

2013 BILL

8/8/13

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needed
by 8/15

soon

General

1 AN ACT to renumber and amend 346.65 (3) and 346.65 (5); to amend 343.31
 2 (1) (a), 345.47 (1) (intro.), 346.17 (4), 346.22 (1) (a), (b), (c), (d) and (e), 346.22
 3 (3), 346.95 (1) and (2), 349.06 (1) (a), 940.25 (1m) (a), 940.25 (1m) (b) and 940.25
 4 (2) (a); and to create 38.04 (4) (e) 7., 115.28 (11) (g), 340.01 (74p), 343.30 (1m),
 5 343.31 (1) (ag), 343.31 (2t) (a) 4., 343.31 (3) (cm), 343.71 (5) (g), 346.17 (6),
 6 346.22 (5), 346.30 (5), 346.36 (3), 346.43 (4), 346.49 (5), 346.56 (5), 346.60 (6),
 7 346.65 (3) (b), 346.65 (5) (b), 346.74 (7), 346.82 (3), 346.95 (12), 939.22 (44m) and
 8 940.25 (1b) of the statutes; relating to: traffic violations resulting in harm to
 9 vulnerable highway users, driver education instruction, and providing a
 10 penalty.

Analysis by the Legislative Reference Bureau

This bill creates penalty enhancements for traffic violations that result in bodily harm, great bodily harm, or death (collectively "harm") to vulnerable highway users. The bill defines "vulnerable highway user" as any of the following: 1) a pedestrian; 2) a bicyclist; 3) an operator of a motorcycle, moped, or motor bicycle; 4) an operator of, or passenger on, an animal-drawn vehicle, farm tractor, farm truck

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tractor, farm trailer, or implement of husbandry; 5) a person riding upon in-line skates, a horse, or a play vehicle; 6) a law enforcement officer, traffic officer, fire fighter, or emergency medical technician, while performing his or her official duties; or 7) a person who is rendering medical or emergency assistance to another person. For most traffic violations, the bill doubles the applicable forfeiture or fine if the violation results in harm to a vulnerable highway user, and this doubling is in addition to any other applicable penalty enhancement, such as the doubling for certain traffic violations committed in highway maintenance or construction areas or in utility work areas.

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ANAL-A

However, for specific violations, the bill makes the offense a Class I or Class H felony if the violation results in harm to a vulnerable highway user. A Class I felony is punishable by a fine not exceeding \$10,000 or imprisonment not exceeding three years and six months or both. A Class H felony is punishable by a fine not exceeding \$10,000 or imprisonment not exceeding six years or both. Provisions of current law that increase the forfeiture or fine for violations committed under certain circumstances, such as in highway maintenance or construction areas or in utility work areas, continue to apply to these new, higher penalties.

Under current law, a person who causes the death of another by operating or handling a vehicle while under the influence of an intoxicant is guilty of a Class D felony or, if the person has been convicted of a prior operating under the influence of an intoxicant or other drug (OWI) offense relating to, a Class C felony. A Class C felony is punishable by a fine not exceeding \$100,000 or imprisonment not exceeding 40 years or both. A Class D felony is punishable by a fine not exceeding \$100,000 or imprisonment not exceeding 25 years or both. A person who causes great bodily harm to another by OWI is guilty of a Class F felony. A Class F felony is punishable by a fine not exceeding \$25,000 or imprisonment not exceeding 12 years and 6 months or both. A person who causes injury to another by OWI may be fined not less than \$300 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one year or, if the person has been convicted of a prior OWI-related offense, is guilty of a Class H felony.

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Analysis 1

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Analysis 2

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Under this bill, a person who causes ~~great bodily harm~~ ^{he penalties are doubled for injury} by OWI to a vulnerable highway user ~~is guilty of a Class F felony~~.

Under current law, the operator of a vehicle must yield the right-of-way to another vehicle under certain circumstances, including: when turning left across traffic; at an intersection posted with a yield sign; when entering a through highway or a highway from an alley or driveway or from a parked or standing position; or when entering a highway from another highway that ends at a "T" intersection. A person who fails to yield the right-of-way as required is subject to a forfeiture of not less than \$20 nor more than \$50 for a first offense and not less than \$50 nor more than \$100 for any subsequent offense within a year. However, if the violation results in bodily harm, great bodily harm, or death to another, the person must forfeit, respectively, \$200, \$500, or \$1,000 for the violation and the Department of Transportation (DOT) must suspend the person's operating privilege for, respectively, 2 months, 3 months, or 9 months.

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Analysis 3

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Under this bill, if such a failure to yield violation results in harm to a vulnerable highway user, the penalty is increased to a Class I felony, punishable by a fine not

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ANAL-B

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~~exceeding \$10,000 or imprisonment not exceeding three years and six months or both, and DOT must suspend the person's operating privilege for a period of one year~~

Under current law, the operator of a motor vehicle must yield the right-of-way to livestock being driven over or along the highway. A person who fails to yield the right-of-way to livestock is subject to a forfeiture of not less than \$10 nor more than \$20 for the first offense and not less than \$25 nor more than \$50 for the second or subsequent offense within a year.

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ANAL-C

~~Under this bill, if such a failure to yield to livestock violation results in harm to a vulnerable highway user, the penalty is increased to a Class I felony and the court must suspend the person's operating privilege for a period of one year.~~

Under current law, the operator of a motor vehicle overtaking a bicycle proceeding in the same direction must exercise due care, leaving a safe distance but at least three feet clearance when passing the bicycle, and must maintain clearance until safely past the overtaken bicycle. Also, if the operator of a motor vehicle overtakes a motor bus that is stopped at an intersection on the right side of the roadway and that is receiving or discharging passengers, the operator must pass at a safe distance to the left of the motor bus and may not turn to the right in front of the motor bus at that intersection. A person who commits such a passing violation is subject to a forfeiture of not less than \$25 nor more than \$200 for the first offense and not less than \$50 nor more than \$500 for the second or subsequent offense within four years.

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ANAL-D

~~Under this bill, if such a passing violation results in harm to a vulnerable highway user, the penalty is increased to a Class I felony and the court must suspend the person's operating privilege for a period of one year.~~

Current law prohibits inattentive driving of a motor vehicle, which includes: 1) being so engaged or occupied, while driving a motor vehicle, as to interfere with the safe driving of the vehicle; 2) operating a motor vehicle equipped with a television or similar device in the front of the vehicle or otherwise visible to the operator; and 3) driving a motor vehicle while composing or sending an electronic text message or an e-mail message; and 4) driving a motor vehicle while using a cellular or wireless telephone, if the driver holds a probationary license or instruction permit. Any person who commits form 1) or 3) of inattentive driving is subject to a forfeiture of not less than \$20 nor more than \$400 and any person who commits form 2) or 4) of inattentive driving is subject to a forfeiture of not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the second or subsequent offense within a year.

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ANAL-E

~~Under this bill, if any inattentive driving violation results in harm to a vulnerable highway user, the penalty is increased to a Class I felony and the court must suspend the person's operating privilege for a period of one year.~~

Current law prohibits a person from causing bodily harm or great bodily harm to another by the negligent operation of a vehicle (reckless driving). A person who commits a reckless driving violation that causes bodily harm is subject to a fine of not less than \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more than one year. A person who commits a reckless driving violation that

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~~causes great bodily harm is guilty of a Class I felony and must have his or her operating privilege revoked by DOT for one year.~~

~~Under this bill, a reckless driving violation that causes harm or great bodily harm to a vulnerable highway user is punishable as a Class H felony and the violator must have his or her operating privilege revoked by DOT for a period of two years~~

Under current law, local authorities may enact and enforce traffic regulations that are in strict conformity with state statutes and that provide for a forfeiture as a penalty.

Under this bill, if a local authority enacts a traffic regulation in strict conformity with a state statute and the statutory penalty is doubled if the violation results in harm to a vulnerable highway user, the applicable ordinance penalty for the ordinance violation must also include the doubling of the forfeiture.

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Under current law, the Department of Public Instruction (DPI) must approve driver education courses offered by school districts, county children with disabilities education boards, and technical college districts. DPI must also establish minimum standards for driver education courses offered by private driver schools. DPI may not approve a driver education course or establish driver education course standards unless the course or standards include certain content, such as acquainting students with the hazards posed by farm machinery and animals on highways and by railroad grade crossings and providing instruction in safely dealing with these hazards.

Under current law, the Technical College System Board (TCSB) must approve courses of study for each program offered in technical college district schools, including driver education courses. TCSB may not approve a driver education course unless the course includes certain content, such as acquainting students with the hazards posed by farm machinery and animals on highways and by railroad grade crossings and providing instruction in safely dealing with these hazards. DOT licenses private driver schools and DOT may not license a driver school unless its course of instruction includes the content required for TCSB approval of a driver education course.

Under this bill, all approved driver education courses must acquaint each student with the hazards posed by motor vehicles to vulnerable highway users and provide at least 30 minutes of instruction in safely dealing with these hazards.

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:

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SECTION 1. 38.04 (4) (e) 7. of the statutes is created to read:

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1 38.04 (4) (e) 7. Acquaints each student with the hazards posed by motor
2 vehicles to vulnerable highway users, as defined in s. 340.01 (74p), and provides at
3 least 30 minutes of instruction in safely dealing with these hazards.

4 **SECTION 2.** 115.28 (11) (g) of the statutes is created to read:

5 115.28 (11) (g) Acquaint each student with the hazards posed by motor vehicles
6 to vulnerable highway users, as defined in s. 340.01 (74p), and provide at least 30
7 minutes of instruction in safely dealing with these hazards.

8 **SECTION 3.** 340.01 (74p) of the statutes is created to read:

9 340.01 (74p) "Vulnerable highway user" means any of the following:

- 10 (a) A pedestrian.
- 11 (b) A bicyclist.
- 12 (c) An operator of a motorcycle, moped, or motor bicycle.
- 13 (d) An operator of, or passenger on, an animal-drawn vehicle, farm tractor,
14 farm truck tractor, farm trailer, or implement of husbandry.
- 15 (e) A person riding upon in-line skates, a horse, or a play vehicle.
- 16 (f) A law enforcement officer, traffic officer, fire fighter, or emergency medical
17 technician, while performing his or her official duties.
- 18 (g) A person who is rendering medical or emergency assistance to another
19 person.

