

2019 DRAFTING REQUEST

Bill

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 Date: **8/26/2019** May Contact:

Same as LRB:

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Pre Topic:

No specific pre topic given

Topic:

Ignition interlock device restriction

Instructions:

Revised 19-2409/p1

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller 8/27/2019	anienaja 8/27/2019			
/P1	emueller 8/28/2019		dwalker 8/27/2019		State S&L
/1		anienaja 8/28/2019	mbarman 8/28/2019	dwalker 8/28/2019	State S&L

FE Sent For:

At Intro

<END>



8/27 - none to OCC. 1.2.

- DOT suggestions 1-4

Occupational License / IID Update Proposals

There are 5 main areas of focus that the division would recommend reviewing for changes:

1. **Hours of operation.** Currently occupational licenses (OCCs) are limited to a certain number of hours, distributed across a standard week. These licenses are issued to individuals who are suspended or revoked for specific violations; operating while intoxicated (OWI) related offenses, point suspensions, drug convictions (except juveniles, non-payment of child support, and habitual traffic offenders). The division proposes removing the hours of operation restriction from OCCs that are issued to individuals who are revoked for OWI related offenses (assumption being refusal would be included as well) if that OCC has an IID restriction on it. This could either be achieved by allowing for 24 hour windows for each day or by removing the restriction altogether. This change would be in-line with the intention of LRB19-2409.
2. **Single-Vehicle Installation.** Currently an individual who has been convicted of OWI, and has been given an IID court order, must install IIDs in each of the vehicles on which their name is present on the title. A court may individually exempt vehicles from these orders, but that process can be burdensome for the courts, the division, and the individual. The division proposes to require that the individual only provide proof of IID installation on one vehicle. The ownership of this vehicle would not be considered, as the intent of the law is solely to have the vehicle that the individual intends to operate be installed with an IID. This approach is similar to that of LRB19-2409, but instead of requiring the court to order an IID on a specific vehicle or vehicles, the division recommends that the court order an IID and then have the individual simply provide the division with proof of installation on one or more vehicles without the court having to choose which vehicle(s).

The drawback with going to a single vehicle is that with the IID restriction pertaining to just Class D operation it means an offender could, in some circumstances, legally operate a motorcycle or other non-D vehicle without an IID installed during the restriction period. Our original proposal written with the Bureau of Transportation Safety (BOTS) a few years ago was going to expand the IID licensing restriction to all operation to deal with that caveat. Because IIDs are not generally installed on motorcycles, an "All Operation" change of this sort would effectively prohibit class M operation for an OWI offender.

3. **Penalties for tampering/circumvention/non-IID operation.** Currently a violation of an IID restriction on a driver's license or operating privilege is treated the same as a violation of any other license restriction (such as "no night driving" or an eyeglasses requirement). These violations of 343.43(1)(d), specifically dealing with operating in violation of an IID license restriction, could be increased to address individuals who operate a vehicle that does not have an IID installed. The penalties for violations of 347.413(1), dealing with tampering and circumvention of IIDs, could also be increased. This would address individuals who operate a vehicle that does have an IID installed, but use other measures to circumvent that IID.

4. **Wait times, credit for time served.** The intention of LRB19-2409 was to allow these individuals, who were convicted of OWI related offenses, to apply for an IID-restricted occupational license immediately upon being administratively suspended or revoked by the court and credit that time against the period of IID restriction ordered by the court. The division agrees with this intention and would recommend dropping the wait times for OCCs in the case of an OWI that involves an IID restriction and counting that time towards the duration of the IID restriction.

5. **Data availability and usage.** The intention of LRB19-2409 was to allow individuals charged with OWI to apply for an IID-restricted occupational license immediately upon being administratively suspended or revoked while still achieving driver behavior modification through IID use and compliance monitoring. Trans 313 requires that an ignition interlock device record the date, time, and alcohol concentration of each breath sample provided to the device, as well as any instances of tampering, circumvention, or failures to provide a retest sample. Currently, this data is made available to the state via paper in raw log format, which is difficult to interpret and received weeks or months after an event occurs. If data were readily available, in near real-time, to people who can administer sanctions for non-compliance, literature suggests that long-term behavior modification can be achieved. If the state were to build a data repository and dictate the format and frequency of data download from the device as well as upload to the repository, it could be made available in an easy to use format to law enforcement officers, DMV, probation and parole, DHS, etc. Data-driven and near real-time sanctions would ensure that people who might benefit from intervention or represent a traffic safety concern receive attention while compliant customers easily complete their ignition interlock order without additional penalty.

Omit



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2409/P1 4085/P1
EVM:kjf+amn

(PMNR)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSERT
Ruf

8/27/19

repeal

1 **AN ACT** *to repeal* 343.301 (1m), 343.31 (3m) and 347.50 (1t); *to renumber* 343.13
2 (3); *to renumber and amend* 343.301 (2m) (a) and 347.413; *to consolidate,*
3 *renumber and amend* 343.301 (1g) (am) (intro.) and 1.; *to amend* 303.08
4 (10r), 343.10 (1) (a), 343.10 (2) (f), 343.10 (5) (a) 3., 343.10 (5) (b), 343.10 (7) (cm),
5 343.30 (1q) (b) 2., 343.30 (1q) (b) 3., 343.30 (1q) (b) 4., 343.301 (1g) (am) 2.,
6 343.301 (3) (a), 343.305 (10) (b) 2., 343.305 (10) (b) 3., 343.305 (10) (b) 4., 343.305
7 (10) (em), 343.31 (3) (bm) 2., 343.31 (3) (bm) 3., 343.31 (3) (bm) 4., 343.43 (1) (d),
8 347.50 (1) and 347.50 (1s); and *to create* 343.06 (1) (n), 343.10 (1) (c), 343.13
9 (3) (b), 343.13 (3) (c), 343.13 (4), 343.301 (2m) (a) 2., 343.301 (2t), 343.301 (6) and
10 343.302 (4) of the statutes; **relating to:** operating privilege of persons who have
11 committed certain offenses related to drunken driving, restricted operators'
12 licenses, ignition interlock devices, and providing a penalty.

occupational

Analysis by the Legislative Reference Bureau

This bill provides for an operating license restriction limiting the holder to operating only vehicles that are equipped with an ignition interlock device (IID) and

restricted occupational

makes various related changes to statutes governing operating privilege revocations for certain offenses related to operating a vehicle while intoxicated (OWI offense).

Under current law, if a person commits a first OWI offense in which his or her blood alcohol concentration was 0.15 or greater or a second or subsequent OWI offense or improperly refuses to take a test for intoxication, a court must order one of the following: 1) that the person's operating privilege be restricted to operating vehicles that are equipped with an IID and that each of the person's motor vehicles be equipped with an IID; or 2) that the person participate in a 24-7 sobriety program.

Under this bill, in the situation described above, with limited exceptions, a court must order that the person's operating privilege be restricted to operating motor vehicles that are equipped with an IID, but need not order that a person's motor vehicles be equipped with an IID.

Also under this bill, a person whose license or operating privilege is suspended or revoked for an OWI offense or for failing or improperly refusing a test for intoxication may apply to the Department of Transportation for an operator's license limiting the person to operating only vehicles equipped with an IID. Before DOT may issue such a license, the applicant must provide proof that he or she has access to a motor vehicle equipped with an IID and provide certain proof of financial responsibility.

Under current law, a court must revoke the driving privileges of persons convicted of certain OWI offenses for periods ranging from not less than six months for a first OWI offense to not less than two years for a third or subsequent OWI offense. Persons whose operating privilege is suspended under these provisions are eligible for occupational licenses with a waiting period of 15 to 45 days. Under current law, with certain exceptions and limitations, a person may apply for an occupational license if the person's operating privilege is revoked or suspended and the person is engaged in an occupation making it essential that he or she operate a motor vehicle. The occupational license must contain definite restrictions as to hours of the day, hours per week, type of occupation, and areas or routes of travel that are permitted under the occupational license.

