



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-3657/1
EHS:ahe

2019 ASSEMBLY BILL 356

August 12, 2019 - Introduced by Representatives SPIROS, HORLACHER, JAMES, KULP, L. MYERS, RAMTHUN, STUBBS and TUSLER, cosponsored by Senators JACQUE and BEWLEY. Referred to Committee on Judiciary.

1 **AN ACT** *to repeal* 23.33 (13) (br); *to renumber* 30.80 (6) (c) and 350.11 (3) (a) 4.;
2 *to renumber and amend* 23.33 (1) (jm), 23.33 (13) (b) 4., 23.33 (13) (d), 23.335
3 (1) (zf), 23.335 (23) (c) 4., 23.335 (23) (g), 30.50 (9x), 350.01 (10r) and 350.11 (3)
4 (c); *to amend* 23.33 (4c) (a) 3., 23.33 (4c) (a) 4., 23.33 (4c) (b) 3., 23.33 (4t), 23.33
5 (13) (b) 1., 23.33 (13) (b) 2., 23.33 (13) (b) 3., 23.33 (13) (bg), 23.33 (13) (cm), 23.33
6 (13) (dm), 23.335 (12) (a) 3., 23.335 (12) (a) 4., 23.335 (12) (b) 3., 23.335 (12) (j),
7 23.335 (23) (c) 1., 23.335 (23) (c) 2., 23.335 (23) (c) 3., 23.335 (23) (h), 30.681 (1)
8 (bn), 30.681 (1) (c), 30.681 (2) (c), 30.681 (2) (d) 1. a., 30.686, 30.74 (1) (bn), 30.80
9 (6) (a) 1., 30.80 (6) (a) 2., 30.80 (6) (a) 3., 30.80 (6) (a) 4., 30.80 (6) (a) 5., 30.80
10 (6) (a) 6., 30.80 (6) (e), 59.54 (14) (g), 343.10 (1) (a), 343.10 (2) (a) 1., 343.10 (9),
11 343.21 (1) (jr), 350.101 (1) (d), 350.101 (2) (c), 350.106, 350.11 (3) (a) 1., 350.11
12 (3) (a) 2., 350.11 (3) (a) 3., 350.11 (3) (bm), 350.11 (3) (cm), 940.09 (1m) (b) and
13 940.25 (1m) (b); and *to create* 23.33 (1) (ib), 23.33 (1) (ih), 23.33 (1) (jd), 23.33
14 (1) (jh), 23.33 (1) (jk), 23.33 (4y), 23.33 (13) (b) 4b., 23.33 (13) (b) 5., 23.33 (13)

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1 (bm), 23.33 (13) (ce), 23.33 (13) (d) 2., 23.33 (13) (eg), 23.335 (1) (km), 23.335 (1)
2 (nm), 23.335 (1) (zdr), 23.335 (1) (zer), 23.335 (1) (zet), 23.335 (12) (km), 23.335
3 (23) (c) 4b., 23.335 (23) (c) 5., 23.335 (23) (cg), 23.335 (23) (dm), 23.335 (23) (dr),
4 23.335 (23) (fm), 23.335 (23) (g) 2., 23.335 (23) (im), 30.50 (4n), 30.50 (4v), 30.50
5 (9fm), 30.50 (9m), 30.50 (9s), 30.50 (9t), 30.688, 30.80 (6) (am), 30.80 (6) (ar),
6 30.80 (6) (bg), 30.80 (6) (bn), 30.80 (6) (c) 2., 30.80 (6) (cm), 350.01 (9b), 350.01
7 (10c), 350.01 (10p), 350.01 (10q), 350.1075, 350.11 (3) (a) 4b., 350.11 (3) (a) 5.,
8 350.11 (3) (am), 350.11 (3) (ar), 350.11 (3) (bg), 350.11 (3) (c) 2. and 350.11 (3)
9 (e) of the statutes; **relating to:** intoxicated operation of all-terrain vehicles,
10 utility terrain vehicles, off-highway motorcycles, snowmobiles, and
11 motorboats and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes the laws regulating the intoxicated operation of different recreational vehicles more consistent.

Under current law, a person may not operate a snowmobile, an all-terrain vehicle (ATV), a utility terrain vehicle (UTV), an off-highway motorcycle (OHM), or a motorboat while under the influence of alcohol or a controlled substance to a degree that he or she cannot operate the vehicle or boat safely. Under current law, a personal watercraft is included in the definition of "motorboat." Current law also prohibits the operation of an ATV, a UTV, an OHM, a recreational motorboat, or a snowmobile by a person who has an alcohol concentration of 0.08 or more. For motorboats being operated on a commercial basis, the maximum alcohol concentration is 0.04. These laws are respectively referred to under current law as the intoxicated operation of an ATV or UTV law, the intoxicated operation of an OHM law, the intoxicated boating law, and the intoxicated snowmobiling law. Under current law, a person who refuses to submit to a legal request for a breath, blood, or urine sample pursuant to an arrest for operating a snowmobile, an ATV, a UTV, an OHM, or a recreational motorboat while under the influence is in violation of what is known as the refusal law.