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20 ~~**SECTION 4.** 343.30 (1m) of the statutes is created to read:~~

21 ~~343.30 (1m) Upon conviction of a person for violating s. 346.075, 346.21, or
22 346.89, the court shall suspend the violator's operating privilege for a period of one
23 year if the offense resulted in bodily harm, great bodily harm, or death to a
24 vulnerable highway user.~~

25 **SECTION 5.** 343.31 (1) (a) of the statutes is amended to read:

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SECTION 5

1 ~~343.31 (1) (a) Homicide or, great bodily harm, or harm to a vulnerable highway~~
 2 ~~user resulting from the operation of a motor vehicle and which is criminal under s.~~
 3 ~~346.62 (4), 940.06, 940.09, 940.10 or 940.25.~~

4 **SECTION 6.** ~~343.31 (1) (ag) of the statutes is created to read:~~

5 ~~343.31 (1) (ag) Bodily harm to a vulnerable highway user resulting from the~~
 6 ~~operation of a motor vehicle and which is criminal under s. 346.62 (3).~~

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7 **SECTION 7.** 343.31 (2t) (a) 4. ^{and 5.} of the statutes ^{are} created to read:

8 ~~343.31 (2t) (a) 4.~~ Notwithstanding subds. 1. to 3., for a period of one year, if the
 9 offense resulted in bodily harm, great bodily harm, or death to a vulnerable highway
 10 user.

11 **SECTION 8.** 343.31 (3) (cm) of the statutes is created to read:

12 ~~343.31 (3) (cm) Any person convicted under s. 346.62 (3) or (4) or 940.10, or~~
 13 ~~under s. 940.06 if the offense resulted from the operation of a motor vehicle, shall~~
 14 ~~have his or her operating privilege revoked for 2 years if the offense resulted in bodily~~
 15 ~~harm, great bodily harm, or death to a vulnerable highway user.~~

16 **SECTION 9.** 343.71 (5) (g) of the statutes is created to read:

17 343.71 (5) (g) Acquaints each student with the hazards posed by motor vehicles
 18 to vulnerable highway users, as defined in s. 340.01 (74p), and provides at least 30
 19 minutes of instruction in safely dealing with these hazards.

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20 **SECTION 10.** 345.47 (1) (intro.) of the statutes is amended to read:

21 345.47 (1) (intro.) If the defendant is found guilty, the court may enter
 22 judgment against the defendant for a monetary amount not to exceed the maximum
 23 forfeiture provided for the violation, plus costs, fees, and surcharges imposed under
 24 ch. 814, and, in addition, may suspend or revoke his or her operating privilege under
 25 s. 343.30. If the violation is one described in s. 346.17 (6) ^{(b) or} (c), 346.22 (5) ^{(b) or} (c), 346.65

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1 ~~(3) (b) or (5) (b)~~ ^e or 346.95 (12) ^{(b) or} (c), or if the forfeiture for the violation has been doubled
 2 under s. 346.17 (6) ^(a), 346.22 (5) ^(a), 346.30 (5) ^(a), 346.36 (3) ^(a), 346.43 (4) ^(a), 346.49 (5) ^(a), 346.56
 3 (5) ^(a), 346.60 (6) ^(a), 346.74 (7) ^(a), 346.82 (3) ^(a), 346.95 (12) ^(a) or 349.06 (1) (a), the court may also
 4 order the defendant to perform community service work. Upon entering judgment,
 5 the court shall notify the defendant personally, if the defendant is present, and in
 6 writing that the defendant should notify the court if he or she is unable to pay the
 7 judgment because of poverty, as that term is used in s. 814.29 (1) (d). If the defendant
 8 is present and the court, using the criteria in s. 814.29 (1) (d), determines that the
 9 defendant is unable to pay the judgment because of poverty, the court shall provide
 10 the defendant with an opportunity to pay the judgment in installments, taking into
 11 account the defendant's income. If the judgment is not paid or if the defendant fails
 12 to make any ordered installment payment, the court shall order:

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13 **SECTION 11.** 346.17 (4) of the statutes is amended to read:

14 346.17 (4) ~~Any~~ Except as provided in sub. (6) ^e (c), any person violating s. 346.075
 15 may be required to forfeit not less than \$25 nor more than \$200 for the first offense
 16 and not less than \$50 nor more than \$500 for the 2nd or subsequent violation within
 17 4 years.

18 **SECTION 12.** 346.17 (6) of the statutes is created to read:

19 346.17 (6) (a) ^{1.} In this ^{paragraph} subsection, "harm" means bodily harm, as defined in s.
 20 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

21 2. ^e Except as provided in pars. (b) and (c), ~~(b)~~ If any violation under ss. 346.04 to ~~346.072 or 346.08 to~~ 346.16 results in
 22 harm to a vulnerable highway user, the amount of any forfeiture or fine specified in
 23 subs. (1) to ⁴ (5) or s. 939.50 for the violation shall be doubled. If sub. (5) applies with
 24 respect to the violation, the doubling of the forfeiture under this subsection shall
 25 apply in addition to any doubling under sub. (5).

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1 (c) If any violation under s. 346.075 results in harm to a vulnerable highway
2 user, the person who commits the violation is guilty of a Class I felony.

3 SECTION 13. 346.22 (1) (a), (b), (c), (d) and (e) of the statutes are amended to
4 read:

5 346.22 (1) (a) Except as provided in par. (b), (c), (d), or (e) or sub. (5) (c), any
6 person violating s. 346.18, 346.20 (1), or 346.215 (2) (b) or (3) may be required to
7 forfeit not less than \$20 nor more than \$50 for the first offense and not less than \$50
8 nor more than \$100 for the 2nd or subsequent conviction within a year.

9 (b) If an operator of a vehicle violates s. 346.18 (6) where persons engaged in
10 work in a highway maintenance or construction area or in a utility work area are at
11 risk from traffic, any applicable minimum and maximum forfeiture or fine specified
12 in par. (a), (c), (d), or (e) or sub. (5) (c) and s. 939.22 (3) for the violation shall be doubled.

13 (c) If Except as provided in sub. (5) (c), if a person violates s. 346.18 and the
14 violation results in bodily harm, as defined in s. 939.22 (4), to another, the person
15 shall forfeit \$200.

16 (d) If Except as provided in sub. (5) (c), if a person violates s. 346.18 and the
17 violation results in great bodily harm, as defined in s. 939.22 (14), to another, the
18 person shall forfeit \$500.

19 (e) If Except as provided in sub. (5) (c), if a person violates s. 346.18 and the
20 violation results in death to another, the person shall forfeit \$1,000.

21 SECTION 14. 346.22 (3) of the statutes is amended to read:

22 346.22 (3) Any Except as provided in sub. (5) (c), any person violating s. 346.20
23 (2), (3) or (4) (b) or (c) or 346.21 may be required to forfeit not less than \$10 nor more
24 than \$20 for the first offense and not less than \$25 nor more than \$50 for the 2nd or
25 subsequent conviction within a year.

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SECTION 15. 346.22 (5) of the statutes is created to read:

1. In this ^{paragraph} subsection, "harm" means bodily harm, as defined in s. 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

2. ^{EXCEPT as provided in pars. (b) and (c)} (b) If any violation under s. 346.19, 346.20, or ^{346.21} 346.215 results in harm to a vulnerable highway user, the amount of any forfeiture specified in subs. (1) to (3) for the violation shall be doubled. If sub. (1) (b) applies with respect to the violation, the doubling of the forfeiture under this subsection shall apply in addition to any doubling under sub. (1) (b).

(c) If any violation under s. 346.18 or 346.21 results in harm to a vulnerable highway user, the person who commits the violation is guilty of a Class I felony.

SECTION 16. 346.30 (5) of the statutes is created to read:

346.30 (5) (a) In this subsection, "harm" means bodily harm, as defined in s. 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

(b) If any violation under ss. 346.23 to 346.29 results in harm to a vulnerable highway user, the amount of any forfeiture specified in subs. (1) to (4) for the violation shall be doubled.

SECTION 17. 346.36 (3) of the statutes is created to read:

346.36 (3) (a) In this subsection, "harm" means bodily harm, as defined in s. 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

(b) If any violation under ss. 346.31 to 346.35 results in harm to a vulnerable highway user, the amount of any forfeiture specified in subs. (1) and (2) for the violation shall be doubled.

SECTION 18. 346.43 (4) of the statutes is created to read:

346.43 (4) (a) In this subsection, "harm" means bodily harm, as defined in s. 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

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1 (b) If any violation under ss. 346.37 to 346.42 results in harm to a vulnerable
2 highway user, the amount of any forfeiture specified in subs. (1) to (3) for the violation
3 shall be doubled. If sub. (1) (b) 3. applies with respect to the violation, the doubling
4 of the forfeiture under this subsection shall apply in addition to any doubling under
5 sub. (1) (b) 3.

6 **SECTION 19.** 346.49 (5) of the statutes is created to read:

7 346.49 (5) (a) In this subsection, "harm" means bodily harm, as defined in s.
8 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

9 (b) If any violation under s. 346.44, 346.45, 346.455, 346.46, or 346.47 to 346.48
10 results in harm to a vulnerable highway user, the amount of any forfeiture specified
11 in subs. (1), (1g), (2), (2m), and (4) for the violation shall be doubled. If sub. (1) (c)
12 applies with respect to the violation, the doubling of the forfeiture under this
13 subsection shall apply in addition to any doubling under sub. (1) (c).

14 **SECTION 20.** 346.56 (5) of the statutes is created to read:

15 346.56 (5) (a) In this subsection, "harm" means bodily harm, as defined in s.
16 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

17 (b) If any violation under ss. 346.503 to 346.55 results in harm to a vulnerable
18 highway user, the amount of any forfeiture specified in subs. (1) to (4) for the violation
19 shall be doubled.