Under this bill, a person is eligible for an IID restricted license after 15 days have elapsed from the day of suspension or revocation. Also under this bill, other than certain first offense OWI offenses and suspensions for failed tests for intoxication, a person whose license or operating privilege is suspended or revoked for an OWI offense is not eligible for an occupational license.

Current law prohibits a person from circumventing the operation of an IID installed under a court order, failing to have an IID installed as ordered by a court, and violating certain court orders restricting a person's operating privilege. Violation of any of these prohibitions is punishable by a forfeiture of not less than \$10 nor more than \$200 and extension of the period of IID restriction.

This bill increases the penalty for these violations to, for a first offense, a fine of not less than \$150 nor more than \$600 and imprisonment for not more than six months or both and, for a second or subsequent offense, a fine of not less than \$300 nor more than \$1,000 or imprisonment for not more than six months or both. This

bill also provides that a person who violates the IID restriction of an IID restricted license is subject to the penalties, as modified in this bill.

Also under this bill, if an IID service provider removes or disconnects an IID from a motor vehicle, the service provider must inform DOT of the removal or disconnection no later than three days after the removal or disconnection.

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.

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.** 303.08 (10r) of the statutes is amended to read:

2 303.08 (10r) The sheriff may not permit a prisoner whose operating privilege
3 for the operation of "Class D" vehicles is restricted to operating vehicles that are
4 equipped with an ignition interlock device who is subject to an ignition interlock
5 device installation order under s. 343.301 (1g) to leave the jail under sub. (1) unless,
6 within 2 weeks after the court issues an order under s. 343.301 (1g) (am) 1. or the
7 person's operating privilege is restricted under s. 343.301 (1g) (am) 2., the person
8 submits proof to the sheriff that an ignition interlock device has been installed in
9 each motor vehicle to which the order applies.

10 **SECTION 2.** 343.06 (1) (n) of the statutes is created to read:

11 343.06 (1) (n) To any person whose operating privilege is restricted to operating
12 vehicles equipped with an ignition interlock device, unless the person provides proof
13 to the department that the person has access to a motor vehicle equipped with an
14 ignition interlock device.

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

16 343.10 (1) (a) If Except as provided in par. (c), if a person's license or operating
17 privilege is revoked or suspended under this chapter or s. 767.73, 938.34 (14q),

1 943.21 (3m), or 961.50 and if the person is engaged in an occupation, including
2 homemaking or full-time or part-time study, or a trade making it essential that he
3 or she operate a motor vehicle, the person, after payment of the fee provided in sub.
4 (6), may file an application with the department setting forth in detail the need for
5 operating a motor vehicle. No person may file more than one application with respect
6 to each revocation or suspension of the person's license or operating privilege under
7 this chapter or s. 767.73, 938.34 (14q), 943.21 (3m), or 961.50, except that this
8 limitation does not apply to an application to amend an occupational license
9 restriction.

10 **SECTION 4.** 343.10 (1) (c) of the statutes is created to read:

11 343.10 (1) (c) 1. Except as provided in subd. 2., a person whose license is
12 suspended or revoked for an offense counted under s. 343.307 (1) is not eligible for
13 an occupational license under this section.

14 2. A person whose operating privilege is revoked for a first violation of s. 346.63
15 (1) or a local ordinance in conformity with that section and who had an alcohol
16 concentration below 0.15 at the time of the offense and a person whose operating
17 privilege is suspended under s. 343.305 (7) may be eligible for an occupational license
18 under this section.

19 **SECTION 5.** 343.10 (2) (f) of the statutes is amended to read:

20 343.10 (2) (f) If the court orders under s. 343.301 (1g) that the person's
21 operating privilege for the operation of "Class D" vehicles be restricted to operating
22 vehicles that are equipped with an ignition interlock device, no occupational license
23 may be granted until the person pays the surcharge under s. 343.301 (5) and. If the
24 court orders the installation of an ignition interlock device under s. 343.301 (1g), no
25 occupational license may be granted until the person submits proof that an ignition

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1 interlock device has been installed in each motor vehicle to which the order under
2 s. 343.301 applies. ~~A person who is subject to an order under s. 343.301 (1g) (am)~~
3 ~~2. need not submit proof that an ignition interlock device has been installed if he or~~
4 ~~she is participating in a program designated in the order, unless he or she is also~~
5 ~~subject to an order under s. 343.301 (1g) (am) 1.~~

6 **SECTION 6.** 343.10 (5) (a) 3. of the statutes is amended to read:

7 343.10 (5) (a) 3. The occupational license of the applicant shall restrict the
8 applicant's operation under the occupational license to vehicles that are equipped
9 with a functioning ignition interlock device if the court has ordered under s. 343.301
10 (1g) that the person's operating privilege for Class D vehicles be restricted to
11 operating vehicles that are equipped with an ignition interlock device or has ordered
12 under s. 346.65 (6) (a) 1., 1999 stats., that the motor vehicle owned by the person and
13 used in the violation or improper refusal be equipped with an ignition interlock
14 device. A person to whom a restriction under this subdivision applies violates that
15 restriction if he or she removes or disconnects an ignition interlock device, requests
16 or permits another to blow into an ignition interlock device or to start a motor vehicle
17 equipped with an ignition interlock device for the purpose of providing the person an
18 operable motor vehicle without the necessity of first submitting a sample of his or her
19 breath to analysis by the ignition interlock device, or otherwise tampers with or
20 circumvents the operation of the ignition interlock device. Except as provided in s.
21 343.301 (3) (b), if the court orders the installation of an ignition interlock device
22 under s. 343.301 (1g) and the occupational license restricts the applicant's operation
23 to a vehicle that is equipped with an ignition interlock device, the applicant shall be
24 liable for the reasonable costs of equipping the vehicle with the ignition interlock
25 device. This subdivision does not apply to an applicant who is subject to an order

1 ~~under s. 343.301 (1g) (am) 2. while the applicant is participating in a program~~
2 ~~designated in the order, unless he or she is also subject to an order under s. 343.301~~
3 ~~(1g) (am) 1.~~

4 **SECTION 7.** 343.10 (5) (b) of the statutes is amended to read:

5 343.10 (5) (b) *Limitations.* Occupational licenses are subject to the limitations
6 specified in ss. 343.30 (1q) (b) and (h), 343.305 (8) (d) and (10) (b) and (em), 343.31
7 ~~(3m)~~, 343.32 (1m), 767.73, and 961.50.

8 **SECTION 8.** 343.10 (7) (cm) of the statutes is amended to read:

9 343.10 (7) (cm) If the ~~occupational license includes the restriction specified in~~
10 ~~sub. (5) (a) 3. court orders the installation of an ignition interlock device under s.~~
11 ~~343.301 (1g)~~, the department shall not issue the occupational license until the
12 applicant provides evidence satisfactory to the department that any motor vehicle
13 ~~that the applicant will be permitted to operate subject to the order~~ has been equipped
14 with a functioning ignition interlock device.

15 **SECTION 9.** 343.13 (3) of the statutes is renumbered 343.13 (3) (a).

16 **SECTION 10.** 343.13 (3) (b) of the statutes is created to read:

17 343.13 (3) (b) If a person is convicted of violating s. 343.302 (1), the department
18 shall include on the person's license a restriction of the person's operating privilege
19 to operating vehicles equipped with an ignition interlock device for 6 months. A
20 restriction under this paragraph is consecutive to any existing restriction period
21 under this paragraph or par. (a).

22 **SECTION 11.** 343.13 (3) (c) of the statutes is created to read:

23 343.13 (3) (c) If a person requests that his or her operating privilege be
24 restricted to operating vehicles equipped with an ignition interlock device, the
25 license shall include that restriction.

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1 **SECTION 12.** 343.13 (4) of the statutes is created to read:

2 343.13 (4) (a) A person whose license or operating privilege is suspended or
3 revoked under s. 343.30 (1q) (b), 343.305 (7) (a) or (10), or 343.31 (2) may apply for
4 an operator's license that includes a restriction under sub. (3). Subject to par. (b) and
5 s. 343.06 (1) (a), the department may issue a license to that person authorizing the
6 operation of "Class D" vehicles.