Under current law, in imposing a penalty for a violation of the intoxicated operation of an ATV or UTV, the intoxicated operation of an OHM, the intoxicated boating, or the intoxicated snowmobiling law, a court may only count a previous conviction of the same law, or the applicable refusal law. For example, if a person is before the court for violating the intoxicated snowmobiling law or the snowmobile refusal law, the court may count only previous convictions of the intoxicated

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snowmobiling law and the snowmobile refusal law as prior convictions. Previous convictions of the intoxicated operation of an ATV or UTV law or of the intoxicated boating law or of the applicable refusal laws may not be counted. Under this bill, a court must count previous convictions of any of these intoxicated operation or refusal laws that occurred within the previous five years when imposing a penalty for a violation of any of these laws.

The bill makes the provisions of the intoxicated operation of an ATV or UTV, the intoxicated operation of an OHM, the intoxicated boating, and the intoxicated snowmobiling laws more consistent. These changes include all of the following:

1. Adopting the higher penalties for various violations where the penalties for violations of the intoxicated operation of an ATV or UTV law, the intoxicated operation of an OHM law, the intoxicated boating law, the intoxicated snowmobiling law, and the refusal law conflict.

2. Imposing increased penalties for violating the intoxicated operation of an OHM law, the intoxicated boating law, or the intoxicated snowmobiling law or related refusal law if the OHM, motorboat, or snowmobile is operated with a passenger under 16 years of age. The increased penalty already exists for a violation of the intoxicated operation of an ATV or UTV law and the ATV or UTV refusal law.

3. Repealing the provisions that imposed increased penalties for operating an ATV or UTV with an alcohol concentration level that is 0.17 or more. Under current law, these increased penalties are not imposed for violations of the intoxicated boating or the intoxicated snowmobiling laws.

The bill eliminates the impositions of fines and mandatory terms of confinement in the county jail for a person who is found guilty of a violation of a refusal law who has, within the previous five years, violated the intoxicated operation of an ATV or UTV, the intoxicated operation of an OHM, the intoxicated boating, or the intoxicated snowmobiling law one or more times. Under the bill, the penalty for violating a refusal law is a forfeiture of at least \$400 but not more than \$550 regardless of the number of prior violations.

The bill provides that when counting the number of convictions within the previous five years, the previous convictions for intoxicated operation of that same type of recreational vehicle or the related refusal law that occurred before the effective date of this bill are counted, but previous convictions for the other three types of recreational vehicles that occurred before the effective date of this bill are not counted.

The bill also requires a court to enter an order to suspend the person's privilege to operate a snowmobile, an ATV, a UTV, an OHM, and a motorboat for a period of not less than 12 months and not more than 16 months if the court imposes a penalty for a violation of the intoxicated operation of an ATV or UTV, the intoxicated operation of an OHM, the intoxicated boating, or the intoxicated snowmobiling law or the related refusal law. The bill allows the court, as part of the order, to authorize the person to operate an ATV, UTV, OHM, or snowmobile exclusively on land under the management and control of the person's immediate family, or to operate a recreational motorboat, if the court finds that such operation is essential for the purpose of engaging in an occupation or trade. The bill also provides a forfeiture and

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additional six-month period of operating privilege suspension for violating the order of suspension.

Under the bill, if the person is found guilty of a violation of the intoxicated operation of an ATV or UTV, the intoxicated operation of an OHM, the intoxicated boating, or the intoxicated snowmobiling law or the related refusal law and has, within the previous five years, violated one of these laws, the court is required to revoke the person's privilege to operate a motor vehicle for not less than six months and not more than 12 months. Also under the bill, the person may be eligible for an occupational driver's license at any time during the revocation period. The bill requires the person whose operating privilege was revoked to pay a \$140 reinstatement fee.

Under the bill, if a person has had his or her privilege to operate a motor vehicle suspended or revoked for a violation of a prohibition against operating a motor vehicle while intoxicated, the person may not operate a snowmobile, an ATV, a UTV, an OHM, or a motorboat during the period of that motor vehicle operating privilege suspension or revocation. The bill also provides a forfeiture and an additional six-month period of operating privilege suspension for violating the order of suspension.