20 **SECTION 21.** 346.60 (6) of the statutes is created to read:

21 346.60 (6) (a) In this subsection, "harm" means bodily harm, as defined in s.
22 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

23 (b) If any violation under ss. 346.57 to 346.595 results in harm to a vulnerable
24 highway user, the amount of any forfeiture specified in subs. (1) to (5) for the violation
25 shall be doubled. If sub. (3m) applies with respect to the violation, the doubling of

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1 the forfeiture under this subsection shall apply in addition to any doubling or other
2 penalty enhancement under sub. (3m).

3 **SECTION 22.** 346.65 (3) of the statutes is renumbered 346.65 (3) (a) and
4 amended to read:

5 346.65 (3) (a) Except as provided in par. (b) and sub. (5m), any person violating
6 s. 346.62 (3) shall be fined not less than \$300 nor more than \$2,000 and may be
7 imprisoned for not less than 30 days nor more than one year in the county jail.

8 **SECTION 23.** 346.65 (3) (b) of the statutes is created to read:

9 346.65 (3) (b) If the violation of s. 346.62 (3) causes bodily harm to a vulnerable
10 highway user, the person who commits the violation is guilty of a Class H felony.

11 **SECTION 24.** 346.65 (5) of the statutes is renumbered 346.65 (5) (a) and
12 amended to read:

13 346.65 (5) (a) Except as provided in par. (b) and sub. (5m), any person violating
14 s. 346.62 (4) is guilty of a Class I felony.

15 **SECTION 25.** 346.65 (5) (b) of the statutes is created to read:

16 346.65 (5) (b) If the violation of s. 346.62 (4) causes great bodily harm to a
17 vulnerable highway user, the person who commits the violation is guilty of a Class
18 H felony.

19 **SECTION 26.** 346.74 (7) of the statutes is created to read:

20 346.74 (7) (a) In this subsection, "harm" means bodily harm, as defined in s.
21 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

22 (b) If any violation under s. 346.67 or ss. 346.68 to 346.70 results in harm to
23 a vulnerable highway user, the amount of any forfeiture or fine specified in subs. (2)
24 to (5) or s. 939.50 for the violation shall be doubled.

25 **SECTION 27.** 346.82 (3) of the statutes is created to read:

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1 346.82 (3) (a) In this subsection, "harm" means bodily harm, as defined in s.
2 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

3 (b) If any violation under ss. 346.77 to 346.805 results in harm to a vulnerable
4 highway user, the amount of any forfeiture specified in subs. (1) and (2) for the
5 violation shall be doubled.

6 **SECTION 28.** 346.95 (1) and (2) of the statutes are amended to read:

7 346.95 (1) Any Except as provided in sub. (12) (c), any person violating s.
8 346.87, 346.88, 346.89 (2) or (4), 346.90 to 346.92 or 346.94 (1), (9), (10), (11), (12) or
9 (15) may be required to forfeit not less than \$20 nor more than \$40 for the first offense
10 and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within
11 a year.

12 (2) Any Except as provided in sub. (12) (c), any person violating s. 346.89 (1)
13 or (3) (a) or 346.94 (2), (4), or (7) may be required to forfeit not less than \$20 nor more
14 than \$400.

15 **SECTION 29.** 346.95 (12) of the statutes is created to read:

16 346.95 (12) (a) ^{1. paragraph} In this subsection, "harm" means bodily harm, as defined in s.
17 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

18 ^{2. Except as provided in pars. (b) and (c)} (b) If any violation under ss. 346.87, 346.88, or 346.90 to 346.94 results in harm
19 to a vulnerable highway user, the amount of any forfeiture specified in subs. (1) to
20 (5e) and (6) to (11) for the violation shall be doubled.

21 (c) If any violation under s. 346.89 results in harm to a vulnerable highway
22 user, the person who commits the violation is guilty of a Class I felony.

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23 **SECTION 30.** 349.06 (1) (a) of the statutes is amended to read:

24 349.06 (1) (a) Except for the suspension or revocation of motor vehicle
25 operator's licenses or except as provided in par. (b), any local authority may enact and

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1 enforce any traffic regulation which is in strict conformity with one or more
2 provisions of chs. 341 to 348 and 350 for which the penalty for violation thereof is a
3 forfeiture. If a local authority enacts a traffic regulation in strict conformity with any
4 provision of ch. 346 for which the penalty under ch. 346 is doubled if the violation
5 results in harm to a vulnerable highway user, the applicable penalty for the violation
6 under the ordinance shall also include the doubling of the forfeiture.

7 **SECTION 31.** 939.22 (44m) of the statutes is created to read:

8 939.22 (44m) "Vulnerable highway user" has the meaning given in s. 340.01
9 (74p).

10 **SECTION 32.** 940.25 (1b) of the statutes is created to read:

11 940.25 (1b) Any person who does any of the following is guilty of a Class H
12 felony:

13 (a) Causes bodily harm to a vulnerable highway user by the operation of a
14 vehicle while under the influence of an intoxicant.

15 (b) Causes bodily harm to a vulnerable highway user by the operation of a
16 vehicle while the person has a detectable amount of a restricted controlled substance
17 in his or her blood.

18 (c) Causes bodily harm to a vulnerable highway user by the operation of a
19 vehicle while the person has a prohibited alcohol concentration, as defined in s.
20 340.01 (46m).

21 (d) Causes bodily harm to a vulnerable highway user by the operation of a
22 commercial motor vehicle while the person has an alcohol concentration of 0.04 or
23 more but less than 0.08.

24 **SECTION 33.** 940.25 (1m) (a) of the statutes is amended to read:

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SECTION 33

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

7 **SECTION 34.** 940.25 (1m) (b) of the statutes is amended to read:

8 940.25 (1m) (b) If a person is charged in an information with any of the
9 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
10 971.12. If the person is found guilty of more than one of the crimes so charged for
11 acts arising out of the same incident or occurrence, there shall be a single conviction
12 for purposes of sentencing and for purposes of counting convictions under s. 23.33
13 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under ss. 343.30 (1q) and 343.305 or
14 under s. 350.11 (3) (a) 2. and 3. ~~Subsection~~ Subsections (1) (a), (am), (b), (bm), (c),
15 (cm), (d), and (e) ~~and (1b) (a), (b), (c), and (d)~~ each require proof of a fact for conviction
16 which the others do not require.

17 **SECTION 35.** 940.25 (2) (a) of the statutes is amended to read:

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

24 **SECTION 36. Initial applicability.**

BILL

and 5., (2v), and (3)(a), 343.38(1) and (3)

1 (1) The treatment of sections 340.01 (74p), 343.30 (1m), 343.31 (1)(a) and (ag),
 2 (2t) (a) 4. and (3) (cm), 345.47 (1) (intro.), 346.17 (4) and (6), 346.22 (1) (a), (b), (c),
 3 (d), and (e), (3), and (5), 346.30 (5), 346.36 (3), 346.43 (4), 346.49 (5), 346.56 (5), 346.60
 4 (6), 346.65 (3) (b) and (5) (b), 346.74 (7), 346.82 (3), 346.95 (1), (2), and (12), 349.06
 5 (1) (a), 939.22 (44m), 940.25 (1b), (1m) (a) and (b), and (2) (a) of the statutes and the
 6 renumbering and amendment of sections 346.65 (3) and (5) of the statutes first apply
 7 to violations committed on the effective date of this subsection.

8 (2) The treatment of sections 38.04 (4) (e) 7., 115.28 (11) (g), and 343.71 (5) (g)
 9 of the statutes first applies to driver education courses that begin on the effective
 10 date of this subsection.

SECTION 37. Effective date.

11 (1) This act takes effect on the first day of the 4th month beginning after
 12 publication.
 13

(END)

J-1502

346.65(3m), (3p), and (3r),

1 **INSERT ANAL-A:**

(no A) However, as discussed below, for specific violations, the bill makes the offense a Class B misdemeanor if the violation results in great bodily harm to a vulnerable highway user or a Class A misdemeanor if the violation results in death to a vulnerable highway user. A Class B misdemeanor is punishable by a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both. A Class A misdemeanor is punishable by a fine not exceeding \$10,000 or imprisonment not exceeding 9 months or both.

2 **INSERT ANAL-B:**

(no A) Before the person's operating privilege may be reinstated, the person must complete a vehicle right-of-way course approved by DOT.
Under this bill, the penalty for a failure to yield violation is increased to a Class B misdemeanor if the violation results in bodily harm to a vulnerable highway user and is increased to a Class A misdemeanor if the violation results in death to a vulnerable highway user. In addition to these increased penalties, DOT must suspend the violator's operating privilege for, respectively, six months or one year. As under current law, before the person's operating privilege may be reinstated, the person must complete a vehicle right-of-way course approved by DOT.

3 **INSERT ANAL-C:**

Under this bill, the penalty for a failure to yield to livestock violation is increased to a Class B misdemeanor if the violation results in bodily harm to a vulnerable highway user and is increased to a Class A misdemeanor if the violation results in death to a vulnerable highway user. In addition to these increased penalties, DOT must suspend the violator's operating privilege for, respectively, six months or one year. Before the person's operating privilege may be reinstated, the person must complete a safe driver course approved by DOT.

4 **INSERT ANAL-D:**

Under this bill, the penalty for a passing violation is increased to a Class B misdemeanor if the violation results in bodily harm to a vulnerable highway user and is increased to a Class A misdemeanor if the violation results in death to a vulnerable highway user. In addition to these increased penalties, DOT must suspend the violator's operating privilege for, respectively, six months or one year. Before the person's operating privilege may be reinstated, the person must complete a safe driver course approved by DOT.

1 **INSERT ANAL-E:**

Under this bill, the penalty for an inattentive driving violation is increased to a Class B misdemeanor if the violation results in bodily harm to a vulnerable highway user and is increased to a Class A misdemeanor if the violation results in death to a vulnerable highway user. In addition to these increased penalties, DOT must suspend the violator's operating privilege for, respectively, six months or one year. Before the person's operating privilege may be reinstated, the person must complete a safe driver course approved by DOT.