7 (b) 1. The department may not issue a license under par. (a) to a person unless
8 the person files proof of financial responsibility as specified under s. 343.38 (1) (c)
9 covering all vehicles that the person seeks permission to operate.

10 2. The department may not issue a license under par. (a) unless at least 15 days
11 have elapsed since the date of suspension or revocation, or, in the case of an appeal
12 that is subsequently dismissed or affirmed, at least 15 days have elapsed since the
13 date of suspension or revocation following the dismissal or affirmance of the appeal,
14 unless another minimum waiting period or immediate eligibility is expressly
15 provided by law.

16 3. A license under par. (a) may not permit the operation of any motor vehicles
17 for which the applicant did not hold valid authorization at the time of revocation or
18 suspension of the person's license or operating privilege.

19 4. The department may not issue a license under par. (a) to a person whose
20 operating privilege is suspended or revoked under s. 343.30 (1q) (d) or 343.305 (10)
21 (d).

22 5. If the court orders a person to submit to and comply with an assessment and
23 driver safety plan and if the person has 2 or more prior convictions, suspensions, or
24 revocations, as counted under s. 343.307 (1), the department may not issue a license

1 under par. (a) to the person unless the person has completed the assessment and is
2 complying with the driver safety plan.

3 (c) Section 343.44 (1) (a) and (b) does not apply to a person who possesses a valid
4 license issued to the person under par. (a) that is not revoked, suspended, canceled,
5 or expired.

6 **SECTION 13.** 343.30 (1q) (b) 2. of the statutes is amended to read:

7 343.30 (1q) (b) 2. Except as provided in sub. (1r) or subd. 3., 4. or 4m., for the
8 first conviction, the court shall revoke the person's operating privilege for not less
9 than 6 months nor more than 9 months. ~~The person is eligible for an occupational~~
10 ~~license under s. 343.10 at any time. There is no minimum waiting period before~~
11 issuance of an occupational license under s. 343.10 to a person whose operating
12 privilege is revoked under this subdivision.

13 **SECTION 14.** 343.30 (1q) (b) 3. of the statutes is amended to read:

14 343.30 (1q) (b) 3. Except as provided in sub. (1r) or subd. 4m., if the number
15 of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total
16 number of other convictions, suspensions, and revocations counted under s. 343.307
17 (1) within a 10-year period, equals 2, the court shall revoke the person's operating
18 privilege for not less than one year nor more than 18 months. ~~After the first 45 days~~
19 ~~of the revocation period has elapsed, the person is eligible for an occupational license~~
20 ~~under s. 343.10 if he or she has completed the assessment and is complying with the~~
21 ~~driver safety plan ordered under par. (e).~~

22 **SECTION 15.** 343.30 (1q) (b) 4. of the statutes is amended to read:

23 343.30 (1q) (b) 4. Except as provided in sub. (1r) or subd. 4m., if the number
24 of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total
25 number of other convictions, suspensions, and revocations counted under s. 343.307

1 (1), equals 3 or more, the court shall revoke the person's operating privilege for not
2 less than 2 years nor more than 3 years. After the first 45 days of the revocation
3 period has elapsed, the person is eligible for an occupational license under s. 343.10
4 if he or she has completed the assessment and is complying with the driver safety
5 plan ordered under par. (c).

6 **SECTION 16.** 343.301 (1g) (am) (intro.) and 1. of the statutes are consolidated,
7 renumbered 343.301 (1g) (am) 1. and amended to read:

8 343.301 (1g) (am) 1. ~~A~~ Except as provided in this subdivision, a court shall
9 order one or more of the following: 1. ~~That that~~ the person's operating privilege for
10 the operation of "Class D" vehicles be restricted to operating vehicles that are
11 equipped with an ignition interlock device and, ~~except as provided in sub. (1m), shall~~
12 may order that each any motor vehicle for which the person's name appears on the
13 vehicle's certificate of title or registration be equipped with an ignition interlock
14 device. A court that has issued an order under subd. 2. and that is a court for a county
15 designated under s. 165.957 (2) may issue an order under this subdivision.

16 **SECTION 17.** 343.301 (1g) (am) 2. of the statutes is amended to read:

17 343.301 (1g) (am) 2. ~~That~~ A court may order that the person participate in a
18 program described in s. 165.957 or that meets the definition of a 24-7 sobriety
19 program under 23 USC 405 (d) (7) (A) and regulations adopted thereunder. If the
20 court enters an order under this subdivision, when the person completes or otherwise
21 does not participate in the program, the court shall order that the person's operating
22 privilege for the operation of "Class D" vehicles be restricted to operating vehicles
23 that are equipped with an ignition interlock device, shall specify the duration of the
24 order, ~~shall, except as provided in sub. (1m), may order that each any motor vehicle~~
25 for which the person's name appears on the vehicle's certificate of title or registration

1 be equipped with an ignition interlock device, and shall notify the department of such
2 order.

3 **SECTION 18.** 343.301 (1m) of the statutes is repealed.

4 **SECTION 19.** 343.301 (2m) (a) of the statutes is renumbered 343.301 (2m) (a)
5 1. and amended to read:

6 343.301 **(2m)** (a) 1. If the court enters an order under sub. (1g) (am) 1. with
7 respect to a person to whom the department has issued an operator's license or who
8 is a resident of the state, the restriction of the person's operating privilege under the
9 order under sub. (1g) (am) 1. shall begin on the date the order under sub. (1g) (am)
10 1. is issued and extend for a period of not less than one year after the date the
11 department issues any license granted under this chapter nor more than the
12 maximum operating privilege revocation period permitted for the refusal or violation
13 after the date the department issues any license granted under this chapter except
14 that if the maximum operating privilege revocation period is less than one year, the
15 restriction of the person's operating privilege under sub. (1g) (am) 1. shall extend for
16 a period of one year after the department issues any license granted under this
17 chapter.

18 3. If the court enters an ignition interlock device installation order under sub.
19 (1g) (am) 1., the court may specify the date by which an ignition interlock device
20 under sub. (1g) (am) 1. shall be installed.

21 **SECTION 20.** 343.301 (2m) (a) 2. of the statutes is created to read:

22 343.301 **(2m)** (a) 2. If the court enters an order under sub. (1g) (am) 1. with
23 respect to a person to whom the department has not issued an operator's license and
24 who is not a resident of the state, the restriction of the person's operating privilege
25 under the order under sub. (1g) (am) 1. shall begin on the date the order under sub.

1 (1g) (am) 1. is issued and extend for a period of not less than one year after the earliest
2 of the following, nor more than the maximum operating privilege revocation period
3 permitted for the refusal or violation after the earliest of the following, except that
4 if the maximum operating privilege revocation period is less than one year, the
5 restriction of the person's operating privilege under sub. (1g) (am) 1. shall extend for
6 a period of one year after the earliest of the following:

7 a. The date that the person provides proof to the department that the person's
8 state of residence has reinstated the person's operating privilege from suspension,
9 revocation, cancellation, or disqualification imposed by that state with respect to the
10 report of the conviction to that state.

result of the

11 b. The date that the department reinstates the person's operating privilege in
12 this state.

13 **SECTION 21.** 343.301 (2t) of the statutes is created to read:

14 343.301 (2t) Notwithstanding sub. (2m), the court shall give credit toward the
15 period of operating privilege restriction for each day that a person holds a license
16 issued under s. 343.13 following a suspension or revocation for the conduct from
17 which the order under sub. (1g) (am) 1. arises. If more than one period of restriction
18 has been imposed on the person, credit under this subsection may only be given for
19 one period of restriction.

20 **SECTION 22.** 343.301 (3) (a) of the statutes is amended to read:

21 343.301 (3) (a) Except as provided in par. (b), if the court enters an ignition
22 interlock device installation order under sub. (1g), the person shall be liable for the
23 reasonable cost of equipping and maintaining any ignition interlock device installed
24 on his or her motor vehicle.

25 **SECTION 23.** 343.301 (6) of the statutes is created to read:

*restricting the person's operation under the
license to vehicles that are equipped with a
functioning ignition interlock device*

1 343.301 (6) If a service provider of ignition interlock systems on motor vehicles
2 removes or disconnects an ignition interlock device from a motor vehicle, the service
3 provider shall inform the department of the removal or disconnection no later than
4 3 working days after the removal or disconnection of the device.

