 215, 1989 a. 31, 105, 359; 1991 a. 21, 32, 39, 316; 1993 a. 16, 19, 183, 399; 1995 a. 27 s. 9145 (1); 1995 a. 113, 195, 448; 1997 a. 27, 84, 237; 1999 a. 32, 140; 2001 a. 105; 2003 a. 33; 2005 a. 187, 253, 466; 2007 a. 20, 68, 97, 162; 2009 a. 28, 302; 2011 a. 32, 161; 2013 a. 94.

16 **SECTION 4.** 343.30 (1q) (a) of the statutes is amended to read:

17 343.30 (1q) (a) If a person is convicted under s. 346.63 (1) or a local ordinance  
 18 in conformity therewith, the court shall proceed under this subsection. If a person  
 19 is convicted under s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the  
 20 use of a vehicle, the court shall proceed under pars. (c) and (d). If a person is referred  
 21 by the department acting under s. 343.16 (5) (a), the department shall proceed under  
 22 pars. (c) and (d) without the order of the court.

**History:** 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979 c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26, 32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17, 285; 1987 a. 332 s. 64; 1989 a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 317; 1995 a. 27, 77, 249, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; 1999 a. 32, 109, 143; 2001 a. 15, 16, 38; 2003 a. 30, 80; 2005 a. 277; 2005 a. 443 s. 265; 2005 a. 466; 2007 a. 20 ss. 3300, 9121 (6) (a); 2007 a. 134; 2009 a. 100, 102, 103, 402; 2011 a. 113, 173, 262.

23 **SECTION 5.** 343.30 (1q) (b) (intro.) of the statutes is amended to read:

1           343.30 (1q) (b) (intro.) For persons convicted under s. 346.63 (1) ~~or a local~~  
2           ~~ordinance in conformity therewith:~~

**History:** 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979 c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26, 32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17, 285; 1987 a. 332 s. 64; 1989 a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 317; 1995 a. 27, 77, 269, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; 1999 a. 32, 109, 143; 2001 a. 15, 16, 38; 2003 a. 30, 80; 2005 a. 277; 2005 a. 443 s. 265; 2005 a. 466; 2007 a. 20 ss. 3300, 9121 (6) (a); 2007 a. 134; 2009 a. 100, 102, 103, 402; 2011 a. 113, 173, 262.

3           **SECTION 6.** 343.30 (1q) (b) 4m. of the statutes is amended to read:

4           343.30 (1q) (b) 4m. If there was a minor passenger under 16 years of age in the  
5           motor vehicle at the time of the violation that gave rise to the conviction under s.  
6           346.63 (1) ~~or a local ordinance in conformity with s. 346.63 (1)~~ <sup>plan</sup> the applicable  
7           minimum and maximum revocation periods under subd. 2., 3. or 4. for the conviction  
8           are doubled.

**History:** 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979 c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26, 32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17, 285; 1987 a. 332 s. 64; 1989 a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 317; 1995 a. 27, 77, 269, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; 1999 a. 32, 109, 143; 2001 a. 15, 16, 38; 2003 a. 30, 80; 2005 a. 277; 2005 a. 443 s. 265; 2005 a. 466; 2007 a. 20 ss. 3300, 9121 (6) (a); 2007 a. 134; 2009 a. 100, 102, 103, 402; 2011 a. 113, 173, 262.

9           **SECTION 7.** 343.30 (1q) (h) of the statutes is amended to read:

10          343.30 (1q) (h) The court or department shall provide that the period of  
11          suspension or revocation imposed under this subsection shall be reduced by any  
12          period of suspension or revocation previously served under s. 343.305 if the  
13          suspension or revocation under s. 343.305 and the conviction for violation of s. 346.63  
14          (1) or (2m), or a local ordinance in conformity ~~therewith~~ with s. 346.63 (2m), arise out  
15          of the same incident or occurrence. The court or department shall order that the  
16          period of suspension or revocation imposed under this subsection run concurrently  
17          with any period of time remaining on a suspension or revocation imposed under s.  
18          343.305 arising out of the same incident or occurrence. The court may modify an  
19          occupational license authorized under s. 343.305 (8) (d) in accordance with this  
20          subsection.

**History:** 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979 c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26, 32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17, 285; 1987 a. 332 s. 64; 1989 a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 317; 1995 a. 27, 77, 269, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; 1999 a. 32, 109, 143; 2001 a. 15, 16, 38; 2003 a. 30, 80; 2005 a. 277; 2005 a. 443 s. 265; 2005 a. 466; 2007 a. 20 ss. 3300, 9121 (6) (a); 2007 a. 134; 2009 a. 100, 102, 103, 402; 2011 a. 113, 173, 262.