2 **INSERT ANAL-F:**

Current law allows a court to order a person who is convicted of a traffic violation to attend traffic safety school. However, as discussed above, for a vehicle failure-to-yield violation, DOT, rather than a court, must order the violator to attend a vehicle right-of-way course.

Current law prohibits a person from causing bodily harm, great bodily harm, or death to another by the negligent operation of a vehicle (reckless driving). A person who commits a reckless driving violation that causes great bodily harm or death must have his or her operating privilege revoked by DOT for one year.

Under this bill, if a person is convicted of a reckless driving violation that causes great bodily harm or death, DOT must order the person to attend a safe driver course approved by DOT and the person must successfully complete the course before DOT may reinstate the person's operating privilege. This course is required in addition to any other penalty imposed for the violation.

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of
causing the death of another or great bodily harm or injury to another
by OWI
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5 **INSERT 5-20:** x

6 **SECTION 1.** 343.30 (1) of the statutes is amended to read:

7 343.30 (1) A court may suspend a person's operating privilege for any period
8 not exceeding one year upon such person's conviction in such court of violating any
9 of the state traffic laws or any local ordinance enacted under ch. 349, other than a
10 violation of s. 346.075, 346.18, 346.21, or 346.89, or a local ordinance in conformity
11 with s. 346.075, 346.18, 346.21, or 346.89, for which operating privilege suspension
12 is required under s. 343.31 (2t) (a) or (2v) (b).

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.

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INSERT 6-7:

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343.31 (2t) (a) 4. Notwithstanding subds. 1. to 3., for a period of 6 months, if the offense resulted in great bodily harm to a vulnerable highway user but did not result in death to a vulnerable highway user.

INSERT 6-15:

x

SECTION 2. 343.31 (2v) of the statutes is created to read:

343.31 (2v) (a) In this subsection:

1. "Great bodily harm" has the meaning given in s. 939.22 (14).

2. "Offense" means a violation of s. 346.075, 346.21, or 346.89, or a local ordinance in conformity with s. 346.075, 346.21, or 346.89.

(b) The department shall suspend a person's operating privilege upon receiving a record of conviction for an offense resulting in great bodily harm or death to a vulnerable highway user, as follows:

1. For a period of 6 months, if the offense resulted in great bodily harm to a vulnerable highway user but did not result in death to a vulnerable highway user.

2. For a period of one year, if the offense resulted in death to a vulnerable highway user.

(c) If a person is convicted of an offense resulting in great bodily harm or death to a vulnerable highway user, in addition to any other penalty provided by law, the department shall order the person to attend a safe driver course whose mode of instruction is approved by the secretary and which is conducted by any regularly established safety organization, by the provider of driver education courses approved

1 under s. 38.04 (4) or 115.28 (11), by a driver school licensed under s. 343.61, or by a
 2 law enforcement agency. The course of instruction shall include skills and habits
 3 promoting safe driving and shall acquaint the person with requirements and
 4 restrictions for drivers under ss. 346.075, 346.21, and 346.89. If the course is
 5 conducted by the provider of approved driver education courses or a driver school, the
 6 provider or driver school shall issue to the person a certificate upon successful
 7 completion of the course. If a person's operating privilege has been suspended under
 8 par. (b), the department may not reinstate the person's operating privilege unless the
 9 person has successfully completed the course required under this paragraph.

10 **SECTION 3.** 343.31 (3) (a) of the statutes is amended to read:

11 343.31 (3) (a) Except as otherwise provided in this subsection or sub. (2m), (2s),
 12 (2t), (2v), or (2x), all revocations or suspensions under this section shall be for a
 13 period of one year.

History: 1971 c. 219; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193, 447; 1979 c. 221; 1981 c. 20, 70; 1983 a. 192 s. 304; 1983 a. 459; 1985 a. 80, 82; 1985 a. 293 s. 3; 1987 a. 3, 399; 1989 a. 31, 105; 1991 a. 39, 277, 316; 1993 a. 317; 1995 a. 269, 425, 448; 1997 a. 84, 237, 258, 295; 1999 a. 109, 143; 2001 a. 16, 38, 109; 2003 a. 30, 97, 200; 2005 a. 387; 2009 a. 100, 102, 121; 2011 a. 113, 173 ss. 2, 3, 6.

14 **SECTION 4.** 343.38 (1) (intro.) of the statutes is amended to read:

15 343.38 (1) REINSTATEMENT AFTER REVOCATION. (intro.) Except as provided in ss.
 16 343.10, 343.39, and 351.07, and subject to s. 345.60 (5), the department shall not
 17 reinstate the operating privilege of a person whose operating privilege has been duly
 18 revoked unless the period of revocation has expired and the person:

History: 1977 c. 29 s. 1654 (7) (a), (c); 1979 c. 306, 36; 1983 a. 525; 1989 a. 72; 1991 a. 277, 316; 1997 a. 27, 84; 1999 a. 143; 2007 a. 20; 2009 a. 100, 103; 2011 a. 173, 258.

19 **SECTION 5.** 343.38 (3) of the statutes is amended to read:

20 343.38 (3) REINSTATEMENT AFTER SUSPENSION. Except as provided in sub. (2) and
 21 s. 343.10, the department shall not reinstate the operating privilege of a person
 22 whose operating privilege has been duly suspended while the suspension remains in
 23 effect. Subject to s. 343.31 (2t) (b) and (2v) (c), upon the expiration of the period of

INS
ARG-
4-13

1 suspension, the person's operating privilege is reinstated upon receipt by the
2 department of the fees specified in s. 343.21 (1) (j) and (n) and, for reinstatement of
3 an operating privilege suspended under ch. 344, the filing with the department of
4 proof of financial responsibility, if required, in the amount, form, and manner
5 specified under ch. 344.

6 **INSERT 7-12:** x

7 **SECTION 6.** 345.60 (1) of the statutes is amended to read:

8 345.60 (1) Except as provided in sub. subs. (3) and (5) and s. 343.31 (2t) (b), in
9 addition to or in lieu of other penalties provided by law for violation of chs. 346 to 348,
10 the trial court may in its judgment of conviction order the convicted person to attend,
11 for a certain number of school days, a traffic safety school whose course and mode of
12 instruction is approved by the secretary and which is conducted by the police
13 department of the municipality, by the sheriff's office of the county, or by any
14 regularly established safety organization. The trial court may not order a person to
15 attend a traffic safety school under this subsection if the department is required to
16 order that the person attend a vehicle right-of-way course under s. 343.31 (2t) (b)
17 or a safe driver course under sub. (5) or s. 343.31 (2v) (c).

18 **SECTION 7.** 345.60 (5) of the statutes is created to read:

19 345.60 (5) If a person is convicted of a violation of s. 346.62 (4) or 940.10, or of
20 s. 940.06 or 940.09 if the offense resulted from the operation of a motor vehicle, resulting in
21 great bodily harm or death to a vulnerable highway user, in addition to any other
22 penalty provided by law, the department shall order the person to attend a safe driver
23 course whose mode of instruction is approved by the secretary and which is
24 conducted by any regularly established safety organization, by the provider of driver
25 education courses approved under s. 38.04 (4) or 115.28 (11), by a driver school

346.65(2) or (6)
or 346.65(2) or (6) resulting in injury to a vulnerable
highway user,

or 940.25,

1 licensed under s. 343.61, or by a law enforcement agency. The course of instruction
2 shall include skills and habits promoting safe driving and shall acquaint the person
3 with the hazards of reckless driving. If the course is conducted by the provider of
4 approved driver education courses or a driver school, the provider or driver school
5 shall issue to the person a certificate upon successful completion of the course. If a
6 person's operating privilege has been revoked under s. 343.31 (1) (a), the department
7 may not reinstate the person's operating privilege unless the person has successfully
8 completed the course required under this subsection.

9
10
11 **INSERT 8-1:**

12 (b) If any violation under s. 346.075 results in great bodily harm, as defined in
13 s. 939.22 (14), to a vulnerable highway user, the person who commits the violation
14 is guilty of a Class B misdemeanor as specified in s. 939.51 (3) (b).

15 (c) If any violation under s. 346.075 results in death to a vulnerable highway
16 user, the person who commits the violation is guilty of a Class A misdemeanor as
17 specified in s. 939.51 (3) (a).

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20 **INSERT 9-10:**

21 (b) If any violation under s. 346.18 or 346.21 results in great bodily harm, as
22 defined in s. 939.22 (14), to a vulnerable highway user, the person who commits the
23 violation is guilty of a Class B misdemeanor as specified in s. 939.51 (3) (b).

1 (c) If any violation under s. 346.18 or 346.21 results in death to a vulnerable
2 highway user, the person who commits the violation is guilty of a Class A
3 misdemeanor as specified in s. 939.51 (3) (a).[↓]

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6 **INSERT 12-22:**

7 (b) If any violation under s. 346.89 results in great bodily harm, as defined in
8 s. 939.22 (14), to a vulnerable highway user, the person who commits the violation
9 is guilty of a Class B misdemeanor as specified in s. 939.51 (3) (b).[✓]

10 (c) If any violation under s. 346.89 results in death to a vulnerable highway
11 user, the person who commits the violation is guilty of a Class A misdemeanor as
12 specified in s. 939.51 (3) (a).[✓]

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2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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ARG&EVM:sac:rs

EVM

LPS:
Please make
marked changes

Z

1 INS Analysis-1

^{no fl}
In addition, if a person is convicted of causing the death of another by OWI, the Department of Transportation (DOT) must in most cases revoke the person's operating privilege for 5 years. ^{no fl}

2

3 INS Analysis-2

^{no fl}
In addition, if a person is convicted of causing great bodily harm to another by OWI, DOT must in most cases revoke the person's operating privilege for 2 years. ^{no fl}

4

5 INS Analysis-3

^{no fl}
Also, DOT must in most case^s revoke the person's operating privilege for 5 year^s and 6 months or 2 years and 6 months, respectively, for a person who causes the death of a vulnerable highway user by OWI or great bodily harm to a vulnerable highway user by OWI.