Under current law, the sentences of persons who are convicted of certain second, third, or fourth offenses involving the operation of a motor vehicle while under the influence of an intoxicant may be reduced if the violator successfully completes a period of probation that includes alcohol and other drug treatment. A person may complete a treatment program and receive a reduced period of imprisonment only once. This bill allows this option to be used for persons convicted of a violation of the intoxicated operation of an ATV or UTV, the intoxicated operation of an OHM, the intoxicated boating, or the intoxicated snowmobiling law or the applicable refusal law.

Because this bill proposes to revoke a person's operating privilege upon conviction for an offense, the Department of Transportation, as required by law, will prepare a report to be printed as an appendix to this bill.

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.** 23.33 (1) (ib) of the statutes is created to read:
- 2 23.33 (1) (ib) "Intoxicated operating law" means the intoxicated operation of
- 3 an all-terrain or utility terrain vehicle law, the intoxicated operation of an

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1 off-highway motorcycle law, as defined in s. 23.335 (1) (km), the intoxicated boating
2 law, as defined in s. 30.50 (4m), or the intoxicated snowmobiling law, as defined in
3 s. 350.01 (9c).

4 **SECTION 2.** 23.33 (1) (ih) of the statutes is created to read:

5 23.33 (1) (ih) “Legal drinking age” means 21 years of age.

6 **SECTION 3.** 23.33 (1) (jd) of the statutes is created to read:

7 23.33 (1) (jd) “Public premises” means all premises held out to the public for
8 use of a motor vehicle, including highways, all premises provided by employers to
9 employees for the use of their motor vehicles, and all premises provided to tenants
10 of rental housing in buildings of 4 or more units for the use of their motor vehicles,
11 whether such premises are publicly or privately owned and whether or not a fee is
12 charged for the use of those premises.

13 **SECTION 4.** 23.33 (1) (jh) of the statutes is created to read:

14 23.33 (1) (jh) “Recreational vehicle” means an all-terrain vehicle, a utility
15 terrain vehicle, an off-highway motorcycle as defined in s. 23.335 (1) (q), a
16 recreational motorboat as defined in s. 30.50 (9m), or a snowmobile, as defined in s.
17 340.01 (58a).

18 **SECTION 5.** 23.33 (1) (jk) of the statutes is created to read:

19 23.33 (1) (jk) “Recreational vehicle and boating refusal law” means the
20 all-terrain or utility terrain vehicle refusal law, the boating refusal law, as defined
21 in s. 30.50 (2c), or the snowmobiling refusal law, as defined in s. 350.01 (17m).

22 **SECTION 6.** 23.33 (1) (jm) of the statutes is renumbered 23.33 (1) (at) and
23 amended to read:

24 23.33 (1) (at) ~~“Refusal~~ “All-terrain or utility terrain vehicle refusal law” means
25 sub. (4p) (e) or a local ordinance in conformity therewith.

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1 **SECTION 7.** 23.33 (4c) (a) 3. of the statutes is amended to read:

2 23.33 (4c) (a) 3. 'Operating with alcohol concentrations at specified levels;
3 below legal drinking age 21.' ~~If a~~ A person who has not attained the legal drinking
4 age of 21, the person may not engage in the operation of an all-terrain vehicle or
5 utility terrain vehicle while he or she has an alcohol concentration of more than 0.0
6 but ~~not more~~ less than 0.08.

7 **SECTION 8.** 23.33 (4c) (a) 4. of the statutes is amended to read:

8 23.33 (4c) (a) 4. 'Related charges.' A person may be charged with and a
9 prosecutor may proceed upon a complaint based upon a violation of any combination
10 of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the
11 person is charged with violating any combination of subd. 1., 2., or 2m., the offenses
12 shall be joined. If the person is found guilty of any combination of subd. 1., 2., or 2m.
13 for acts arising out of the same incident or occurrence, there shall be a single
14 conviction for purposes of sentencing and for purposes of counting convictions under
15 sub. (13) (b) 2. ~~and 3.~~ to 5. Subdivisions 1., 2., and 2m. each require proof of a fact
16 for conviction ~~which~~ that the others do not require.

17 **SECTION 9.** 23.33 (4c) (b) 3. of the statutes is amended to read:

18 23.33 (4c) (b) 3. 'Related charges.' A person may be charged with and a
19 prosecutor may proceed upon a complaint based upon a violation of any combination
20 of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the
21 person is charged with violating any combination of subd. 1., 2., or 2m. in the
22 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty
23 of any combination of subd. 1., 2., or 2m. for acts arising out of the same incident or
24 occurrence, there shall be a single conviction for purposes of sentencing and for
25 purposes of counting convictions under sub. (13) (b) 2. ~~and 3.~~ to 5. Subdivisions 1.,

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1 2., and 2m. each require proof of a fact for conviction ~~which~~ that the others do not
2 require.