5 **SECTION 24.** 343.302 (4) of the statutes is created to read:

6 343.302 (4) Any person violating sub. (1) may be fined not less than \$150 nor
7 more than \$600, or may be imprisoned for not more than 6 months, or both for the
8 first offense. For a 2nd or subsequent conviction within 5 years, the person may be
9 fined not less than \$300 nor more than \$1,000, or imprisoned for not more than 6
10 months, or both.

11 **SECTION 25.** 343.305 (10) (b) 2. of the statutes is amended to read:

12 343.305 (10) (b) 2. Except as provided in subd. 3., 4. or 4m., for the first
13 improper refusal, the court shall revoke the person's operating privilege for one year.
14 ~~After the first 30 days of the revocation period, the person is eligible for an~~
15 ~~occupational license under s. 343.10.~~

16 **SECTION 26.** 343.305 (10) (b) 3. of the statutes is amended to read:

17 343.305 (10) (b) 3. Except as provided in subd. 4m., if the number of convictions
18 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
19 convictions, suspensions, and revocations counted under s. 343.307 (2) within a
20 10-year period, equals 2, the court shall revoke the person's operating privilege for
21 2 years. ~~After the first 90 days of the revocation period or, if the total number of~~
22 ~~convictions, suspensions, and revocations counted under this subdivision within any~~
23 ~~5-year period equals 2 or more, after one year of the revocation period has elapsed,~~
24 ~~the person is eligible for an occupational license under s. 343.10 if he or she has~~
25 ~~completed the assessment and is complying with the driver safety plan.~~

1 **SECTION 27.** 343.305 (10) (b) 4. of the statutes is amended to read:

2 343.305 (10) (b) 4. Except as provided in subd. 4m., if the number of convictions
3 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
4 convictions, suspensions, and revocations counted under s. 343.307 (2), equals 3 or
5 more, the court shall revoke the person's operating privilege for 3 years. ~~After the~~
6 ~~first 120 days of the revocation period or, if the total number of convictions,~~
7 ~~suspensions, and revocations counted under this subdivision within any 5-year~~
8 ~~period equals 2 or more, after one year of the revocation period has elapsed, the~~
9 ~~person is eligible for an occupational license under s. 343.10 if he or she has~~
10 ~~completed the assessment and is complying with the driver safety plan.~~

11 **SECTION 28.** 343.305 (10) (em) of the statutes is amended to read:

12 343.305 (10) (em) One penalty for improperly refusing to submit to a test for
13 intoxication regarding a person arrested for a violation of s. 346.63 (2m) or (7) or a
14 local ordinance in conformity therewith is revocation of the person's operating
15 privilege for 6 months. If there was a minor passenger under 16 years of age in the
16 motor vehicle at the time of the incident that gave rise to the improper refusal, the
17 revocation period is 12 months. ~~After the first 15 days of the revocation period, the~~
18 ~~person is eligible for an occupational license under s. 343.10.~~ Any such improper
19 refusal or revocation for the refusal does not count as a prior refusal or a prior
20 revocation under this section or ss. 343.30 (1q), 343.307 and 346.65 (2). The person
21 shall not be required to submit to and comply with any assessment or driver safety
22 plan under pars. (c) and (d).

23 **SECTION 29.** 343.31 (3) (bm) 2. of the statutes is amended to read:

24 343.31 (3) (bm) 2. Except as provided in subd. 3., 4. or 4m., for the first
25 conviction, the department shall revoke the person's operating privilege for not less

1 than 6 months nor more than 9 months. If an Indian tribal court in this state revokes
2 the person's privilege to operate a motor vehicle on tribal lands for not less than 6
3 months nor more than 9 months for the conviction specified in par. (bm) (intro.), the
4 department shall impose the same period of revocation. ~~The A person who~~ is eligible
5 for an occupational license under s. 343.10 (1) (a) is eligible for the occupational
6 license at any time.

7 **SECTION 30.** 343.31 (3) (bm) 3. of the statutes is amended to read:

8 343.31 (3) (bm) 3. Except as provided in subd. 4m., if the number of convictions
9 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
10 suspensions, revocations, and other convictions counted under s. 343.307 (1) within
11 a 10-year period, equals 2, the department shall revoke the person's operating
12 privilege for not less than one year nor more than 18 months. If an Indian tribal court
13 in this state revokes the person's privilege to operate a motor vehicle on tribal lands
14 for not less than one year nor more than 18 months for the conviction specified in par.
15 (bm) (intro.), the department shall impose the same period of revocation. ~~After the~~
16 ~~first 60 days of the revocation period or, if the total number of convictions,~~
17 ~~suspensions, and revocations counted under this subdivision within any 5-year~~
18 ~~period equals 2 or more, after one year of the revocation period has elapsed, the~~
19 ~~person is eligible for an occupational license under s. 343.10.~~

20 **SECTION 31.** 343.31 (3) (bm) 4. of the statutes is amended to read:

21 343.31 (3) (bm) 4. Except as provided in subd. 4m., if the number of convictions
22 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
23 suspensions, revocations and convictions counted under s. 343.307 (1), equals 3 or
24 more, the department shall revoke the person's operating privilege for not less than
25 2 years nor more than 3 years. If an Indian tribal court in this state revokes the

1 person's privilege to operate a motor vehicle on tribal lands for not less than 2 years
2 nor more than 3 years for the conviction specified in par. (bm) (intro.), the department
3 shall impose the same period of revocation. ~~After one year of the revocation period~~
4 ~~has elapsed, the person is eligible for an occupational license under s. 343.10.~~

5 **SECTION 32.** 343.31 (3m) of the statutes is repealed.

6 **SECTION 33.** 343.43 (1) (d) of the statutes is amended to read:

7 343.43 (1) (d) Violate any of the restrictions placed on that person's license or
8 operating privilege by or pursuant to law; or

9 **SECTION 34.** 347.413 of the statutes is renumbered 343.302, and 343.302 (1),
10 as renumbered, is amended to read:

11 343.302 (1) No person may remove, disconnect, tamper with, or otherwise
12 circumvent the operation of an ignition interlock device installed in response to the
13 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (1), 2007 stats., or s. 343.301
14 (1g), or fail to have the ignition interlock device installed as ordered by the court, ~~or~~
15 violate a court order under s. 343.301 (1g) restricting the person's operating
16 privilege, ~~or violate a restriction under s. 343.13 (3).~~ ^{an ignition interlock device} ~~343.10 (5)(a) 3.~~ This subsection does not apply
17 to the removal of an ignition interlock device upon the expiration of the order
18 requiring the motor vehicle to be so equipped or to necessary repairs to a
19 malfunctioning ignition interlock device by a person authorized by the department.

20 **SECTION 35.** 347.50 (1) of the statutes is amended to read:

21 347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.385 (5), s.
22 347.413 (1) ~~or s. 347.415 (1m), (2), and (3) to (5) or s. 347.417 (1) or s. 347.475 or s.~~
23 347.48 (2m) or (4), or s. 347.489, may be required to forfeit not less than \$10 nor more
24 than \$200.

25 **SECTION 36.** 347.50 (1s) of the statutes is amended to read:

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3 SECTION 1. 343.10 (1) (am) of the statutes is created to read:

4 343.10 (1) (am) Notwithstanding par. (a), if a person's license or operating
5 privilege is revoked or suspended under s. 343.30 (1q) (b), 343.305 (7) (a) or (10), or
6 343.31 (2), the person after payment of the fee provided in sub. (6) may file an
7 application with the department for an occupational license restricting the
8 applicant's operation under the license to vehicles that are equipped with a
9 functioning ignition interlock device.