21          **SECTION 8.** 343.303 of the statutes is amended to read:

1           **343.303 Preliminary breath screening test.** If a law enforcement officer  
2 has probable cause to believe that the person is violating or has violated s. 346.63 (~~1~~)  
3 ~~or~~ (2m) or a local ordinance in conformity therewith<sup>^</sup>, or s. 346.63 (1), (2), or (6) or  
4 940.25 or s. 940.09 where the offense involved the use of a vehicle, or if the officer  
5 detects<sup>^</sup> any presence of alcohol, a controlled substance, controlled substance analog  
6 or other drug, or a combination thereof, on a person driving or operating or on duty  
7 time with respect to a commercial motor vehicle or has reason to believe that the  
8 person is violating or has violated s. 346.63 (7) or a local ordinance in conformity  
9 therewith, the officer, prior to an arrest, may request the person to provide a sample  
10 of his or her breath for a preliminary breath screening test using a device approved  
11 by the department for this purpose. The result of this preliminary breath screening  
12 test may be used by the law enforcement officer for the purpose of deciding whether  
13 or not the person shall be arrested for a violation of s. 346.63 (~~1~~), (2m), (5), or (7) or  
14 a local ordinance in conformity therewith, or s. 346.63 (1), (2), or (6), 940.09 (1) or  
15 940.25 and whether or not to require or request chemical tests as authorized under  
16 s. 343.305 (3). The result of the preliminary breath screening test shall not be  
17 admissible in any action or proceeding except to show probable cause for an arrest,  
18 if the arrest is challenged, or to prove that a chemical test was properly required or  
19 requested of a person under s. 343.305 (3). Following the screening test, additional  
20 tests may be required or requested of the driver under s. 343.305 (3). The general  
21 penalty provision under s. 939.61 (1) does not apply to a refusal to take a preliminary  
22 breath screening test.

History: 1981 c. 20; 1985 a. 32 s. 3; 1985 a. 337; 1987 a. 3; 1989 a. 105; 1991 a. 277; 1995 a. 448.

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

1           343.305 (3) (a) Upon arrest of a person for violation of s. 346.63 ~~(1)~~, (2m) or (5)  
2           or a local ordinance in conformity therewith, or for a violation of s. 346.63 (1), (2), or  
3           (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or upon  
4           arrest subsequent to a refusal under par. (ar), a law enforcement officer may request  
5           the person to provide one or more samples of his or her breath, blood or urine for the  
6           purpose specified under sub. (2). Compliance with a request for one type of sample  
7           does not bar a subsequent request for a different type of sample.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9, 32, 109; 2001 a. 16 ss. 3421m to 3423j, 4060gk, 4060hw, 4060hy; 2001 a. 104; 2003 a. 97, 199; 2005 a. 332, 413; 2007 a. 20 ss. 3303 to 3315, 9121 (6) (a); 2007 a. 136; 2009 a. 100, 103, 163; 2011 a. 120, 242; 2013 a. 36.

8           **SECTION 10.** 343.305 (3) (b) of the statutes is amended to read:

9           343.305 (3) (b) A person who is unconscious or otherwise not capable of  
10          withdrawing consent is presumed not to have withdrawn consent under this  
11          subsection, and if a law enforcement officer has probable cause to believe that the  
12          person has violated s. 346.63 ~~(1)~~, (2m) or (5) or a local ordinance in conformity  
13          therewith, or s. 346.63 (1), (2), or (6) or 940.25, or s. 940.09 where the offense involved  
14          the use of a vehicle, or detects any presence of alcohol, controlled substance,  
15          controlled substance analog or other drug, or a combination thereof, on a person  
16          driving or operating or on duty time with respect to a commercial motor vehicle or  
17          has reason to believe the person has violated s. 346.63 (7), one or more samples  
18          specified in par. (a) or (am) may be administered to the person.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9, 32, 109; 2001 a. 16 ss. 3421m to 3423j, 4060gk, 4060hw, 4060hy; 2001 a. 104; 2003 a. 97, 199; 2005 a. 332, 413; 2007 a. 20 ss. 3303 to 3315, 9121 (6) (a); 2007 a. 136; 2009 a. 100, 103, 163; 2011 a. 120, 242; 2013 a. 36.