3 **SECTION 10.** 23.33 (4t) of the statutes is amended to read:

4 23.33 (4t) REPORT ARREST TO DEPARTMENT. If a law enforcement officer arrests
5 a person for a violation of the intoxicated operation of an all-terrain vehicle or utility
6 terrain vehicle law or the all-terrain or utility terrain vehicle refusal law, the law
7 enforcement officer shall notify the department of the arrest as soon as practicable.

8 **SECTION 11.** 23.33 (4y) of the statutes is created to read:

9 23.33 (4y) SUSPENSION OR REVOCATION OF OPERATING PRIVILEGES. (a) *Orders to*
10 *suspend or revoke.* 1. If a court imposes a penalty for a violation of the intoxicated
11 operation of an all-terrain or utility terrain vehicle law or the all-terrain or utility
12 terrain vehicle refusal law, the court shall order the suspension of the person's
13 privilege to operate a recreational vehicle for a period of not less than 12 months and
14 not more than 16 months. As part of the order, the court may authorize the person
15 to operate an all-terrain vehicle or utility terrain vehicle exclusively on land under
16 the management and control of the person's immediate family if the court finds that
17 such operation is essential for the purpose of engaging in an occupation or trade.
18 Whenever a court suspends an operating privilege under this subdivision, the court
19 shall notify the department of that action.

20 2. In addition to the order under subd. 1., the court shall also order the
21 revocation of the person's privilege to operate a motor vehicle on public premises if
22 the person, within 5 years prior to the arrest for the current violation of the
23 intoxicated operation of an all-terrain or utility terrain vehicle law or the all-terrain
24 or utility terrain vehicle refusal law, violated the intoxicated operating law or the
25 recreational vehicle and boating refusal law. The period of revocation shall be not

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1 less than 6 months and not more than 12 months. Whenever a court revokes an
2 operating privilege under this subdivision, the court may take possession of the
3 revoked license. If the court takes possession of the revoked license, the court shall
4 destroy the license. The court shall forward to the department of transportation the
5 record of the conviction and notice of revocation. The person is eligible for an
6 occupational license under s. 343.10 at any time.

7 (b) *Operating while suspended or revoked.* 1. No person may operate a
8 recreational vehicle in violation of a suspension order imposed under par. (a) 1.

9 2. No person may operate an all-terrain vehicle or utility terrain vehicle during
10 the time that the person's motor vehicle operating privilege is suspended or revoked
11 for a conviction counted under s. 343.307 (1).

12 **SECTION 12.** 23.33 (13) (b) 1. of the statutes is amended to read:

13 23.33 (13) (b) 1. Except as provided under subds. 2. and 3. to 5., a person who
14 violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) shall forfeit not less than \$150 \$400 nor
15 more than \$300 \$550.

16 **SECTION 13.** 23.33 (13) (b) 2. of the statutes is amended to read:

17 23.33 (13) (b) 2. ~~Except as provided under subd. 3., a~~ A person who violates sub.
18 (4c) (a) 1., 2., or 2m. ~~or (4p) (e)~~ and who, within 5 years prior to the arrest for the
19 current violation, was convicted one time previously under the intoxicated operation
20 ~~of an all-terrain vehicle or utility terrain vehicle~~ operating law or the recreational
21 vehicle and boating refusal law shall be fined not less than \$300 nor more than
22 \$1,100 and shall be imprisoned not less than 5 days nor more than ~~6 months~~ one year
23 in the county jail.

24 **SECTION 14.** 23.33 (13) (b) 3. of the statutes is amended to read:

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1 23.33 (13) (b) 3. A person who violates sub. (4c) (a) 1., 2., or 2m. ~~or (4p) (e)~~ and
2 who, within 5 years prior to the arrest for the current violation, was convicted 2 ~~or~~
3 ~~more~~ times previously under the intoxicated ~~operation of an all-terrain vehicle or~~
4 ~~utility terrain vehicle~~ operating law or, the recreational vehicle and boating refusal
5 law, or any combination of these laws, shall be fined not less than \$600 nor more than
6 \$2,000 and shall be imprisoned not less than 30 days nor more than one year in the
7 county jail.

8 **SECTION 15.** 23.33 (13) (b) 4. of the statutes is renumbered 23.33 (13) (b) 6. and
9 amended to read:

10 23.33 (13) (b) 6. A person who violates sub. (4c) (a) 3. or who violates sub. (4p)
11 (e) and who has not attained the legal drinking age of 21 shall forfeit ~~not more than~~
12 \$50.