10 SECTION 2. 343.10 (1) (b) of the statutes is amended to read:

11 ~~X~~343.10 (1) (b) The application shall be in a form established by the department
12 and shall identify the specific motor vehicle that the applicant seeks authorization
13 to operate, including the vehicle classification and any required endorsements. The
14 For an application under par. (a), the application shall include an explanation of why
15 operating the motor vehicle is essential to the person's livelihood and identify the
16 person's occupation or trade. ~~The~~ For an application under par. (a), the application
17 shall identify the applicant's employer, and include proof of financial responsibility
18 as specified in s. 343.38 (1) (c) covering the vehicle or vehicles that the applicant
19 requests authorization to operate. ~~The~~ For an application under par. (a), the
20 application shall identify the hours of operation and routes of travel being requested
21 by the applicant in accord with the restrictions of sub. (5). For an application under

1 par. (am) the application, shall provide proof that the applicant has access to a motor
 2 vehicle equipped with an ignition interlock device.

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326; 2005 a. 443 s. 265; 2007 a. 20, 94; 2009 a. 100, 103; 2011 a. 23, 32; 2015 a. 77, 389.

Cross-reference: See also ch. Trans 117, Wis. adm. code.

3 **SECTION 3. 343.10 (2) (a) 1.** of the statutes is amended to read:

4 ~~343.10 (2) (a) 1.~~ Except for a revocation or suspension that arose out of the same
 5 incident or occurrence for which the person's license or operating privilege is
 6 currently revoked or suspended, the person's license or operating privilege was not
 7 revoked or suspended previously under this chapter or ch. 344 or s. 943.21 (3m) or
 8 961.50 within the one-year period immediately preceding the present revocation or
 9 suspension, except as provided in s. 344.40. This subdivision does not apply to an
 10 application under sub. (1) (am).

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326; 2005 a. 443 s. 265; 2007 a. 20, 94; 2009 a. 100, 103; 2011 a. 23, 32; 2015 a. 77, 389.

Cross-reference: See also ch. Trans 117, Wis. adm. code.

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 12 INS 6-7

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

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

1 if the travel does not exceed the restrictions as to hours of the day and hours per week
 2 in this subdivision. The occupational license may contain restrictions on the use of
 3 alcohol and of controlled substances and controlled substance analogs in violation of
 4 s. 961.41. This subdivision does not apply to a ^{gan} application under sub. (1) (am).

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326; 2005 a. 443 s. 265; 2007 a. 20, 94; 2009 a. 100, 103; 2011 a. 23, 32; 2015 a. 77, 389.

Cross-reference: See also ch. Trans 117, Wis. adm. code.

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

6 ~~343.10 (5) (a) 3.~~ The occupational license of the applicant shall restrict the
 7 applicant's operation under the occupational license to vehicles that are equipped
 8 with a functioning ignition interlock device if the application is under sub. (1) (am),
 9 the court has ordered under s. 343.301 (1g) that the person's operating privilege for
 10 Class D vehicles be restricted to operating vehicles that are equipped with an
 11 ignition interlock device, or the court has ordered under s. 346.65 (6) (a) 1., 1999
 12 stats., that the motor vehicle owned by the person and used in the violation or
 13 improper refusal be equipped with an ignition interlock device. A person to whom
 14 a restriction under this subdivision applies violates that restriction if he or she
 15 removes or disconnects an ignition interlock device, requests or permits another to
 16 blow into an ignition interlock device or to start a motor vehicle equipped with an
 17 ignition interlock device for the purpose of providing the person an operable motor
 18 vehicle without the necessity of first submitting a sample of his or her breath to
 19 analysis by the ignition interlock device, or otherwise tampers with or circumvents
 20 the operation of the ignition interlock device. Except as provided in s. 343.301 (3) (b),
 21 if the court orders the installation of an ignition interlock device under s. 343.301 (1g)
 22 and the occupational license restricts the applicant's operation to a vehicle that is
 23 equipped with an ignition interlock device, the applicant shall be liable for the

1 reasonable costs of equipping the vehicle with the ignition interlock device. This
 2 subdivision does not apply to an applicant who is subject to an order under s. 343.301
 3 (1g) (am) 2. while the applicant is participating in a program designated in the order,
 4 unless he or she is also subject to an order under s. 343.301 (1g) (am) 1.

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326; 2005 a. 443 s. 265; 2007 a. 20, 94; 2009 a. 100, 103; 2011 a. 23, 32; 2015 a. 77, 389.

Cross-reference: See also ch. Trans 117, Wis. adm. code.

5 **SECTION 6.** 343.10 (5) (b) of the statutes is amended to read:

6 ~~343.10 (5) (b)~~ *Limitations.* Occupational licenses are subject to the limitations
 7 specified in ss. 343.30 (1q) (b) and (h), 343.305 (8) (d) and (10) (b) and (em), 343.31
 8 (3m), 343.32 (1m), 767.73, and 961.50.

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326; 2005 a. 443 s. 265; 2007 a. 20, 94; 2009 a. 100, 103; 2011 a. 23, 32; 2015 a. 77, 389.

Cross-reference: See also ch. Trans 117, Wis. adm. code.

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12 **SECTION 7.** 343.10 (7) (e) of the statutes is amended to read:

13 343.10 (7) (e) The occupational license issued by the department shall contain
 14 the restrictions required by sub. (5). The occupational license authorizes the licensee
 15 to operate a motor vehicle only when that operation is an essential part of the
 16 licensee's occupation or trade. If the department determines that the applicant is
 17 eligible under sub. (2), the department may impose such conditions and limitations
 18 upon the authorization to operate motor vehicles as in the secretary's judgment are
 19 necessary in the interest of public safety and welfare, including reexamination of the
 20 person's qualifications to operate a motor vehicle or a particular type thereof. The
 21 department may limit such authorization to include, without limitation, the

1 operation of particular vehicles, particular kinds of operation and particular traffic
2 conditions.

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326; 2005 a. 443 s. 265; 2007 a. 20, 94; 2009 a. 100, 103; 2011 a. 23, 32; 2015 a. 77, 389.

Cross-reference: See also ch. Trans 117, Wis. adm. code.

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State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4085/P1
EVM:kjf&amn

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PMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

No changes

8/28/19

1 **AN ACT** *to repeal* 343.301 (1m), 343.31 (3m) and 347.50 (1t); *to renumber* 343.13
2 (3); *to renumber and amend* 343.301 (2m) (a) and 347.413; *to consolidate,*
3 *renumber and amend* 343.301 (1g) (am) (intro.) and 1.; *to amend* 303.08
4 (10r), 343.10 (1) (b), 343.10 (2) (a) 1., 343.10 (2) (f), 343.10 (5) (a) 1., 343.10 (5)
5 (a) 3., 343.10 (5) (b), 343.10 (7) (cm), 343.10 (7) (e), 343.30 (1q) (b) 2., 343.30 (1q)
6 (b) 3., 343.30 (1q) (b) 4., 343.301 (1g) (am) 2., 343.301 (3) (a), 343.305 (10) (b) 2.,
7 343.305 (10) (b) 3., 343.305 (10) (b) 4., 343.305 (10) (em), 343.31 (3) (bm) 2.,
8 343.31 (3) (bm) 3., 343.31 (3) (bm) 4., 343.43 (1) (d), 347.50 (1) and 347.50 (1s);
9 and *to create* 343.10 (1) (am), 343.13 (3) (b), 343.301 (2m) (a) 2., 343.301 (2t),
10 343.301 (6) and 343.302 (4) of the statutes; **relating to:** operating privilege of
11 persons who have committed certain offenses related to drunken driving,
12 occupational licenses, ignition interlock devices, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill provides for a restricted occupational operating license limiting the holder to operating only vehicles that are equipped with an ignition interlock device

(IID) and makes various related changes to statutes governing operating privilege revocations for certain offenses related to operating a vehicle while intoxicated (OWI offense).

Under current law, if a person commits a first OWI offense in which his or her blood alcohol concentration was 0.15 or greater or a second or subsequent OWI offense or improperly refuses to take a test for intoxication, a court must order one of the following: 1) that the person's operating privilege be restricted to operating vehicles that are equipped with an IID and that each of the person's motor vehicles be equipped with an IID; or 2) that the person participate in a 24-7 sobriety program.

Under this bill, in the situation described above, with limited exceptions, a court must order that the person's operating privilege be restricted to operating motor vehicles that are equipped with an IID, but need not order that a person's motor vehicles be equipped with an IID.