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7 INS ARG-4-13

8 **SECTION 1.** 343.31 (3) (c) of the statutes is amended to read:

9 343.31 (3) (c) Any person convicted under s. 940.09 of causing the death of
10 another or of an unborn child by the operation or handling of a motor vehicle shall
11 have his or her operating privilege revoked for 5 years. If there was a minor
12 passenger under 16 years of age or an unborn child, as defined in s. 939.75 (1), in the
13 motor vehicle at the time of the violation that gave rise to the conviction under s.
14 940.09, the revocation period is 10 years. If the person convicted under s. 940.09
15 caused the death of a vulnerable highway user, the revocation period is 5 years and
16 6 months.

History: 1971 c. 219; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193, 447; 1979 c. 221; 1981 c. 20, 70; 1983 a. 192 s. 304; 1983 a. 459; 1985 a. 80, 82; 1985 a. 293 s. 3; 1987 a. 3, 399; 1989 a. 31, 105; 1991 a. 39, 277, 316; 1993 a. 347; 1995 a. 269, 425, 448; 1997 a. 84, 237, 258, 295; 1999 a. 109, 143; 2001 a. 16, 38, 109; 2003 a. 30, 97, 200; 2005 a. 387; 2009 a. 100, 102, 121; 2011 a. 113, 173 ss. 2, 3, 6.

17 **SECTION 2.** 343.31 (3) (f) of the statutes is amended to read:

1 343.31 (3) (f) Any person convicted under s. 940.25 shall have his or her
 2 operating privilege revoked for 2 years. If there was a minor passenger under 16
 3 years of age or an unborn child, as defined in s. 939.75 (1), in the motor vehicle at the
 4 time of the violation that gave rise to the conviction under s. 940.25, the revocation
 5 period is 4 years. If the person convicted under s. 940.25 caused great bodily harm
 6 to a vulnerable highway user, the revocation period is 2 years and 6 months.

History: 1971 c. 219; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193, 447; 1979 c. 221; 1981 c. 20, 70; 1983 a. 192 s. 304; 1983 a. 459; 1985 a. 80, 82; 1985 a. 293 s. 3; 1987 a. 3, 399; 1989 a. 31, 105; 1991 a. 39, 277, 316; 1993 a. 317; 1995 a. 269, 425, 448; 1997 a. 84, 237, 258, 295; 1999 a. 109, 143; 2001 a. 16, 38, 109; 2003 a. 30, 97, 200; 2005 a. 387; 2009 a. 100, 102, 121; 2011 a. 113, 173 ss. 2, 3, 6.

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8 INS 11-19

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10 **SECTION 3.** 346.65 (3m) of the statutes is amended to read:

11 346.65 (3m) Except as provided in sub. (3p) or (3r), any person violating s.
 12 346.63 (2) or (6) shall be fined not less than \$300 nor more than \$2,000 and may be
 13 imprisoned for not less than 30 days nor more than one year in the county jail. If
 14 there was a minor passenger under 16 years of age in the motor vehicle at the time
 15 of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense
 16 is a felony, the applicable minimum and maximum fines or periods of imprisonment
 17 for the conviction are doubled and the place of imprisonment shall be determined
 18 under s. 973.02. If the injury was to a vulnerable highway user, the applicable
 19 minimum and maximum fines for the conviction are doubled.

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.

20 **SECTION 4.** 346.65 (3p) of the statutes is amended to read:

21 346.65 (3p) Any person violating s. 346.63 (2) or (6) is guilty of a Class H felony
 22 if the person has one or more prior convictions, suspensions, or revocations, as
 23 counted under s. 343.307 (1). If there was a minor passenger under 16 years of age

1 in the motor vehicle at the time of the violation that gave rise to the conviction under
2 s. 346.63 (2) or (6), the offense is a felony and the applicable maximum fines or
3 periods of imprisonment for the conviction are doubled. If the injury was to a
4 vulnerable highway user, the applicable minimum and maximum fines for the
5 conviction are doubled.

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.

6 **SECTION 5.** 346.65 (3r) of the statutes is amended to read:

7 346.65 (3r) In any county that opts to offer a reduced minimum period of
8 imprisonment for the successful completion of a probation period that includes
9 alcohol and other drug treatment, any person violating s. 346.63 (2) or (6) shall be
10 fined the same as under sub. (3m), but the period of imprisonment shall be not less
11 than 30 days, except that if the person successfully completes a period of probation
12 that includes alcohol and other drug treatment, the period of imprisonment shall be
13 not less than 15 days. If there was a minor passenger under 16 years of age in the
14 motor vehicle at the time of the violation that gave rise to the conviction under s.
15 346.63 (2) or (6), the offense is a felony, the applicable minimum and maximum fines
16 or periods of imprisonment for the conviction are doubled and the place of
17 imprisonment shall be determined under s. 973.02. If the injury was to a vulnerable
18 highway user, the applicable minimum and maximum fines for the conviction are
19 doubled. A person may be sentenced under this subsection or under sub. (2) (bm) or
20 (cm) or (2j) (bm) or (cm) once in his or her lifetime. This subsection does not apply
21 to a person sentenced under sub. (3p).

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.

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

LRB-1701/2dn

ARG:j:....

Sac

- date -

Please review the attached draft carefully to ensure that it is consistent with your intent. Based on our discussion, it is my understanding that the intent of this draft is not to reduce any penalties under current law. Therefore, if an item in the chart provided to me would result in a reduction of a penalty, I have omitted that item from this draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1701/2dn
ARG:sac:rs

August 13, 2013

Please review the attached draft carefully to ensure that it is consistent with your intent. Based on our discussion, it is my understanding that the intent of this draft is not to reduce any penalties under current law. Therefore, if an item in the chart provided to me would result in a reduction of a penalty, I have omitted that item from this draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

Gary, Aaron

From: Archibald, Sarah
Sent: Tuesday, August 20, 2013 3:47 PM
To: Gary, Aaron
Cc: Bruce, Cory
Subject: RE: ETA on the vulnerable user redraft?

Hi Aaron,

No problem! Please go ahead and make the changes.

Thanks,
Sarah

Sarah Archibald
Education Policy Advisor and Committee Clerk Office of Senator Luther Olsen
123 South State Capitol
Madison, WI 53707
(608) 266-0751
sarah.archibald@legis.wi.gov

-----Original Message-----

From: Gary, Aaron
Sent: Tue 8/20/2013 3:31 PM
To: Archibald, Sarah
Cc: Bruce, Cory
Subject: RE: ETA on the vulnerable user redraft?

Hi Sarah,

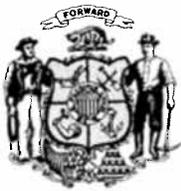
I just spoke with AJ Wilson about this draft and he called my attention to a mistake in the analysis. In several places on pp. 3-4, when I revised the draft from "/1" to "/2", I forgot to add "great" in front of "bodily harm." The statutory text in the draft does not need correction, but I do need to replace "bodily harm" with "great bodily harm" in several places in the analysis on pp. 3 and 4 (wherever it discusses the Class B misdemeanor).

If you have other changes in the draft, I can make those at the same time.

Please let me know if you would like me to make these corrections now or wait for possible instructions on other changes. And sorry for the oversight.

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)



in
8/21



LRB-1701/3

ARG&EVM:sac:rs

wanted
8/22

stays

RMR

AB

2013 BILL

the only changes are in
the analysis (they
are corrections)

Rezen

1 AN ACT *to amend* 343.30 (1), 343.31 (3) (a), 343.31 (3) (c), 343.31 (3) (f), 343.38
 2 (1) (intro.), 343.38 (3), 345.47 (1) (intro.), 345.60 (1), 346.17 (4), 346.22 (1) (a),
 3 (b), (d) and (e), 346.22 (3), 346.65 (3m), 346.65 (3p), 346.65 (3r), 346.95 (1) and
 4 (2) and 349.06 (1) (a); and *to create* 38.04 (4) (e) 7., 115.28 (11) (g), 340.01 (74p),
 5 343.31 (2t) (a) 4. and 5., 343.31 (2v), 343.71 (5) (g), 345.60 (5), 346.17 (6), 346.22
 6 (5), 346.30 (5), 346.36 (3), 346.43 (4), 346.49 (5), 346.56 (5), 346.60 (6), 346.74
 7 (7), 346.82 (3) and 346.95 (12) of the statutes; **relating to:** traffic violations
 8 resulting in harm to vulnerable highway users, driver education instruction,
 9 and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill creates penalty enhancements for traffic violations that result in bodily harm, great bodily harm, or death (collectively "harm") to vulnerable highway users. The bill defines "vulnerable highway user" as any of the following: 1) a pedestrian; 2) a bicyclist; 3) an operator of a moped or motor bicycle; 4) an operator of, or passenger on, an animal-drawn vehicle, farm tractor, farm truck tractor, farm trailer, or implement of husbandry; 5) a person riding upon in-line skates, a horse, or a play vehicle; 6) a law enforcement officer, traffic officer, fire fighter, or emergency

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medical technician, while performing his or her official duties; or 7) a person who is rendering medical or emergency assistance to another person. For most traffic violations, the bill doubles the applicable forfeiture or fine if the violation results in harm to a vulnerable highway user, and this doubling is in addition to any other applicable penalty enhancement, such as the doubling for certain traffic violations committed in highway maintenance or construction areas or in utility work areas. However, as discussed below, for specific violations, the bill makes the offense a Class B misdemeanor if the violation results in great bodily harm to a vulnerable highway user or a Class A misdemeanor if the violation results in death to a vulnerable highway user. A Class B misdemeanor is punishable by a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both. A Class A misdemeanor is punishable by a fine not exceeding \$10,000 or imprisonment not exceeding 9 months or both.