13 **SECTION 16.** 23.33 (13) (b) 4b. of the statutes is created to read:

14 23.33 (13) (b) 4b. A person who violates sub. (4c) (a) 1., 2., or 2m. and who,
15 within 5 years prior to the arrest for the current violation, was convicted 3 times
16 previously under the intoxicated operating law, the recreational vehicle and boating
17 refusal law, or any combination of these laws, shall be fined not less than \$600 nor
18 more than \$2,000 and shall be imprisoned not less than 60 days nor more than one
19 year in the county jail.

20 **SECTION 17.** 23.33 (13) (b) 5. of the statutes is created to read:

21 23.33 (13) (b) 5. A person who violates sub. (4c) (a) 1., 2., or 2m. and who, within
22 5 years prior to the arrest for the current violation, was convicted 4 or more times
23 previously under the intoxicated operating law, the recreational vehicle and boating
24 refusal law, or any combination of these laws, shall be fined not less than \$600 nor

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1 more than \$2,000 and shall be imprisoned not less than 6 months nor more than one
2 year in the county jail.

3 **SECTION 18.** 23.33 (13) (bg) of the statutes is amended to read:

4 23.33 (13) (bg) *Penalties related to intoxicated operation of an all-terrain*
5 *vehicle or utility terrain vehicle; underage passengers.* If there is a passenger under
6 16 years of age on the all-terrain vehicle or utility terrain vehicle at the time of a
7 violation that gives rise to a conviction under sub. (4c) (a) 1. ~~or 2.~~ or 2m. or (4p) (e),
8 the applicable minimum and maximum forfeitures, fines, and terms of
9 imprisonment under ~~pars. par. (b) 1., 2., and 3.~~ to 5. for the conviction are doubled.

10 **SECTION 19.** 23.33 (13) (bm) of the statutes is created to read:

11 23.33 (13) (bm) *Alcohol and drug treatment alternatives.* 1. In any county that
12 opts to offer a reduced minimum period of imprisonment for the successful
13 completion of a probation period that includes alcohol and other drug treatment, if
14 the number of suspensions, revocations, and convictions for a violation of the
15 intoxicated operation of an all-terrain or utility terrain vehicle law or of the
16 all-terrain or utility terrain vehicle refusal law within a 5-year period equals 2,
17 except that suspensions, revocations, or convictions arising out of the same incident
18 or occurrence shall be counted as one, the fine shall be the same as under par. (b) 2.,
19 but the period of imprisonment shall be not less than 5 days, except that if the person
20 successfully completes a period of probation that includes alcohol and other drug
21 treatment, the period of imprisonment shall be not less than 5 nor more than 7 days.

22 2. In any county that opts to offer a reduced minimum period of imprisonment
23 for the successful completion of a probation period that includes alcohol and other
24 drug treatment, if the number of suspensions, revocations, and convictions for a
25 violation of the intoxicated operation of an all-terrain or utility terrain vehicle law

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1 or of the all-terrain or utility terrain vehicle refusal law within a 5-year period
2 equals 3, except that suspensions, revocations, or convictions arising out of the same
3 incident or occurrence shall be counted as one, the fine shall be the same as under
4 par. (b) 3., but the period of imprisonment shall be not less than 30 days, except that
5 if the person successfully completes a period of probation that includes alcohol and
6 other drug treatment, the period of imprisonment shall be not less than 14 days.

7 3. In any county that opts to offer a reduced minimum period of imprisonment
8 for the successful completion of a probation period that includes alcohol and other
9 drug treatment, if the number of suspensions, revocations, and convictions for a
10 violation of the intoxicated operation of an all-terrain or utility terrain vehicle law
11 or of the all-terrain or utility terrain vehicle refusal law within a 5-year period
12 equals 4, except that suspensions, revocations, or convictions arising out of the same
13 incident or occurrence shall be counted as one, the fine shall be the same as under
14 par. (b) 4b., but the period of imprisonment shall be not less than 60 days, except that
15 if the person successfully completes a period of probation that includes alcohol and
16 other drug treatment, the period of imprisonment shall be not less than 29 days.

17 4. A person may be sentenced under this paragraph or under s. 23.335 (23)
18 (dm), 30.80 (6) (ar), or 350.11 (3) (ar) once in his or her lifetime.

19 **SECTION 20.** 23.33 (13) (br) of the statutes is repealed.

20 **SECTION 21.** 23.33 (13) (ce) of the statutes is created to read:

21 23.33 (13) (ce) *Penalties related to suspension and revocation.* 1. A person who
22 operates a recreational vehicle in violation of sub. (4y) (b) 1. is subject to a forfeiture
23 of not less than \$50 nor more than \$250. In addition, for each such violation, the court
24 may suspend the person's privilege to operate a recreational vehicle for a period of

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1 not more than 6 months. Whenever a court suspends an operating privilege under
2 this subdivision, the court shall notify the department of that action.