19          **SECTION 11.** 343.305 (5) (b) of the statutes is amended to read:

20          343.305 (5) (b) Blood may be withdrawn from the person arrested for violation  
21          of s. 346.63 (1), (2), (2m), (5) or (6) or 940.25, or s. 940.09 where the offense involved  
22          the use of a vehicle, or a local ordinance in conformity with s. 346.63 ~~(1)~~, (2m) or (5),  
23          or as provided in sub. (3) (am) or (b) to determine the presence or quantity of alcohol,

1 a controlled substance, a controlled substance analog or any other drug, or any  
 2 combination of alcohol, controlled substance, controlled substance analog and any  
 3 other drug in the blood only by a physician, registered nurse, medical technologist,  
 4 physician assistant or person acting under the direction of a physician.

**History:** 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9, 32, 109; 2001 a. 16 ss. 3421m to 3423j, 4060gk, 4060hw, 4060hy; 2001 a. 104; 2003 a. 97, 199; 2005 a. 332, 413; 2007 a. 20 ss. 3303 to 3315, 9121 (6) (a); 2007 a. 136; 2009 a. 100, 103, 163; 2011 a. 120, 242; 2013 a. 36.

5 **SECTION 12.** 343.305 (9) (a) 1. of the statutes is amended to read:

6 343.305 (9) (a) 1. That prior to a request under sub. (3) (a), the officer had placed  
 7 the person under arrest for a violation of s. 346.63 (~~1~~), (2m) or (5) or a local ordinance  
 8 in conformity therewith or s. 346.63 (1), (2), or (6), 940.09 (1) or 940.25 or had  
 9 requested the person to take a test under sub. (3) (ar). <sup>1</sup>

**History:** 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9, 32, 109; 2001 a. 16 ss. 3421m to 3423j, 4060gk, 4060hw, 4060hy; 2001 a. 104; 2003 a. 97, 199; 2005 a. 332, 413; 2007 a. 20 ss. 3303 to 3315, 9121 (6) (a); 2007 a. 136; 2009 a. 100, 103, 163; 2011 a. 120, 242; 2013 a. 36.

10 **SECTION 13.** 343.305 (9) (a) 5. a. of the statutes is amended to read:

11 343.305 (9) (a) 5. a. Whether the officer had probable cause to believe the  
 12 person was driving or operating a motor vehicle while under the influence of alcohol,  
 13 a controlled substance or a controlled substance analog or any combination of  
 14 alcohol, a controlled substance and a controlled substance analog, under the  
 15 influence of any other drug to a degree which renders the person incapable of safely  
 16 driving, or under the combined influence of alcohol and any other drug to a degree  
 17 which renders the person incapable of safely driving, having a restricted controlled  
 18 substance in his or her blood, or having a prohibited alcohol concentration or, if the  
 19 person was driving or operating a commercial motor vehicle, an alcohol  
 20 concentration of 0.04 or more and whether the person was lawfully placed under  
 21 arrest for violation of s. 346.63 (~~1~~), (2m) or (5) or a local ordinance in conformity  
 22 therewith or s. 346.63 (1), (2), or (6), 940.09 (1) or 940.25.

**History:** 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9, 32, 109; 2001 a. 16 ss. 3421m to 3423j, 4060gk, 4060hw, 4060hy; 2001 a. 104; 2003 a. 97, 199; 2005 a. 332, 413; 2007 a. 20 ss. 3303 to 3315, 9121 (6) (a); 2007 a. 136; 2009 a. 100, 103, 163; 2011 a. 120, 242; 2013 a. 36.

1           **SECTION 14.** 343.305 (9) (d) of the statutes is amended to read:

2           343.305 (9) (d) At the close of the hearing, or within 5 days thereafter, the court  
3 shall determine the issues under par. (a) 5. or (am) 5. If all issues are determined  
4 adversely to the person, the court shall proceed under sub. (10). If one or more of the  
5 issues is determined favorably to the person, the court shall order that no action be  
6 taken on the operating privilege on account of the person's refusal to take the test in  
7 question. This section does not preclude the prosecution of the person for violation  
8 of s. 346.63 (1), (2m), (5), or (7) or a local ordinance in conformity therewith, or s.  
9 346.63 (1), (2), or (6), 940.09 (1) or 940.25.

**History:** 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9, 32, 109; 2001 a. 16 ss. 3421m to 3423j, 4060gk, 4060hw, 4060hy; 2001 a. 104; 2003 a. 97, 199; 2005 a. 332, 413; 2007 a. 20 ss. 3303 to 3315, 9121 (6) (a); 2007 a. 136; 2009 a. 100, 103, 163; 2011 a. 120, 242; 2013 a. 36.