Under current law, a court must revoke the driving privileges of persons convicted of certain OWI offenses for periods ranging from not less than six months for a first OWI offense to not less than two years for a third or subsequent OWI offense. Persons whose operating privilege is suspended under these provisions are eligible for occupational licenses with a waiting period of 15 to 45 days. Under current law, with certain exceptions and limitations, a person may apply for an occupational license if the person's operating privilege is revoked or suspended and the person is engaged in an occupation making it essential that he or she operate a motor vehicle.

Under this bill, a person is eligible for a restricted occupational license after 15 days have elapsed from the day of suspension or revocation.

Current law prohibits a person from circumventing the operation of an IID installed under a court order, failing to have an IID installed as ordered by a court, and violating certain court orders restricting a person's operating privilege. Violation of any of these prohibitions is punishable by a forfeiture of not less than \$10 nor more than \$200 and extension of the period of IID restriction.

This bill increases the penalty for these violations to, for a first offense, a fine of not less than \$150 nor more than \$600 and imprisonment for not more than six months or both and, for a second or subsequent offense, a fine of not less than \$300 nor more than \$1,000 or imprisonment for not more than six months or both. This bill also provides that a person who violates the IID restriction of an IID restricted license is subject to the penalties, as modified in this bill.

Also under this bill, if an IID service provider removes or disconnects an IID from a motor vehicle, the service provider must inform DOT of the removal or disconnection no later than three days after the removal or disconnection.

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.

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.** 303.08 (10r) of the statutes is amended to read:

2 303.08 (10r) The sheriff may not permit a prisoner whose operating privilege
3 for the operation of "Class D" vehicles is restricted to operating vehicles that are
4 equipped with an ignition interlock device who is subject to an ignition interlock
5 device installation order under s. 343.301 (1g) to leave the jail under sub. (1) unless,
6 within 2 weeks after the court issues an order under s. 343.301 (1g) (am) 1. or the
7 person's operating privilege is restricted under s. 343.301 (1g) (am) 2., the person
8 submits proof to the sheriff that an ignition interlock device has been installed in
9 each motor vehicle to which the order applies.

10 **SECTION 2.** 343.10 (1) (am) of the statutes is created to read:

11 343.10 (1) (am) Notwithstanding par. (a), if a person's license or operating
12 privilege is revoked or suspended under s. 343.30 (1q) (b), 343.305 (7) (a) or (10), or
13 343.31 (2), the person, after payment of the fee provided in sub. (6), may file an
14 application with the department for an occupational license restricting the
15 applicant's operation under the license to vehicles that are equipped with a
16 functioning ignition interlock device.

17 **SECTION 3.** 343.10 (1) (b) of the statutes is amended to read:

18 343.10 (1) (b) The application shall be in a form established by the department
19 and shall identify the specific motor vehicle that the applicant seeks authorization
20 to operate, including the vehicle classification and any required endorsements. The
21 For an application under par. (a), the application shall include an explanation of why

SECTION 3

1 operating the motor vehicle is essential to the person's livelihood and identify the
2 person's occupation or trade. The For an application under par. (a), the application
3 shall identify the applicant's employer, and include proof of financial responsibility
4 as specified in s. 343.38 (1) (c) covering the vehicle or vehicles that the applicant
5 requests authorization to operate. The For an application under par. (a), the
6 application shall identify the hours of operation and routes of travel being requested
7 by the applicant in accord with the restrictions of sub. (5). For an application under
8 par. (am), the application shall provide proof that the applicant has access to a motor
9 vehicle equipped with an ignition interlock device.

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

11 343.10 (2) (a) 1. Except for a revocation or suspension that arose out of the same
12 incident or occurrence for which the person's license or operating privilege is
13 currently revoked or suspended, the person's license or operating privilege was not
14 revoked or suspended previously under this chapter or ch. 344 or s. 943.21 (3m) or
15 961.50 within the one-year period immediately preceding the present revocation or
16 suspension, except as provided in s. 344.40. This subdivision does not apply to an
17 application under sub. (1) (am).

18 **SECTION 5.** 343.10 (2) (f) of the statutes is amended to read:

19 343.10 (2) (f) If the court orders under s. 343.301 (1g) that the person's
20 operating privilege for the operation of "Class D" vehicles be restricted to operating
21 vehicles that are equipped with an ignition interlock device, no occupational license
22 may be granted until the person pays the surcharge under s. 343.301 (5) and. If the
23 court orders the installation of an ignition interlock device under s. 343.301 (1g), no
24 occupational license may be granted until the person submits proof that an ignition
25 interlock device has been installed in each motor vehicle to which the order under

1 s. 343.301 applies. ~~A person who is subject to an order under s. 343.301 (1g) (am)~~
2 ~~2. need not submit proof that an ignition interlock device has been installed if he or~~
3 ~~she is participating in a program designated in the order, unless he or she is also~~
4 ~~subject to an order under s. 343.301 (1g) (am) 1.~~

5 SECTION 6. 343.10 (5) (a) 1. of the statutes is amended to read:

6 343.10 (5) (a) 1. In addition to any restrictions appearing on the former
7 operator's license of the applicant, the occupational license shall contain definite
8 restrictions as to hours of the day, not to exceed 12, hours per week, not to exceed 60,
9 type of occupation and areas or routes of travel which are permitted under the
10 license. The occupational license may permit travel to and from church during
11 specified hours if the travel does not exceed the restrictions as to hours of the day and
12 hours per week in this subdivision. The occupational license may permit travel
13 necessary to comply with a driver safety plan ordered under s. 343.30 (1q) or 343.305
14 if the travel does not exceed the restrictions as to hours of the day and hours per week
15 in this subdivision. The occupational license may contain restrictions on the use of
16 alcohol and of controlled substances and controlled substance analogs in violation of
17 s. 961.41. This subdivision does not apply to an application under sub. (1) (am).

18 SECTION 7. 343.10 (5) (a) 3. of the statutes is amended to read:

19 343.10 (5) (a) 3. The occupational license of the applicant shall restrict the
20 applicant's operation under the occupational license to vehicles that are equipped
21 with a functioning ignition interlock device if the application is under sub. (1) (am),
22 the court has ordered under s. 343.301 (1g) that the person's operating privilege for
23 Class D vehicles be restricted to operating vehicles that are equipped with an
24 ignition interlock device, or the court has ordered under s. 346.65 (6) (a) 1., 1999
25 stats., that the motor vehicle owned by the person and used in the violation or

SECTION 7

1 improper refusal be equipped with an ignition interlock device. A person to whom
2 a restriction under this subdivision applies violates that restriction if he or she
3 removes or disconnects an ignition interlock device, requests or permits another to
4 blow into an ignition interlock device or to start a motor vehicle equipped with an
5 ignition interlock device for the purpose of providing the person an operable motor
6 vehicle without the necessity of first submitting a sample of his or her breath to
7 analysis by the ignition interlock device, or otherwise tampers with or circumvents
8 the operation of the ignition interlock device. Except as provided in s. 343.301 (3) (b),
9 if the court orders the installation of an ignition interlock device under s. 343.301 (1g)
10 and the occupational license restricts the applicant's operation to a vehicle that is
11 equipped with an ignition interlock device, the applicant shall be liable for the
12 reasonable costs of equipping the vehicle with the ignition interlock device. This
13 subdivision does not apply to an applicant who is subject to an order under s. 343.301
14 (1g) (am) 2. while the applicant is participating in a program designated in the order,
15 unless he or she is also subject to an order under s. 343.301 (1g) (am) 1.

16 **SECTION 8.** 343.10 (5) (b) of the statutes is amended to read:

17 343.10 (5) (b) *Limitations.* Occupational licenses are subject to the limitations
18 specified in ss. 343.30 (1q) ~~(b) and (h)~~, 343.305 (8) (d) and (10) ~~(b) and (em)~~, 343.31
19 ~~(3m)~~, 343.32 (1m), 767.73, and 961.50.