3 2. A person who operates an all-terrain vehicle or utility terrain vehicle in
4 violation of sub. (4y) (b) 2. is subject to a forfeiture of not less than \$150 nor more than
5 \$300. In addition, the court may suspend the person's privilege to operate a
6 recreational vehicle for a period of not more than 6 months. Whenever a court
7 suspends an operating privilege under this subdivision, the court shall notify the
8 department of that action.

9 **SECTION 22.** 23.33 (13) (cm) of the statutes is amended to read:

10 23.33 (13) (cm) *Sentence of detention.* The legislature intends that courts use
11 the sentencing option under s. 973.03 (4) whenever appropriate for persons subject
12 to par. (b) 2. ~~or, 3., 4b., or 5.,~~ or (c). The use of this option can result in significant cost
13 savings for the state and local governments.

14 **SECTION 23.** 23.33 (13) (d) of the statutes is renumbered 23.33 (13) (d) 1. and
15 amended to read:

16 23.33 (13) (d) 1. In determining the number of previous convictions under par.
17 (b) 2. ~~and 3. to 5.,~~ convictions arising out of the same incident or occurrence shall be
18 counted as one previous conviction.

19 **SECTION 24.** 23.33 (13) (d) 2. of the statutes is created to read:

20 23.33 (13) (d) 2. In determining the number of previous convictions under par.
21 (b) 2. to 5., previous convictions under the intoxicated operation of an all-terrain or
22 utility terrain vehicle law or under the all-terrain or utility terrain vehicle refusal
23 law that occurred before, on, or after the effective date of this subdivision [LRB
24 inserts date], and previous convictions under the intoxicated operation of an
25 off-highway motorcycle law, as defined in s. 23.335 (1) (L), the off-highway

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1 motorcycle refusal law, as defined in s. 23.335 (1) (tm), the intoxicated boating law,
2 as defined in s. 30.50 (4m), the boating refusal law, as defined in s. 30.50 (2c), the
3 intoxicated snowmobiling law, as defined in s. 350.01 (9c), or the snowmobiling
4 refusal law, as defined in s. 350.01 (17m), that occur after the effective date of this
5 subdivision [LRB inserts date], shall count as previous convictions.

6 **SECTION 25.** 23.33 (13) (dm) of the statutes is amended to read:

7 23.33 (13) (dm) *Reporting convictions to the department.* Whenever a person
8 is convicted of a violation of the intoxicated operation of an all-terrain vehicle or
9 utility terrain vehicle law or the all-terrain or utility terrain vehicle refusal law, the
10 ~~clerk of the court in which the conviction occurred, or the justice, judge or magistrate~~
11 ~~of a court not having a clerk,~~ shall forward to the department the record of such
12 conviction. The record of conviction forwarded to the department shall state whether
13 the offender was involved in an accident at the time of the offense.

14 **SECTION 26.** 23.33 (13) (eg) of the statutes is created to read:

15 23.33 (13) (eg) *Certificate of completion of safety program.* In addition to any
16 other penalty or order, a person who for the first time violates the intoxicated
17 operation of an all-terrain or utility terrain vehicle law or the all-terrain or utility
18 terrain vehicle refusal law shall be ordered by the court to obtain a certificate of
19 satisfactory completion of a safety program established under sub. (5) (d). If the
20 person has a valid certificate at the time that the court imposes a sentence for such
21 a violation, the court shall permanently revoke the certificate and order the person
22 to obtain another certificate of satisfactory completion of the safety program.

23 **SECTION 27.** 23.335 (1) (km) of the statutes is created to read:

24 23.335 (1) (km) “Intoxicated operating law” means the intoxicated operation
25 of an off-highway motorcycle law, the intoxicated operation of an all-terrain or

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1 utility terrain vehicle law, as defined in s. 23.33 (1) (ic), the intoxicated boating law,
2 as defined in s. 30.50 (4m), or the intoxicated snowmobiling law, as defined in s.
3 350.01 (9c).

4 **SECTION 28.** 23.335 (1) (nm) of the statutes is created to read:

5 23.335 (1) (nm) “Legal drinking age” means 21 years of age.

6 **SECTION 29.** 23.335 (1) (zdr) of the statutes is created to read:

7 23.335 (1) (zdr) “Public premises” means all premises held out to the public for
8 use of a motor vehicle, including highways, all premises provided by employers to
9 employees for the use of their motor vehicles, and all premises provided to tenants
10 of rental housing in buildings of 4 or more units for the use of their motor vehicles,
11 whether such premises are publicly or privately owned and whether or not a fee is
12 charged for the use of those premises.