10           **SECTION 15.** 343.307 (1) (a) of the statutes is repealed.

11           **SECTION 16.** 343.307 (1) (c) of the statutes is amended to read:

12           343.307 (1) (c) Convictions for violations under s. 346.63 (1) <sup>or</sup> (2) <sup>e</sup> for 940.25, or  
13 s. 940.09 where the offense involved the use of a vehicle.

**History:** 1977 c. 193; 1981 c. 20, 184; 1985 a. 80, 337; 1987 a. 3; 1989 a. 105, 271, 359; 1991 a. 39, 277; 1995 a. 448; 1997 a. 84; 2003 a. 33, 97; 2007 a. 20; 2009 a. 276.

14           **SECTION 17.** 343.307 (2) (a) of the statutes is amended to read:

15           343.307 (2) (a) Convictions for violations under s. 346.63 (1) ~~or~~ (5), or a local  
16 ordinance in conformity with either section s. 346.63 (5). ✓

**History:** 1977 c. 193; 1981 c. 20, 184; 1985 a. 80, 337; 1987 a. 3; 1989 a. 105, 271, 359; 1991 a. 39, 277; 1995 a. 448; 1997 a. 84; 2003 a. 33, 97; 2007 a. 20; 2009 a. 276.

17           **SECTION 18.** 343.307 (2) (c) of the statutes is amended to read:

18           343.307 (2) (c) Convictions for violations under s. 346.63 (1), (2), or (6).

**History:** 1977 c. 193; 1981 c. 20, 184; 1985 a. 80, 337; 1987 a. 3; 1989 a. 105, 271, 359; 1991 a. 39, 277; 1995 a. 448; 1997 a. 84; 2003 a. 33, 97; 2007 a. 20; 2009 a. 276.

19           **SECTION 19.** 343.44 (2p) (b) of the statutes is amended to read:

20           343.44 (2p) (b) Violating s. 346.63 (1) ~~or~~ (5) or a local ordinance in conformity  
21 therewith.

**History:** 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84; 1999 a. 9, 32, 143; 2003 a. 33; 2005 a. 25, 254, 412; 2009 a. 28; 2011 a. 32, 113, 258; s. 13.92 (2) (i).

22           **SECTION 20.** 343.44 (2p) (c) of the statutes is amended to read:

1           343.44 (2p) (c) Violating s. 346.63 (1), (2), or (6), 940.09 (1) or 940.25.

**History:** 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84; 1999 a. 9, 32, 143; 2003 a. 33; 2005 a. 25, 254, 412; 2009 a. 28; 2011 a. 32, 113, 258; s. 13.92 (2) (i).

2           **SECTION 21.** 345.20 (2) (c) of the statutes is amended to read:

3           345.20 (2) (c) Sections 967.055 and 972.11 (3m) apply to traffic forfeiture  
4           actions for violations of s. 346.63 (1) ~~or~~ (5) or a local ordinance in conformity  
5           therewith.

**History:** 1971 c. 278; 1977 c. 305; 1979 c. 32 s. 92 (16), (17); 1979 c. 34; 1979 c. 175 s. 50; 1981 c. 20, 165; 1983 a. 74, 189; 1985 a. 36; 1987 a. 3, 267; 1989 a. 31, 105, 170, 335; 1993 a. 359; 1995 a. 227; 2003 a. 139.

6           **SECTION 22.** 345.24 (1) of the statutes is amended to read:

7           345.24 (1) A person arrested under s. 346.63 (1) ~~or~~ (5) or ~~an~~ <sup>a</sup> local ordinance in  
8           conformity therewith or s. 346.63 (1), (2), or (6) or 940.25, or s. 940.09 where the  
9           offense involved the use of a vehicle, may not be released until 12 hours have elapsed  
10          from the time of his or her arrest or unless a chemical test administered under s.  
11          343.305 shows that the person has an alcohol concentration of less than 0.04, but the  
12          person may be released to his or her attorney, spouse, relative or other responsible  
13          adult at any time after arrest.

**History:** 1971 c. 278; 1977 c. 193; 1981 c. 20; 1985 a. 337; 1987 a. 3; 1989 a. 105; 1995 a. 436; 2009 a. 103.

14          **SECTION 23.** 345.60 (3) of the statutes is amended to read:

15          345.60 (3) In addition to other penalties provided by law for violation of s.  
16          346.63 (1) ~~or a local ordinance in conformity therewith, or s. 346.63 or~~ (2) or 940.25,  
17          or s. 940.09 where the offense involved the use of a vehicle, the convicted person may  
18          be required under s. 343.30 (1q) to attend, for a certain number of school days, a  
19          school under sub. (1).