Under current law, a person who causes the death of another by operating or handling a vehicle while under the influence of an intoxicant is guilty of a Class D felony or, if the person has been convicted of a prior operating under the influence of an intoxicant or other drug (OWI) offense relating to, a Class C felony. A Class C felony is punishable by a fine not exceeding \$100,000 or imprisonment not exceeding 40 years or both. A Class D felony is punishable by a fine not exceeding \$100,000 or imprisonment not exceeding 25 years or both. In addition, if a person is convicted of causing the death of another by OWI, the Department of Transportation (DOT) must in most cases revoke the person's operating privilege for 5 years. A person who causes great bodily harm to another by OWI is guilty of a Class F felony. A Class F felony is punishable by a fine not exceeding \$25,000 or imprisonment not exceeding 12 years and 6 months or both. In addition, if a person is convicted of causing great bodily harm to another by OWI, DOT must in most cases revoke the person's operating privilege for 2 years. A person who causes injury to another by OWI may be fined not less than \$300 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one year or, if the person has been convicted of a prior OWI-related offense, is guilty of a Class H felony.

Under this bill, the penalties are doubled for a person who causes injury by OWI to a vulnerable highway user. Also, DOT must in most cases revoke the person's operating privilege for 5 years and 6 months or 2 years and 6 months, respectively, for a person who causes the death of a vulnerable highway user by OWI or great bodily harm to a vulnerable highway user by OWI.

Under current law, the operator of a vehicle must yield the right-of-way to another vehicle under certain circumstances, including: when turning left across traffic; at an intersection posted with a yield sign; when entering a through highway or a highway from an alley or driveway or from a parked or standing position; or when entering a highway from another highway that ends at a "T" intersection. A person who fails to yield the right-of-way as required is subject to a forfeiture of not less than \$20 nor more than \$50 for a first offense and not less than \$50 nor more than \$100 for any subsequent offense within a year. However, if the violation results in bodily harm, great bodily harm, or death to another, the person must forfeit, respectively, \$200, \$500, or \$1,000 for the violation and the Department of

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* Transportation (DOT) must suspend the person's operating privilege for, respectively, 2 months, 3 months or 9 months. Before the person's operating privilege may be reinstated, the person must complete a vehicle right-of-way course approved by DOT.

* Under this bill, the penalty for a failure to yield violation is increased to a Class B misdemeanor if the violation results in bodily harm to a vulnerable highway user and is increased to a Class A misdemeanor if the violation results in death to a vulnerable highway user. In addition to these increased penalties, DOT must suspend the violator's operating privilege for, respectively, six months or one year. As under current law, before the person's operating privilege may be reinstated, the person must complete a vehicle right-of-way course approved by DOT.

Under current law, the operator of a motor vehicle must yield the right-of-way to livestock being driven over or along the highway. A person who fails to yield the right-of-way to livestock is subject to a forfeiture of not less than \$10 nor more than \$20 for the first offense and not less than \$25 nor more than \$50 for the second or subsequent offense within a year.

* Under this bill, the penalty for a failure to yield to livestock violation is increased to a Class B misdemeanor if the violation results in bodily harm to a vulnerable highway user and is increased to a Class A misdemeanor if the violation results in death to a vulnerable highway user. In addition to these increased penalties, DOT must suspend the violator's operating privilege for, respectively, six months or one year. Before the person's operating privilege may be reinstated, the person must complete a safe driver course approved by DOT.

Under current law, the operator of a motor vehicle overtaking a bicycle proceeding in the same direction must exercise due care, leaving a safe distance but at least three feet clearance when passing the bicycle, and must maintain clearance until safely past the overtaken bicycle. Also, if the operator of a motor vehicle overtakes a motor bus that is stopped at an intersection on the right side of the roadway and that is receiving or discharging passengers, the operator must pass at a safe distance to the left of the motor bus and may not turn to the right in front of the motor bus at that intersection. A person who commits such a passing violation is subject to a forfeiture of not less than \$25 nor more than \$200 for the first offense and not less than \$50 nor more than \$500 for the second or subsequent offense within four years.

* Under this bill, the penalty for a passing violation is increased to a Class B misdemeanor if the violation results in bodily harm to a vulnerable highway user and is increased to a Class A misdemeanor if the violation results in death to a vulnerable highway user. In addition to these increased penalties, DOT must suspend the violator's operating privilege for, respectively, six months or one year. Before the person's operating privilege may be reinstated, the person must complete a safe driver course approved by DOT.

Current law prohibits inattentive driving of a motor vehicle, which includes: 1) being so engaged or occupied, while driving a motor vehicle, as to interfere with the safe driving of the vehicle; 2) operating a motor vehicle equipped with a television or similar device in the front of the vehicle or otherwise visible to the operator; and

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3) driving a motor vehicle while composing or sending an electronic text message or an e-mail message; and 4) driving a motor vehicle while using a cellular or wireless telephone, if the driver holds a probationary license or instruction permit. Any person who commits form 1) or 3) of inattentive driving is subject to a forfeiture of not less than \$20 nor more than \$400 and any person who commits form 2) or 4) of inattentive driving is subject to a forfeiture of not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the second or subsequent offense within a year.

great
* Under this bill, the penalty for an inattentive driving violation is increased to a Class B misdemeanor if the violation results in *great* bodily harm to a vulnerable highway user and is increased to a Class A misdemeanor if the violation results in death to a vulnerable highway user. In addition to these increased penalties, DOT must suspend the violator's operating privilege for, respectively, six months or one year. Before the person's operating privilege may be reinstated, the person must complete a safe driver course approved by DOT.

Under current law, local authorities may enact and enforce traffic regulations that are in strict conformity with state statutes and that provide for a forfeiture as a penalty.

Under this bill, if a local authority enacts a traffic regulation in strict conformity with a state statute and the statutory penalty is doubled if the violation results in harm to a vulnerable highway user, the applicable ordinance penalty for the ordinance violation must also include the doubling of the forfeiture.

Current law allows a court to order a person who is convicted of a traffic violation to attend traffic safety school. However, as discussed above, for a vehicle failure-to-yield violation, DOT, rather than a court, must order the violator to attend a vehicle right-of-way course.

Current law prohibits a person from causing bodily harm, great bodily harm, or death to another by the negligent operation of a vehicle (reckless driving). A person who commits a reckless driving violation that causes great bodily harm or death must have his or her operating privilege revoked by DOT for one year.

Under this bill, if a person is convicted of a reckless driving violation that causes great bodily harm or death, or of causing the death of another or great bodily harm or injury to another by OWI, DOT must order the person to attend a safe driver course approved by DOT and the person must successfully complete the course before DOT may reinstate the person's operating privilege. This course is required in addition to any other penalty imposed for the violation.

Under current law, the Department of Public Instruction (DPI) must approve driver education courses offered by school districts, county children with disabilities education boards, and technical college districts. DPI must also establish minimum standards for driver education courses offered by private driver schools. DPI may not approve a driver education course or establish driver education course standards unless the course or standards include certain content, such as acquainting students with the hazards posed by farm machinery and animals on highways and by railroad grade crossings and providing instruction in safely dealing with these hazards.

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Under current law, the Technical College System Board (TCSB) must approve courses of study for each program offered in technical college district schools, including driver education courses. TCSB may not approve a driver education course unless the course includes certain content, such as acquainting students with the hazards posed by farm machinery and animals on highways and by railroad grade crossings and providing instruction in safely dealing with these hazards. DOT licenses private driver schools and DOT may not license a driver school unless its course of instruction includes the content required for TCSB approval of a driver education course.

Under this bill, all approved driver education courses must acquaint each student with the hazards posed by motor vehicles to vulnerable highway users and provide at least 30 minutes of instruction in safely dealing with these hazards.

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:

1 **SECTION 1.** 38.04 (4) (e) 7. of the statutes is created to read:

2 38.04 (4) (e) 7. Acquaints each student with the hazards posed by motor
3 vehicles to vulnerable highway users, as defined in s. 340.01 (74p), and provides at
4 least 30 minutes of instruction in safely dealing with these hazards.

5 **SECTION 2.** 115.28 (11) (g) of the statutes is created to read:

6 115.28 (11) (g) Acquaint each student with the hazards posed by motor vehicles
7 to vulnerable highway users, as defined in s. 340.01 (74p), and provide at least 30
8 minutes of instruction in safely dealing with these hazards.

9 **SECTION 3.** 340.01 (74p) of the statutes is created to read:

10 340.01 (74p) "Vulnerable highway user" means any of the following:

11 (a) A pedestrian.

12 (b) A bicyclist.

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1 (c) An operator of a moped or motor bicycle.

2 (d) An operator of, or passenger on, an animal-drawn vehicle, farm tractor,
3 farm truck tractor, farm trailer, or implement of husbandry.

4 (e) A person riding upon in-line skates, a horse, or a play vehicle.

5 (f) A law enforcement officer, traffic officer, fire fighter, or emergency medical
6 technician, while performing his or her official duties.

7 (g) A person who is rendering medical or emergency assistance to another
8 person.

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

10 343.30 (1) A court may suspend a person's operating privilege for any period
11 not exceeding one year upon such person's conviction in such court of violating any
12 of the state traffic laws or any local ordinance enacted under ch. 349, other than a
13 violation of s. 346.075, 346.18, 346.21, or 346.89, or a local ordinance in conformity
14 with s. 346.075, 346.18, 346.21, or 346.89, for which operating privilege suspension
15 is required under s. 343.31 (2t) (a) or (2v) (b).

16 **SECTION 5.** 343.31 (2t) (a) 4. and 5. of the statutes are created to read:

17 343.31 (2t) (a) 4. Notwithstanding subs. 1. to 3., for a period of 6 months, if
18 the offense resulted in great bodily harm to a vulnerable highway user but did not
19 result in death to a vulnerable highway user.

20 5. Notwithstanding subs. 1. to 3., for a period of one year, if the offense resulted
21 in death to a vulnerable highway user.

22 **SECTION 6.** 343.31 (2v) of the statutes is created to read:

23 343.31 (2v) (a) In this subsection:

24 1. "Great bodily harm" has the meaning given in s. 939.22 (14).