20 **SECTION 9.** 343.10 (7) (cm) of the statutes is amended to read:

21 343.10 (7) (cm) If the occupational license includes the restriction specified in
22 sub. (5) (a) 3. court orders the installation of an ignition interlock device under s.
23 343.301 (1g), the department shall not issue the occupational license until the
24 applicant provides evidence satisfactory to the department that any motor vehicle

1 that the applicant will be permitted to operate subject to the order has been equipped
2 with a functioning ignition interlock device.

3 **SECTION 10.** 343.10 (7) (e) of the statutes is amended to read:

4 343.10 (7) (e) The occupational license issued by the department shall contain
5 the restrictions required by sub. (5). ~~The occupational license authorizes the licensee~~
6 ~~to operate a motor vehicle only when that operation is an essential part of the~~
7 ~~licensee's occupation or trade.~~ If the department determines that the applicant is
8 eligible under sub. (2), the department may impose such conditions and limitations
9 upon the authorization to operate motor vehicles as in the secretary's judgment are
10 necessary in the interest of public safety and welfare, including reexamination of the
11 person's qualifications to operate a motor vehicle or a particular type thereof. The
12 department may limit such authorization to include, without limitation, the
13 operation of particular vehicles, particular kinds of operation and particular traffic
14 conditions.

15 **SECTION 11.** 343.13 (3) of the statutes is renumbered 343.13 (3) (a).

16 **SECTION 12.** 343.13 (3) (b) of the statutes is created to read:

17 343.13 (3) (b) If a person is convicted of violating s. 343.302 (1), the department
18 shall include on the person's license a restriction of the person's operating privilege
19 to operating vehicles equipped with an ignition interlock device for 6 months. A
20 restriction under this paragraph is consecutive to any existing restriction period
21 under this paragraph or par. (a).

22 **SECTION 13.** 343.30 (1q) (b) 2. of the statutes is amended to read:

23 343.30 (1q) (b) 2. Except as provided in sub. (1r) or subd. 3., 4. or 4m., for the
24 first conviction, the court shall revoke the person's operating privilege for not less
25 than 6 months nor more than 9 months. ~~The person is eligible for an occupational~~

1 ~~license under s. 343.10 at any time. There is no minimum waiting period before~~
2 ~~issuance of an occupational license under s. 343.10 to a person whose operating~~
3 ~~privilege is revoked under this subdivision.~~

4 **SECTION 14.** 343.30 (1q) (b) 3. of the statutes is amended to read:

5 343.30 (1q) (b) 3. Except as provided in sub. (1r) or subd. 4m., if the number
6 of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total
7 number of other convictions, suspensions, and revocations counted under s. 343.307
8 (1) within a 10-year period, equals 2, the court shall revoke the person's operating
9 privilege for not less than one year nor more than 18 months. ~~After the first 45 days~~
10 ~~of the revocation period has elapsed, the person is eligible for an occupational license~~
11 ~~under s. 343.10 if he or she has completed the assessment and is complying with the~~
12 ~~driver safety plan ordered under par. (e).~~

13 **SECTION 15.** 343.30 (1q) (b) 4. of the statutes is amended to read:

14 343.30 (1q) (b) 4. Except as provided in sub. (1r) or subd. 4m., if the number
15 of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total
16 number of other convictions, suspensions, and revocations counted under s. 343.307
17 (1), equals 3 or more, the court shall revoke the person's operating privilege for not
18 less than 2 years nor more than 3 years. ~~After the first 45 days of the revocation~~
19 ~~period has elapsed, the person is eligible for an occupational license under s. 343.10~~
20 ~~if he or she has completed the assessment and is complying with the driver safety~~
21 ~~plan ordered under par. (e).~~

22 **SECTION 16.** 343.301 (1g) (am) (intro.) and 1. of the statutes are consolidated,
23 renumbered 343.301 (1g) (am) 1. and amended to read:

24 343.301 (1g) (am) 1. ~~A~~ Except as provided in this subdivision, a court shall
25 order one or more of the following: 1. ~~That~~ that the person's operating privilege for

1 the operation of "Class D" vehicles be restricted to operating vehicles that are
2 equipped with an ignition interlock device and, ~~except as provided in sub. (1m), shall~~
3 may order that each any motor vehicle for which the person's name appears on the
4 vehicle's certificate of title or registration be equipped with an ignition interlock
5 device. A court that has issued an order under subd. 2. and that is a court for a county
6 designated under s. 165.957 (2) may issue an order under this subdivision.

7 **SECTION 17.** 343.301 (1g) (am) 2. of the statutes is amended to read:

8 343.301 (1g) (am) 2. That A court may order that the person participate in a
9 program described in s. 165.957 or that meets the definition of a 24-7 sobriety
10 program under 23 USC 405 (d) (7) (A) and regulations adopted thereunder. If the
11 court enters an order under this subdivision, when the person completes or otherwise
12 does not participate in the program, the court shall order that the person's operating
13 privilege for the operation of "Class D" vehicles be restricted to operating vehicles
14 that are equipped with an ignition interlock device, shall specify the duration of the
15 order, shall, except as provided in sub. (1m), may order that each any motor vehicle
16 for which the person's name appears on the vehicle's certificate of title or registration
17 be equipped with an ignition interlock device, and shall notify the department of such
18 order.

19 **SECTION 18.** 343.301 (1m) of the statutes is repealed.

20 **SECTION 19.** 343.301 (2m) (a) of the statutes is renumbered 343.301 (2m) (a)

21 1. and amended to read:

22 343.301 (2m) (a) 1. If the court enters an order under sub. (1g) (am) 1. with
23 respect to a person to whom the department has issued an operator's license or who
24 is a resident of the state, the restriction of the person's operating privilege under the
25 order under sub. (1g) (am) 1. shall begin on the date the order under sub. (1g) (am)

1 1. is issued and extend for a period of not less than one year after the date the
2 department issues any license granted under this chapter nor more than the
3 maximum operating privilege revocation period permitted for the refusal or violation
4 after the date the department issues any license granted under this chapter except
5 that if the maximum operating privilege revocation period is less than one year, the
6 restriction of the person's operating privilege under sub. (1g) (am) 1. shall extend for
7 a period of one year after the department issues any license granted under this
8 chapter.

9 3. If the court enters an ignition interlock device installation order under sub.
10 (1g) (am) 1., the court may specify the date by which an ignition interlock device
11 under sub. (1g) (am) 1. shall be installed.

12 **SECTION 20.** 343.301 (2m) (a) 2. of the statutes is created to read:

13 343.301 (2m) (a) 2. If the court enters an order under sub. (1g) (am) 1. with
14 respect to a person to whom the department has not issued an operator's license and
15 who is not a resident of the state, the restriction of the person's operating privilege
16 under the order under sub. (1g) (am) 1. shall begin on the date the order under sub.
17 (1g) (am) 1. is issued and extend for a period of not less than one year after the earliest
18 of the following, nor more than the maximum operating privilege revocation period
19 permitted for the refusal or violation after the earliest of the following, except that
20 if the maximum operating privilege revocation period is less than one year, the
21 restriction of the person's operating privilege under sub. (1g) (am) 1. shall extend for
22 a period of one year after the earliest of the following:

23 a. The date that the person provides proof to the department that the person's
24 state of residence has reinstated the person's operating privilege from suspension,

1 revocation, cancellation, or disqualification imposed by that state with respect to the
2 result of the report of the conviction to that state.

3 b. The date that the department reinstates the person's operating privilege in
4 this state.

5 **SECTION 21.** 343.301 (2t) of the statutes is created to read:

6 343.301 (2t) Notwithstanding sub. (2m), the court shall give credit toward the
7 period of operating privilege restriction for each day that a person holds a license
8 restricting the person's operation under the license to vehicles that are equipped
9 with a functioning ignition interlock device following a suspension or revocation for
10 the conduct from which the order under sub. (1g) (am) 1. arises. If more than one
11 period of restriction has been imposed on the person, credit under this subsection
12 may only be given for one period of restriction.

13 **SECTION 22.** 343.301 (3) (a) of the statutes is amended to read:

14 343.301 (3) (a) Except as provided in par. (b), if the court enters an ignition
15 interlock device installation order under sub. (1g), the person shall be liable for the
16 reasonable cost of equipping and maintaining any ignition interlock device installed
17 on his or her motor vehicle.