**History:** 1971 c. 278 s. 45; Stats. 1971 s. 345.60; 1977 c. 29 s. 1654 (7) (c); 1977 c. 193; 1981 c. 20; 1985 a. 337; 1987 a. 3; 2005 a. 466; 2011 a. 173.

20          **SECTION 24.** 346.63 (4) of the statutes is amended to read:

21          346.63 (4) If a person is convicted under sub. (1) ~~or a local ordinance in~~  
22          ~~conformity therewith, or sub.~~ (2), the court shall proceed under s. 343.30 (1q).

**History:** 1971 c. 40 s. 93; 1971 c. 219; 1977 c. 193; 1981 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.

1           **SECTION 25.** 346.635<sup>✓</sup> of the statutes is amended to read:

2           **346.635 Report arrest or out-of-service order to department.**

3           Whenever a law enforcement officer arrests a person for a violation of s. 346.63 (1),  
4           (5) or (7) or a local ordinance in conformity therewith, or s. 346.63 (1), (2), or (6) or  
5           940.25, or s. 940.09 where the offense involved the use of a vehicle, the officer shall  
6           notify the department of the arrest and of issuance of an out-of-service order under  
7           s. 343.305 (7), (b) or (9) (am) as soon as practicable.

8           ~~7~~ **History:** 1981 c. 20; 1989 a. 105.

8           **SECTION 26.** 346.65 (2) (am) 1. of the statutes is amended to read:

9           346.65 (2) (am) 1. ~~Shall forfeit not less than \$150 nor more than \$300, except~~  
10           Except as provided in subds. 2. to 5. 7. and par. (f), shall be fined not less than \$150  
11           nor more than \$300 and imprisoned for not less than 5 days nor more than 30 days,  
12           or both.

13           ~~7~~ **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, 135, 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.

13           **SECTION 27.** 346.65 (2) (f) 1. of the statutes is repealed.

14           **SECTION 28.** 346.65 (2) (f) 2. of the statutes is renumbered 346.65 (2) (f) and  
15           amended to read:

16           346.65 (2) (f) If there was a minor passenger under 16 years of age in the motor  
17           vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (1),  
18           the applicable minimum and maximum fines and imprisonment under par. (am) 2.  
19           1. to <sup>✓</sup>7. for the conviction are doubled. An offense under s. 346.63 (1) that subjects  
20           a person to a penalty under par. (am) 3., 4., 4m., 5., 6., or 7. when there is a minor  
21           passenger under 16 years of age in the motor vehicle is a felony and the place of  
22           imprisonment shall be determined under s. 973.02.

23           ~~7~~ **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, 135, 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.

23           **SECTION 29.** 346.65 (2e) of the statutes is amended to read:

1           346.65 (2e) If the court determines that a person does not have the ability to  
 2           pay the costs and fine ~~or forfeiture~~ imposed under sub. (2) (am), (f), or (g), the court  
 3           may reduce the costs, ~~or fine, and forfeiture~~ imposed and order the person to pay,  
 4           toward the cost of the assessment and driver safety plan imposed under s. 343.30 (1q)  
 5           (c), the difference between the amount of the reduced costs and ~~fine or forfeiture~~ and  
 6           the amount of costs and ~~fine or forfeiture~~ imposed under sub. (2) (am), (f), or (g).

**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, 135, 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.

7           **SECTION 30.** 346.65 (2g) (a) of the statutes is amended to read:

8           346.65 (2g) (a) In addition to the authority of the court under s. 973.05 (3) (a)  
 9           to provide that a defendant perform community service work for a public agency or  
 10          a nonprofit charitable organization in lieu of part or all of a fine imposed under sub.  
 11          (2) (am) ~~2., 3., 4., 4m., and 5.~~, (f), and (g) and except as provided in par. (ag), the court  
 12          ~~may provide that a defendant perform community service work for a public agency~~  
 13          ~~or a nonprofit charitable organization in lieu of part or all of a forfeiture under sub.~~  
 14          (2) (am) 1. or may require a person who is subject to sub. (2) to perform community  
 15          service work for a public agency or a nonprofit charitable organization in addition  
 16          to the penalties specified under sub. (2).