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1 2. "Offense" means a violation of s. 346.075, 346.21, or 346.89, or a local
2 ordinance in conformity with s. 346.075, 346.21, or 346.89.

3 (b) The department shall suspend a person's operating privilege upon receiving
4 a record of conviction for an offense resulting in great bodily harm or death to a
5 vulnerable highway user, as follows:

6 1. For a period of 6 months, if the offense resulted in great bodily harm to a
7 vulnerable highway user but did not result in death to a vulnerable highway user.

8 2. For a period of one year, if the offense resulted in death to a vulnerable
9 highway user.

10 (c) If a person is convicted of an offense resulting in great bodily harm or death
11 to a vulnerable highway user, in addition to any other penalty provided by law, the
12 department shall order the person to attend a safe driver course whose mode of
13 instruction is approved by the secretary and which is conducted by any regularly
14 established safety organization, by the provider of driver education courses approved
15 under s. 38.04 (4) or 115.28 (11), by a driver school licensed under s. 343.61, or by a
16 law enforcement agency. The course of instruction shall include skills and habits
17 promoting safe driving and shall acquaint the person with requirements and
18 restrictions for drivers under ss. 346.075, 346.21, and 346.89. If the course is
19 conducted by the provider of approved driver education courses or a driver school, the
20 provider or driver school shall issue to the person a certificate upon successful
21 completion of the course. If a person's operating privilege has been suspended under
22 par. (b), the department may not reinstate the person's operating privilege unless the
23 person has successfully completed the course required under this paragraph.

24 **SECTION 7.** 343.31 (3) (a) of the statutes is amended to read:

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1 343.31 (3) (a) Except as otherwise provided in this subsection or sub. (2m), (2s),
2 (2t), (2v), or (2x), all revocations or suspensions under this section shall be for a
3 period of one year.

4 **SECTION 8.** 343.31 (3) (c) of the statutes is amended to read:

5 343.31 (3) (c) Any person convicted under s. 940.09 of causing the death of
6 another or of an unborn child by the operation or handling of a motor vehicle shall
7 have his or her operating privilege revoked for 5 years. If there was a minor
8 passenger under 16 years of age or an unborn child, as defined in s. 939.75 (1), in the
9 motor vehicle at the time of the violation that gave rise to the conviction under s.
10 940.09, the revocation period is 10 years. If the person convicted under s. 940.09
11 caused the death of a vulnerable highway user, the revocation period is 5 years and
12 6 months.

13 **SECTION 9.** 343.31 (3) (f) of the statutes is amended to read:

14 343.31 (3) (f) Any person convicted under s. 940.25 shall have his or her
15 operating privilege revoked for 2 years. If there was a minor passenger under 16
16 years of age or an unborn child, as defined in s. 939.75 (1), in the motor vehicle at the
17 time of the violation that gave rise to the conviction under s. 940.25, the revocation
18 period is 4 years. If the person convicted under s. 940.25 caused great bodily harm
19 to a vulnerable highway user, the revocation period is 2 years and 6 months.

20 **SECTION 10.** 343.38 (1) (intro.) of the statutes is amended to read:

21 343.38 (1) REINSTATEMENT AFTER REVOCATION. (intro.) Except as provided in ss.
22 343.10, 343.39, and 351.07, and subject to s. 345.60 (5), the department shall not
23 reinstate the operating privilege of a person whose operating privilege has been duly
24 revoked unless the period of revocation has expired and the person:

25 **SECTION 11.** 343.38 (3) of the statutes is amended to read:

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1 343.38 (3) REINSTATEMENT AFTER SUSPENSION. Except as provided in sub. (2) and
2 s. 343.10, the department shall not reinstate the operating privilege of a person
3 whose operating privilege has been duly suspended while the suspension remains in
4 effect. Subject to s. 343.31 (2t) (b) and (2v) (c), upon the expiration of the period of
5 suspension, the person's operating privilege is reinstated upon receipt by the
6 department of the fees specified in s. 343.21 (1) (j) and (n) and, for reinstatement of
7 an operating privilege suspended under ch. 344, the filing with the department of
8 proof of financial responsibility, if required, in the amount, form, and manner
9 specified under ch. 344.

10 **SECTION 12.** 343.71 (5) (g) of the statutes is created to read:

11 343.71 (5) (g) Acquaints each student with the hazards posed by motor vehicles
12 to vulnerable highway users, as defined in s. 340.01 (74p), and provides at least 30
13 minutes of instruction in safely dealing with these hazards.

14 **SECTION 13.** 345.47 (1) (intro.) of the statutes is amended to read:

15 345.47 (1) (intro.) If the defendant is found guilty, the court may enter
16 judgment against the defendant for a monetary amount not to exceed the maximum
17 forfeiture provided for the violation, plus costs, fees, and surcharges imposed under
18 ch. 814, and, in addition, may suspend or revoke his or her operating privilege under
19 s. 343.30. If the violation is one described in s. 346.17 (6) (b) or (c), 346.22 (5) (b) or
20 (c), or 346.95 (12) (b) or (c), or if the forfeiture for the violation has been doubled under
21 s. 346.17 (6) (a), 346.22 (5) (a), 346.30 (5), 346.36 (3), 346.43 (4), 346.49 (5), 346.56
22 (5), 346.60 (6), 346.74 (7), 346.82 (3), 346.95 (12) (a), or 349.06 (1) (a), the court may
23 also order the defendant to perform community service work. Upon entering
24 judgment, the court shall notify the defendant personally, if the defendant is present,
25 and in writing that the defendant should notify the court if he or she is unable to pay

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1 the judgment because of poverty, as that term is used in s. 814.29 (1) (d). If the
2 defendant is present and the court, using the criteria in s. 814.29 (1) (d), determines
3 that the defendant is unable to pay the judgment because of poverty, the court shall
4 provide the defendant with an opportunity to pay the judgment in installments,
5 taking into account the defendant's income. If the judgment is not paid or if the
6 defendant fails to make any ordered installment payment, the court shall order:

7 **SECTION 14.** 345.60 (1) of the statutes is amended to read:

8 345.60 (1) Except as provided in ~~sub. subs.~~ subs. (3) and (5) and s. 343.31 (2t) (b), in
9 addition to or in lieu of other penalties provided by law for violation of chs. 346 to 348,
10 the trial court may in its judgment of conviction order the convicted person to attend,
11 for a certain number of school days, a traffic safety school whose course and mode of
12 instruction is approved by the secretary and which is conducted by the police
13 department of the municipality, by the sheriff's office of the county, or by any
14 regularly established safety organization. The trial court may not order a person to
15 attend a traffic safety school under this subsection if the department is required to
16 order that the person attend a vehicle right-of-way course under s. 343.31 (2t) (b)
17 or a safe driver course under sub. (5) or s. 343.31 (2v) (c).

18 **SECTION 15.** 345.60 (5) of the statutes is created to read:

19 345.60 (5) If a person is convicted of a violation of s. 346.62 (4), 940.10, or
20 940.25, or of s. 940.06 or 940.09 if the offense resulted from the operation of a motor
21 vehicle, resulting in great bodily harm or death to a vulnerable highway user, or
22 346.65 (2) or (6) resulting in injury to a vulnerable highway user, in addition to any
23 other penalty provided by law, the department shall order the person to attend a safe
24 driver course whose mode of instruction is approved by the secretary and which is
25 conducted by any regularly established safety organization, by the provider of driver

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1 education courses approved under s. 38.04 (4) or 115.28 (11), by a driver school
2 licensed under s. 343.61, or by a law enforcement agency. The course of instruction
3 shall include skills and habits promoting safe driving and shall acquaint the person
4 with the hazards of reckless driving. If the course is conducted by the provider of
5 approved driver education courses or a driver school, the provider or driver school
6 shall issue to the person a certificate upon successful completion of the course. If a
7 person's operating privilege has been revoked under s. 343.31 (1) (a), the department
8 may not reinstate the person's operating privilege unless the person has successfully
9 completed the course required under this subsection.

10 **SECTION 16.** 346.17 (4) of the statutes is amended to read:

11 346.17 (4) ~~Any~~ Except as provided in sub. (6), any person violating s. 346.075
12 may be required to forfeit not less than \$25 nor more than \$200 for the first offense
13 and not less than \$50 nor more than \$500 for the 2nd or subsequent violation within
14 4 years.

15 **SECTION 17.** 346.17 (6) of the statutes is created to read:

16 346.17 (6) (a) 1. In this paragraph, "harm" means bodily harm, as defined in
17 s. 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

18 2. Except as provided in pars. (b) and (c), if any violation under ss. 346.04 to
19 346.16 results in harm to a vulnerable highway user, the amount of any forfeiture
20 or fine specified in subs. (1) to (4) or s. 939.50 for the violation shall be doubled. If
21 sub. (5) applies with respect to the violation, the doubling of the forfeiture under this
22 subsection shall apply in addition to any doubling under sub. (5).

23 (b) If any violation under s. 346.075 results in great bodily harm, as defined in
24 s. 939.22 (14), to a vulnerable highway user, the person who commits the violation
25 is guilty of a Class B misdemeanor as specified in s. 939.51 (3) (b).

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1 (c) If any violation under s. 346.075 results in death to a vulnerable highway
2 user, the person who commits the violation is guilty of a Class A misdemeanor as
3 specified in s. 939.51 (3) (a).

4 **SECTION 18.** 346.22 (1) (a), (b), (d) and (e) of the statutes are amended to read:

5 346.22 (1) (a) Except as provided in par. (b), (c), (d), or (e) or sub. (5), any person
6 violating s. 346.18, 346.20 (1), or 346.215 (2) (b) or (3) may be required to forfeit not
7 less than \$20 nor more than \$50 for the first offense and not less than \$50 nor more
8 than \$100 for the 2nd or subsequent conviction within a year.

9 (b) If an operator of a vehicle violates s. 346.18 (6) where persons engaged in
10 work in a highway maintenance or construction area or in a utility work area are at
11 risk from traffic, any applicable minimum and maximum forfeiture or fine specified
12 in par. (a), (c), (d), or (e) or sub. (5) (c) and s. 939.51 (3) for the violation shall be
13 doubled.