18 **SECTION 23.** 343.301 (6) of the statutes is created to read:

19 343.301 (6) If a service provider of ignition interlock systems on motor vehicles
20 removes or disconnects an ignition interlock device from a motor vehicle, the service
21 provider shall inform the department of the removal or disconnection no later than
22 3 working days after the removal or disconnection of the device.

23 **SECTION 24.** 343.302 (4) of the statutes is created to read:

24 343.302 (4) Any person violating sub. (1) may be fined not less than \$150 nor
25 more than \$600, or may be imprisoned for not more than 6 months, or both for the

1 first offense. For a 2nd or subsequent conviction within 5 years, the person may be
2 fined not less than \$300 nor more than \$1,000, or imprisoned for not more than 6
3 months, or both.

4 **SECTION 25.** 343.305 (10) (b) 2. of the statutes is amended to read:

5 343.305 (10) (b) 2. Except as provided in subd. 3., 4. or 4m., for the first
6 improper refusal, the court shall revoke the person's operating privilege for one year.
7 ~~After the first 30 days of the revocation period, the person is eligible for an~~
8 ~~occupational license under s. 343.10.~~

9 **SECTION 26.** 343.305 (10) (b) 3. of the statutes is amended to read:

10 343.305 (10) (b) 3. Except as provided in subd. 4m., if the number of convictions
11 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
12 convictions, suspensions, and revocations counted under s. 343.307 (2) within a
13 10-year period, equals 2, the court shall revoke the person's operating privilege for
14 2 years. ~~After the first 90 days of the revocation period or, if the total number of~~
15 ~~convictions, suspensions, and revocations counted under this subdivision within any~~
16 ~~5-year period equals 2 or more, after one year of the revocation period has elapsed,~~
17 ~~the person is eligible for an occupational license under s. 343.10 if he or she has~~
18 ~~completed the assessment and is complying with the driver safety plan.~~

19 **SECTION 27.** 343.305 (10) (b) 4. of the statutes is amended to read:

20 343.305 (10) (b) 4. Except as provided in subd. 4m., if the number of convictions
21 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
22 convictions, suspensions, and revocations counted under s. 343.307 (2), equals 3 or
23 more, the court shall revoke the person's operating privilege for 3 years. ~~After the~~
24 ~~first 120 days of the revocation period or, if the total number of convictions,~~
25 ~~suspensions, and revocations counted under this subdivision within any 5-year~~

1 ~~period equals 2 or more, after one year of the revocation period has elapsed, the~~
2 ~~person is eligible for an occupational license under s. 343.10 if he or she has~~
3 ~~completed the assessment and is complying with the driver safety plan.~~

4 **SECTION 28.** 343.305 (10) (em) of the statutes is amended to read:

5 343.305 (10) (em) One penalty for improperly refusing to submit to a test for
6 intoxication regarding a person arrested for a violation of s. 346.63 (2m) or (7) or a
7 local ordinance in conformity therewith is revocation of the person's operating
8 privilege for 6 months. If there was a minor passenger under 16 years of age in the
9 motor vehicle at the time of the incident that gave rise to the improper refusal, the
10 revocation period is 12 months. ~~After the first 15 days of the revocation period, the~~
11 ~~person is eligible for an occupational license under s. 343.10.~~ Any such improper
12 refusal or revocation for the refusal does not count as a prior refusal or a prior
13 revocation under this section or ss. 343.30 (1q), 343.307 and 346.65 (2). The person
14 shall not be required to submit to and comply with any assessment or driver safety
15 plan under pars. (c) and (d).

16 **SECTION 29.** 343.31 (3) (bm) 2. of the statutes is amended to read:

17 343.31 (3) (bm) 2. Except as provided in subd. 3., 4. or 4m., for the first
18 conviction, the department shall revoke the person's operating privilege for not less
19 than 6 months nor more than 9 months. If an Indian tribal court in this state revokes
20 the person's privilege to operate a motor vehicle on tribal lands for not less than 6
21 months nor more than 9 months for the conviction specified in par. (bm) (intro.), the
22 department shall impose the same period of revocation. The A person who is eligible
23 for an occupational license under s. 343.10 (1) (a) is eligible for the occupational
24 license at any time.

25 **SECTION 30.** 343.31 (3) (bm) 3. of the statutes is amended to read:

1 343.31 (3) (bm) 3. Except as provided in subd. 4m., if the number of convictions
2 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
3 suspensions, revocations, and other convictions counted under s. 343.307 (1) within
4 a 10-year period, equals 2, the department shall revoke the person's operating
5 privilege for not less than one year nor more than 18 months. If an Indian tribal court
6 in this state revokes the person's privilege to operate a motor vehicle on tribal lands
7 for not less than one year nor more than 18 months for the conviction specified in par.
8 (bm) (intro.), the department shall impose the same period of revocation. ~~After the~~
9 ~~first 60 days of the revocation period or, if the total number of convictions,~~
10 ~~suspensions, and revocations counted under this subdivision within any 5-year~~
11 ~~period equals 2 or more, after one year of the revocation period has elapsed, the~~
12 ~~person is eligible for an occupational license under s. 343.10.~~

13 **SECTION 31.** 343.31 (3) (bm) 4. of the statutes is amended to read:

14 343.31 (3) (bm) 4. Except as provided in subd. 4m., if the number of convictions
15 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
16 suspensions, revocations and convictions counted under s. 343.307 (1), equals 3 or
17 more, the department shall revoke the person's operating privilege for not less than
18 2 years nor more than 3 years. If an Indian tribal court in this state revokes the
19 person's privilege to operate a motor vehicle on tribal lands for not less than 2 years
20 nor more than 3 years for the conviction specified in par. (bm) (intro.), the department
21 shall impose the same period of revocation. ~~After one year of the revocation period~~
22 ~~has elapsed, the person is eligible for an occupational license under s. 343.10.~~

23 **SECTION 32.** 343.31 (3m) of the statutes is repealed.

24 **SECTION 33.** 343.43 (1) (d) of the statutes is amended to read:

1 343.43 (1) (d) Violate any of the restrictions placed on that person's license or
2 operating privilege by or pursuant to law; or

3 **SECTION 34.** 347.413 of the statutes is renumbered 343.302, and 343.302 (1),
4 as renumbered, is amended to read:

5 343.302 (1) No person may remove, disconnect, tamper with, or otherwise
6 circumvent the operation of an ignition interlock device installed in response to the
7 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (1), 2007 stats., or s. 343.301
8 (1g), or fail to have the ignition interlock device installed as ordered by the court, ~~or~~
9 violate a court order under s. 343.301 (1g) restricting the person's operating
10 privilege, or violate an ignition interlock device restriction under s. 343.10 (5) (a) 3.
11 This subsection does not apply to the removal of an ignition interlock device upon the
12 expiration of the order requiring the motor vehicle to be so equipped or to necessary
13 repairs to a malfunctioning ignition interlock device by a person authorized by the
14 department.

15 **SECTION 35.** 347.50 (1) of the statutes is amended to read:

16 347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.385 (5), s.
17 ~~347.413 (1) or s. 347.415 (1m), (2), and (3) to (5) or s., 347.417 (1) or s., 347.475 or s.,~~
18 347.48 (2m) or (4), or s. 347.489, may be required to forfeit not less than \$10 nor more
19 than \$200.

20 **SECTION 36.** 347.50 (1s) of the statutes is amended to read:

21 347.50 (1s) Any person violating s. ~~347.413 (1) or 347.417 (1)~~ may be fined not
22 less than \$150 nor more than \$600, or may be imprisoned for not more than 6 months,
23 or both for the first offense. For a 2nd or subsequent conviction within 5 years, the
24 person may be fined not less than \$300 nor more than \$1,000, or imprisoned for not
25 more than 6 months, or both.

Walker, Dan

From: Sen.Wanggaard
Sent: Wednesday, August 28, 2019 9:45 AM
To: LRB.Legal
Subject: Draft Review: LRB -4085/1

Please Jacket LRB -4085/1 for the SENATE.