13 **SECTION 30.** 23.335 (1) (zer) of the statutes is created to read:

14 23.335 (1) (zer) “Recreational vehicle” means an off-highway motorcycle, an
15 all-terrain vehicle as defined in s. 23.33 (1) (b), a utility terrain vehicle as defined
16 in s. 23.33 (1) (ng), a recreational motorboat as defined in s. 30.50 (9m), or a
17 snowmobile, as defined in s. 340.01 (58a).

18 **SECTION 31.** 23.335 (1) (zet) of the statutes is created to read:

19 23.335 (1) (zet) “Recreational vehicle and boating refusal law” means the
20 off-highway motorcycle refusal law, the all-terrain or utility terrain vehicle refusal
21 law, as defined in s. 23.33 (1) (jm), the boating refusal law, as defined in s. 30.50 (2c),
22 or the snowmobiling refusal law, as defined in s. 350.01 (17m).

23 **SECTION 32.** 23.335 (1) (zf) of the statutes is renumbered 23.335 (1) (tm) and
24 amended to read:

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1 23.335 (1) (tm) ~~“Refusal~~ “Off-highway motorcycle refusal law” means sub. (12)
2 (h) or a local ordinance in conformity therewith.

3 **SECTION 33.** 23.335 (12) (a) 3. of the statutes is amended to read:

4 23.335 (12) (a) 3. If a A person who has not attained the legal drinking age of
5 ~~21~~, the person may not engage in the operation of an off-highway motorcycle while
6 he or she has an alcohol concentration of more than 0.0 but ~~not more~~ less than 0.08.

7 **SECTION 34.** 23.335 (12) (a) 4. of the statutes is amended to read:

8 23.335 (12) (a) 4. A person may be charged with and a prosecutor may proceed
9 upon a complaint based upon a violation of any combination of subd. 1., 2., or 2m. for
10 acts arising out of the same incident or occurrence. If the person is charged with
11 violating any combination of subd. 1., 2., or 2m., the offenses shall be joined. If the
12 person is found guilty of any combination of subd. 1., 2., or 2m. for acts arising out
13 of the same incident or occurrence, there shall be a single conviction for purposes of
14 sentencing and for purposes of counting convictions under sub. (23) (c) 2. ~~and 3.~~ to
15 5. Subdivisions 1., 2., and 2m. each require proof of a fact for conviction ~~which~~ that
16 the others do not require.

17 **SECTION 35.** 23.335 (12) (b) 3. of the statutes is amended to read:

18 23.335 (12) (b) 3. A person may be charged with and a prosecutor may proceed
19 upon a complaint based upon a violation of any combination of subd. 1., 2., or 2m. for
20 acts arising out of the same incident or occurrence. If the person is charged with
21 violating any combination of subd. 1., 2., or 2m. in the complaint, the crimes shall be
22 joined under s. 971.12. If the person is found guilty of any combination of subd. 1.,
23 2., or 2m. for acts arising out of the same incident or occurrence, there shall be a
24 single conviction for purposes of sentencing and for purposes of counting convictions

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1 under sub. (23) (c) 2. ~~and 3.~~ to 5. Subdivisions 1., 2., and 2m. each require proof of
2 a fact for conviction ~~which~~ that the others do not require.

3 **SECTION 36.** 23.335 (12) (j) of the statutes is amended to read:

4 23.335 (12) (j) *Report of arrest to department.* If a law enforcement officer
5 arrests a person for a violation of the intoxicated operation of an off-highway
6 motorcycle law or the off-highway motorcycle refusal law, the law enforcement
7 officer shall notify the department of the arrest as soon as practicable.

8 **SECTION 37.** 23.335 (12) (km) of the statutes is created to read:

9 23.335 (12) (km) *Suspension or revocation of operating privileges.* 1. 'Orders
10 to suspend or revoke.' a. If a court imposes a penalty for a violation of the intoxicated
11 operation of an off-highway motorcycle law or the off-highway motorcycle refusal
12 law, the court shall order the suspension of the person's privilege to operate a
13 recreational vehicle for a period of not less than 12 months and not more than 16
14 months. As part of the order, the court may authorize the person to operate an
15 off-highway motorcycle exclusively on land under the management and control of
16 the person's immediate family if the court finds that such operation is essential for
17 the purpose of engaging in an occupation or trade. Whenever a court suspends an
18 operating privilege under this subd. 1. a., the court shall notify the department of
19 that action.