**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, 135, 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.

17          **SECTION 31.** 346.65 (2g) (ag) of the statutes is amended to read:

18          346.65 (2g) (ag) If the court determines that a person does not have the ability  
 19          to pay a fine imposed under sub. (2) (am) ~~2., 3., 4., 4m., or 5.~~, (f), or (g), the court shall  
 20          require the defendant to perform community service work for a public agency or a  
 21          nonprofit charitable organization in lieu of paying the fine imposed or, if the amount  
 22          of the fine was reduced under sub. (2e), in lieu of paying the remaining amount of the  
 23          fine. Each hour of community service performed in compliance with an order under

1 this paragraph shall reduce the amount of the fine owed by an amount determined  
2 by the court.

**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, 135, 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.

3 **SECTION 32.** 346.65 (2g) (am) of the statutes is amended to read:

4 346.65 (2g) (am) Notwithstanding s. 973.05 (3) (b), an order under par. (a) or  
5 (ag) may apply only if agreed to by the organization or agency. The court shall ensure  
6 that the defendant is provided a written statement of the terms of the community  
7 service order and that the community service order is monitored. Any organization  
8 or agency acting in good faith to which a defendant is assigned pursuant to an order  
9 under this subsection has immunity from any civil liability in excess of \$25,000 for  
10 acts or omissions by or impacting on the defendant. ~~The issuance or possibility of the~~  
11 ~~issuance of a community service order under this subsection does not entitle an~~  
12 ~~indigent defendant who is subject to sub. (2) (am) 1. to representation by counsel~~  
13 ~~under ch. 977.~~

**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, 135, 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.

14 **SECTION 33.** 346.65 (2g) (d) of the statutes is amended to read:

15 346.65 (2g) (d) With respect to imprisonment under sub. (2) (am) 1. or 2., the  
16 court shall ensure that the person is imprisoned for not less than 5 days or ordered  
17 to perform not less than 30 days of community service work under s. 973.03 (3) (a).

**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, 135, 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.

18 **SECTION 34.** 346.65 (2i) of the statutes is amended to read:

19 346.65 (2i) In addition to the authority of the court under sub. (2g) and s. 973.05  
20 (3) (a), the court may order a defendant subject to sub. (2), or a defendant subject to  
21 s. 973.05 (3) (a) who violated s. 346.63 (1), <sup>2 or</sup> (2), 940.09 (1), or 940.25, to visit a site that  
22 demonstrates the adverse effects of substance abuse or of operating a vehicle while

1 under the influence of an intoxicant or other drug, including an alcoholism treatment  
 2 facility approved under s. 51.45 or an emergency room of a general hospital in lieu  
 3 of part or all of any forfeiture imposed or in addition to any penalty imposed. The  
 4 court may order the defendant to pay a reasonable fee, based on the person's ability  
 5 to pay, to offset the costs of establishing, maintaining, and monitoring the visits  
 6 ordered under this subsection. The court may order a visit to the site only if agreed  
 7 to by the person responsible for the site. If the opportunities available to visit sites  
 8 under this subsection are fewer than the number of defendants eligible for a visit,  
 9 the court shall, when making an order under this subsection, give preference to  
 10 defendants who were under 21 years of age at the time of the offense. The court shall  
 11 ensure that the visit is monitored. A visit to a site may be ordered for a specific time  
 12 and a specific day to allow the defendant to observe victims of vehicle accidents  
 13 involving intoxicated drivers. If it appears to the court that the defendant has not  
 14 complied with the court order to visit a site or to pay a reasonable fee, the court may  
 15 order the defendant to show cause why he or she should not be held in contempt of  
 16 court. Any organization or agency acting in good faith to which a defendant is  
 17 assigned pursuant to an order under this subsection has immunity from any civil  
 18 liability in excess of \$25,000 for acts or omissions by or impacting on the defendant.  
 19 ~~The issuance or possibility of the issuance of an order under this subsection does not~~  
 20 ~~entitle an indigent defendant who is subject to sub. (2) (am) 1. to representation by~~  
 21 ~~counsel under ch. 977.~~

INSERT B-21 →

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, 135, 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.

22 346.655 (1) If a court imposes a fine or a forfeiture for a violation of s. 346.63  
 23 (1) or (5), or a local ordinance in conformity therewith, or s. 346.63 (1), (2), or (6) or  
 24 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall impose

1 a driver improvement surcharge under ch. 814 in an amount of \$435 in addition to  
2 the fine or forfeiture, plus costs, fees, and other surcharges imposed under ch. 814.