14 (d) If Except as provided in sub. (5) (b), if a person violates s. 346.18 and the
15 violation results in great bodily harm, as defined in s. 939.22 (14), to another, the
16 person shall forfeit \$500.

17 (e) If Except as provided in sub. (5) (c), if a person violates s. 346.18 and the
18 violation results in death to another, the person shall forfeit \$1,000.

19 **SECTION 19.** 346.22 (3) of the statutes is amended to read:

20 346.22 (3) Any Except as provided in sub. (5), any person violating s. 346.20
21 (2), (3) or (4) (b) or (c) or 346.21 may be required to forfeit not less than \$10 nor more
22 than \$20 for the first offense and not less than \$25 nor more than \$50 for the 2nd or
23 subsequent conviction within a year.

24 **SECTION 20.** 346.22 (5) of the statutes is created to read:

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1 346.22 (5) (a) 1. In this paragraph, "harm" means bodily harm, as defined in
2 s. 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

3 2. Except as provided in pars. (b) and (c), if any violation under s. 346.19,
4 346.20, 346.21, or 346.215 results in harm to a vulnerable highway user, the amount
5 of any forfeiture specified in subs. (1) to (3) for the violation shall be doubled. If sub.
6 (1) (b) applies with respect to the violation, the doubling of the forfeiture under this
7 subsection shall apply in addition to any doubling under sub. (1) (b).

8 (b) If any violation under s. 346.18 or 346.21 results in great bodily harm, as
9 defined in s. 939.22 (14), to a vulnerable highway user, the person who commits the
10 violation is guilty of a Class B misdemeanor as specified in s. 939.51 (3) (b).

11 (c) If any violation under s. 346.18 or 346.21 results in death to a vulnerable
12 highway user, the person who commits the violation is guilty of a Class A
13 misdemeanor as specified in s. 939.51 (3) (a).

14 **SECTION 21.** 346.30 (5) of the statutes is created to read:

15 346.30 (5) (a) In this subsection, "harm" means bodily harm, as defined in s.
16 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

17 (b) If any violation under ss. 346.23 to 346.29 results in harm to a vulnerable
18 highway user, the amount of any forfeiture specified in subs. (1) to (4) for the violation
19 shall be doubled.

20 **SECTION 22.** 346.36 (3) of the statutes is created to read:

21 346.36 (3) (a) In this subsection, "harm" means bodily harm, as defined in s.
22 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

23 (b) If any violation under ss. 346.31 to 346.35 results in harm to a vulnerable
24 highway user, the amount of any forfeiture specified in subs. (1) and (2) for the
25 violation shall be doubled.

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1 **SECTION 23.** 346.43 (4) of the statutes is created to read:

2 346.43 (4) (a) In this subsection, “harm” means bodily harm, as defined in s.
3 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

4 (b) If any violation under ss. 346.37 to 346.42 results in harm to a vulnerable
5 highway user, the amount of any forfeiture specified in subs. (1) to (3) for the violation
6 shall be doubled. If sub. (1) (b) 3. applies with respect to the violation, the doubling
7 of the forfeiture under this subsection shall apply in addition to any doubling under
8 sub. (1) (b) 3.

9 **SECTION 24.** 346.49 (5) of the statutes is created to read:

10 346.49 (5) (a) In this subsection, “harm” means bodily harm, as defined in s.
11 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

12 (b) If any violation under s. 346.44, 346.45, 346.455, 346.46, or 346.47 to 346.48
13 results in harm to a vulnerable highway user, the amount of any forfeiture specified
14 in subs. (1), (1g), (2), (2m), and (4) for the violation shall be doubled. If sub. (1) (c)
15 applies with respect to the violation, the doubling of the forfeiture under this
16 subsection shall apply in addition to any doubling under sub. (1) (c).

17 **SECTION 25.** 346.56 (5) of the statutes is created to read:

18 346.56 (5) (a) In this subsection, “harm” means bodily harm, as defined in s.
19 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

20 (b) If any violation under ss. 346.503 to 346.55 results in harm to a vulnerable
21 highway user, the amount of any forfeiture specified in subs. (1) to (4) for the violation
22 shall be doubled.

23 **SECTION 26.** 346.60 (6) of the statutes is created to read:

24 346.60 (6) (a) In this subsection, “harm” means bodily harm, as defined in s.
25 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

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1 (b) If any violation under ss. 346.57 to 346.595 results in harm to a vulnerable
2 highway user, the amount of any forfeiture specified in subs. (1) to (5) for the violation
3 shall be doubled. If sub. (3m) applies with respect to the violation, the doubling of
4 the forfeiture under this subsection shall apply in addition to any doubling or other
5 penalty enhancement under sub. (3m).

6 **SECTION 27.** 346.65 (3m) of the statutes is amended to read:

7 346.65 (3m) Except as provided in sub. (3p) or (3r), any person violating s.
8 346.63 (2) or (6) shall be fined not less than \$300 nor more than \$2,000 and may be
9 imprisoned for not less than 30 days nor more than one year in the county jail. If
10 there was a minor passenger under 16 years of age in the motor vehicle at the time
11 of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense
12 is a felony, the applicable minimum and maximum fines or periods of imprisonment
13 for the conviction are doubled and the place of imprisonment shall be determined
14 under s. 973.02. If the injury was to a vulnerable highway user, the applicable
15 minimum and maximum fines for the conviction are doubled.

16 **SECTION 28.** 346.65 (3p) of the statutes is amended to read:

17 346.65 (3p) Any person violating s. 346.63 (2) or (6) is guilty of a Class H felony
18 if the person has one or more prior convictions, suspensions, or revocations, as
19 counted under s. 343.307 (1). If there was a minor passenger under 16 years of age
20 in the motor vehicle at the time of the violation that gave rise to the conviction under
21 s. 346.63 (2) or (6), the offense is a felony and the applicable maximum fines or
22 periods of imprisonment for the conviction are doubled. If the injury was to a
23 vulnerable highway user, the applicable minimum and maximum fines for the
24 conviction are doubled.

25 **SECTION 29.** 346.65 (3r) of the statutes is amended to read:

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1 346.65 (3r) In any county that opts to offer a reduced minimum period of
2 imprisonment for the successful completion of a probation period that includes
3 alcohol and other drug treatment, any person violating s. 346.63 (2) or (6) shall be
4 fined the same as under sub. (3m), but the period of imprisonment shall be not less
5 than 30 days, except that if the person successfully completes a period of probation
6 that includes alcohol and other drug treatment, the period of imprisonment shall be
7 not less than 15 days. If there was a minor passenger under 16 years of age in the
8 motor vehicle at the time of the violation that gave rise to the conviction under s.
9 346.63 (2) or (6), the offense is a felony, the applicable minimum and maximum fines
10 or periods of imprisonment for the conviction are doubled and the place of
11 imprisonment shall be determined under s. 973.02. If the injury was to a vulnerable
12 highway user, the applicable minimum and maximum fines for the conviction are
13 doubled. A person may be sentenced under this subsection or under sub. (2) (bm) or
14 (cm) or (2j) (bm) or (cm) once in his or her lifetime. This subsection does not apply
15 to a person sentenced under sub. (3p).

16 **SECTION 30.** 346.74 (7) of the statutes is created to read:

17 346.74 (7) (a) In this subsection, "harm" means bodily harm, as defined in s.
18 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

19 (b) If any violation under s. 346.67 or ss. 346.68 to 346.70 results in harm to
20 a vulnerable highway user, the amount of any forfeiture or fine specified in subs. (2)
21 to (5) or s. 939.50 for the violation shall be doubled.

22 **SECTION 31.** 346.82 (3) of the statutes is created to read:

23 346.82 (3) (a) In this subsection, "harm" means bodily harm, as defined in s.
24 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

BILL

1 (b) If any violation under ss. 346.77 to 346.805 results in harm to a vulnerable
2 highway user, the amount of any forfeiture specified in subs. (1) and (2) for the
3 violation shall be doubled.

4 **SECTION 32.** 346.95 (1) and (2) of the statutes are amended to read:

5 346.95 (1) Any Except as provided in sub. (12) (c), any person violating s.
6 346.87, 346.88, 346.89 (2) or (4), 346.90 to 346.92 or 346.94 (1), (9), (10), (11), (12) or
7 (15) may be required to forfeit not less than \$20 nor more than \$40 for the first offense
8 and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within
9 a year.

10 (2) Any Except as provided in sub. (12) (c), any person violating s. 346.89 (1)
11 or (3) (a) or 346.94 (2), (4), or (7) may be required to forfeit not less than \$20 nor more
12 than \$400.

13 **SECTION 33.** 346.95 (12) of the statutes is created to read:

14 346.95 (12) (a) 1. In this paragraph, "harm" means bodily harm, as defined in
15 s. 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

16 2. Except as provided in pars. (b) and (c), if any violation under ss. 346.87 to
17 346.94 results in harm to a vulnerable highway user, the amount of any forfeiture
18 specified in subs. (1) to (5e) and (6) to (11) for the violation shall be doubled.

19 (b) If any violation under s. 346.89 results in great bodily harm, as defined in
20 s. 939.22 (14), to a vulnerable highway user, the person who commits the violation
21 is guilty of a Class B misdemeanor as specified in s. 939.51 (3) (b).

22 (c) If any violation under s. 346.89 results in death to a vulnerable highway
23 user, the person who commits the violation is guilty of a Class A misdemeanor as
24 specified in s. 939.51 (3) (a).

25 **SECTION 34.** 349.06 (1) (a) of the statutes is amended to read:

8/14/13

- 170/13 : don't jacket

again unless requested

per ARG

Rose, Stefanie

From: Archibald, Sarah
Sent: Tuesday, September 17, 2013 4:51 PM
To: LRB.Legal
Subject: Draft Review: LRB -1701/3 Topic: Creating penalty enhancements for traffic violations resulting in harm to vulnerable highway users; driver education courses

RUSH -- Thanks

Please Jacket LRB -1701/3 for the SENATE.