History: 1981 c. 20; 1981 c. 314; 1983 a. 27 s. 2202 (20); 1985 a. 29, 337; 1987 a. 3, 27, 399; 1989 a. 31, 105; 1991 a. 39; 1993 a. 16; 1995 a. 27, 201; 1997 a. 27; 1999 a. 109; 1999 a. 150 s. 672; 2001 a. 16, 104; 2003 a. 30, 33, 139, 326; 2007 a. 111; 2009 a. 100; 2013 a. 20.

3 SECTION 35. 346.655 (1) of the statutes, as affected by 2013 Wisconsin Act 20,

4 is amended to read:

INSERT 14.4 →

5 SECTION 36. 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).

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 37. 349.03 (4) of the statutes is amended to read:

9 349.03 (4) If a violation under s. 343.305 or 346.63 or a local ordinance in  
10 conformity with s. 346.63 (1), (5) or (7) occurs within a law enforcement officer's  
11 jurisdiction, he or she may enforce the violation anywhere in the state.

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.

12 SECTION 38. 349.06 (1m) of the statutes is amended to read:

13 349.06 (1m) Notwithstanding sub. (1), a municipal court may suspend a license  
14 for a violation of a local ordinance in conformity with s. 346.63 (1) or (2m).

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.

15 SECTION 39. 800.035 (2) (a) 3. of the statutes is amended to read:

16 800.035 (2) (a) 3. Inform the defendant of the right to a jury trial on charges  
17 filed under <sup>↓ a local</sup> an ordinance in conformity with s. 346.63 (1) or (5).

History: 2009 a. 402 ss. 19, 72, 76, 79 to 82; 2011 a. 260 s. 80.

18 SECTION 40. 800.035 (5) (a) of the statutes is amended to read:

19 800.035 (5) (a) If a defendant is charged with a violation of <sup>↓ a local</sup> an ordinance in  
20 conformity with s. 346.63 (1) or (5), the municipality may, by ordinance, require the  
21 defendant to appear in person before the court.

History: 2009 a. 402 ss. 19, 72, 76, 79 to 82; 2011 a. 260 s. 80.

22 SECTION 41. 800.035 (5) (c) of the statutes is amended to read:

1           800.035 (5) (c) If a defendant charged with a violation of <sup>a local</sup> ~~an~~ ordinance that is  
2 in conformity with s. 346.63 ~~(1) or~~ (5) pleads not guilty and within 10 days after entry  
3 of the plea requests a jury trial and pays the required fees, the municipal judge shall  
4 promptly transmit all papers and fees in the cause to the clerk of the circuit court of  
5 the county where the violation occurred for a jury trial under s. 345.43. The plea of  
6 not guilty and request for jury trial may be made in writing. If the person refused  
7 to take a test under s. 343.305 (3) and requested a hearing under s. 343.305 (9) to  
8 determine if the person's refusal was proper, the papers and fees involved in that  
9 action shall be transferred to the same circuit court, which shall conduct the refusal  
10 hearing. Upon receipt of the request, the circuit court shall set a time for trial. Any  
11 deposit made personally or in writing is forfeited upon nonappearance at the time  
12 set for trial. The required fee for a jury is prescribed in s. 814.61 (4).

History: 2009 a. 402 ss. 19, 72, 76, 79 to 82; 2011 a. 260 s. 80.

13           **SECTION 42.** 967.055 (2) (a) <sup>↓</sup> of the statutes is amended to read:

14           967.055 (2) (a) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss  
15 or amend a charge under s. 346.63 ~~(1) or~~ (5) or a local ordinance in conformity  
16 therewith, or s. 346.63 (1), (2), or (6) or 940.25, or s. 940.09 where the offense involved  
17 the use of a vehicle or an improper refusal under s. 343.305, the prosecutor shall  
18 apply to the court. The application shall state the reasons for the proposed  
19 amendment or dismissal. The court may approve the application only if the court  
20 finds that the proposed amendment or dismissal is consistent with the public's  
21 interest in deterring the operation of motor vehicles by persons who are under the  
22 influence of an intoxicant, a controlled substance, a controlled substance analog or  
23 any combination of an intoxicant, controlled substance and controlled substance  
24 analog, under the influence of any other drug to a degree which renders him or her

1 incapable of safely driving, or under the combined influence of an intoxicant and any  
2 other drug to a degree which renders him or her incapable of safely driving, in  
3 deterring the operation of motor vehicles by persons with a detectable amount of a  
4 restricted controlled substance in his or her blood, or in deterring the operation of  
5 commercial motor vehicles by persons with an alcohol concentration of 0.04 or more.  
6 The court may not approve an application to amend the vehicle classification from  
7 a commercial motor vehicle to a noncommercial motor vehicle unless there is  
8 evidence in the record that the motor vehicle being operated by the defendant at the  
9 time of his or her arrest was not a commercial motor vehicle.

10 **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.

11 **SECTION 43.** 967.055 (3) (a) of the statutes is amended to read:

12 967.055 (3) (a) A violation of s. 346.63 ~~(1)~~ or (5) or a local ordinance in  
13 conformity therewith.

14 **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.

15 **SECTION 44.** 967.055 (3) (b) of the statutes is amended to read:

16 967.055 (3) (b) A violation of s. 346.63 (1), (2), or (6).

17 **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.

18 **SECTION 45.** 972.11 (3m) of the statutes is amended to read:

19 972.11 (3m) A court may not exclude evidence in any criminal action or traffic  
20 forfeiture action for violation of s. 346.63 (1) or (5), or a local ordinance in conformity  
21 with s. 346.63 ~~(1)~~ or (5), on the ground that the evidence existed or was obtained  
22 outside of this state.

**History:** Sup. Ct. Order, 59 Wis. 2d R1, R7 (1973); Sup. Ct. Order, 67 Wis. 2d 585, 784 (1975); 1975 c. 184, 422; 1979 c. 89; 1981 c. 147 ss. 1, 2; 1983 a. 165, 449; 1985 a. 275; 1987 a. 332 s. 64; 1993 a. 16, 97, 227, 359; 1995 a. 456; 1997 a. 319; 1999 a. 185; 2001 a. 16; 2005 a. 155, 277; 2007 a. 116; 2011 a. 271.

23 **SECTION 46. Initial applicability.**

24 (1) This act first applies to violations committed on the effective date of this  
25 subsection but does not preclude the counting of other convictions, suspensions, or

1 revocations as prior convictions, suspensions, or revocations for purposes of  
2 administrative action by the department of transportation or sentencing by a court.

3 **SECTION 47. Effective dates.** This act takes effect on July 1, 2015, or the day  
4 after the publication of the 2015-17 biennial budget bill, whichever is later.

5 (END)

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4045/P1ins  
RPN:wlj:...

INSERT 13-21

1           **SECTION 1.** 346.65 (2m) (a) of the statutes is amended to read:  
2           346.65 **(2m)** (a) In imposing a sentence under sub. (2) for a violation of s. 346.63  
3           ~~(1) (am) or (b) or~~ (5) or a local ordinance in conformity therewith, the court shall  
4           review the record and consider the aggravating and mitigating factors in the matter.  
5           If the amount of alcohol in the person's blood or urine or the amount of a restricted  
6           controlled substance in the person's blood is known, the court shall consider that  
7           amount as a factor in sentencing. The chief judge of each judicial administrative  
8           district shall adopt guidelines, under the chief judge's authority to adopt local rules  
9           under SCR 70.34, for the consideration of aggravating and mitigating factors.

INSERT 14-4

10           346.655 (1) If a court imposes a fine or a forfeiture for a violation of s. 346.63  
11           ~~(1) or~~ (5), or a local ordinance in conformity therewith, or s. 346.63 (1), (2), or (6) or  
12           940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall impose  
13           a driver improvement surcharge under ch. 814 in an amount of \$435 in addition to  
14           the fine or forfeiture, plus costs, fees, and other surcharges imposed under ch. 814.

**Nelson, Robert**

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**From:** Onsager, Paul  
**Sent:** Wednesday, February 12, 2014 3:41 PM  
**To:** Nelson, Robert  
**Subject:** Criminalization of OWI First Law

Bob:

The following GPR funding and positions could be provided in 2014-15, to provide for three months of resources associated with criminalization of a first offense OWI.

	2014-15	2014-15
<u>Appropriation</u>	<u>Funding</u>	<u>Positions</u>
20.410(1)(b) <i>amt 14.50</i>	\$333,400	8.50 FTE
20.550(1)(d) <i>"</i>	647,900	
20.625(1)(a) <i>prosec</i>	170,900	
20.865(4)(a) <i>amt 14.50</i>	745,300	

[Amounts in JFC would be available for transfer to support new prosecutor positions that could be created.]

I hope this helps. Please feel free to let me know if you have any questions.

Paul

*Paul: As of today, <sup>2/13</sup> have enough in fund to not have to do the budget stabilization fund transfer.*