20 b. In addition to the order under subd. 1. a., the court shall also order the
21 revocation of the person's privilege to operate a motor vehicle on public premises if
22 the person, within 5 years prior to the arrest for the current violation of the
23 intoxicated operation of an off-highway motorcycle law or the off-highway
24 motorcycle refusal law, violated the intoxicated operating law or the recreational
25 vehicle and boating refusal law. The period of revocation shall be not less than 6

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1 months and not more than 12 months. Whenever a court revokes an operating
2 privilege under this subd. 1. b., the court may take possession of the revoked license.
3 If the court takes possession of the revoked license, the court shall destroy the
4 license. The court shall forward to the department of transportation the record of the
5 conviction and notice of revocation. The person is eligible for an occupational license
6 under s. 343.10 at any time.

7 2. 'Operating while suspended or revoked.' a. No person may operate a
8 recreational vehicle in violation of a suspension order imposed under subd. 1. a.

9 b. No person may operate an off-highway motorcycle during the time that the
10 person's motor vehicle operating privilege is suspended or revoked for a conviction
11 counted under s. 343.307 (1).

12 **SECTION 38.** 23.335 (23) (c) 1. of the statutes is amended to read:

13 23.335 (23) (c) 1. Except as provided under subds. ~~2., 3., and 4.~~ to 5., a person
14 who violates sub. (12) (a) 1., 2., or 2m. or (h) shall forfeit not less than ~~\$150~~ \$400 nor
15 more than ~~\$300~~ \$550.

16 **SECTION 39.** 23.335 (23) (c) 2. of the statutes is amended to read:

17 23.335 (23) (c) 2. ~~Except as provided under subds. 3. and 4., a~~ A person who
18 violates sub. (12) (a) 1., 2., or 2m. ~~or (h)~~ and who, within 5 years prior to the arrest
19 for the current violation, was convicted one time previously under the intoxicated
20 ~~operation of an off-highway motorcycle operating law or the recreational vehicle and~~
21 boating refusal law shall be fined not less than \$300 nor more than \$1,100 and shall
22 be imprisoned not less than 5 days nor more than ~~6 months~~ one year in the county
23 jail.

24 **SECTION 40.** 23.335 (23) (c) 3. of the statutes is amended to read:

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1 23.335 (23) (c) 3. ~~Except as provided in subd. 4., a~~ A person who violates sub.
2 (12) (a) 1., 2., or 2m. ~~or (h)~~ and who, within 5 years prior to the arrest for the current
3 violation, was convicted 2 ~~or more~~ times previously under the intoxicated operation
4 of an off-highway motorcycle operating law, the recreational vehicle and boating
5 refusal law, or any combination of these laws, shall be fined not less than \$600 nor
6 more than \$2,000 and shall be imprisoned not less than 30 days nor more than one
7 year in the county jail.

8 **SECTION 41.** 23.335 (23) (c) 4. of the statutes is renumbered 23.335 (23) (c) 6.
9 and amended to read:

10 23.335 (23) (c) 6. A person who violates sub. (12) (a) 3. or who violates sub. (12)
11 (h) and who has not attained the legal drinking age of 21 shall forfeit ~~not more than~~
12 \$50.

13 **SECTION 42.** 23.335 (23) (c) 4b. of the statutes is created to read:

14 23.335 (23) (c) 4b. A person who violates sub. (12) (a) 1., 2., or 2m. and who,
15 within 5 years prior to the arrest for the current violation, was convicted 3 times
16 previously under the intoxicated operating law, the recreational vehicle and boating
17 refusal law, or any combination of these laws, shall be fined not less than \$600 nor
18 more than \$2,000 and shall be imprisoned not less than 60 days nor more than one
19 year in the county jail.

20 **SECTION 43.** 23.335 (23) (c) 5. of the statutes is created to read:

21 23.335 (23) (c) 5. A person who violates sub. (12) (a) 1., 2., or 2m. and who,
22 within 5 years prior to the arrest for the current violation, was convicted 4 or more
23 times previously under the intoxicated operating law, the recreational vehicle and
24 boating refusal law, or any combination of these laws, shall be fined not less than

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1 \$600 nor more than \$2,000 and shall be imprisoned not less than 6 months nor more
2 than one year in the county jail.

3 **SECTION 44.** 23.335 (23) (cg) of the statutes is created to read:

4 23.335 (23) (cg) *Penalties related to intoxicated operation; underage*
5 *passengers.* If there is a passenger under 16 years of age on the off-road motorcycle
6 at the time of a violation that gives rise to a conviction under sub. (12) (a) 1., 2., or
7 2m. or (h), the applicable minimum and maximum forfeitures, fines, and terms of
8 imprisonment under par. (c) 1. to 5. for the conviction are doubled.

9 **SECTION 45.** 23.335 (23) (dm) of the statutes is created to read:

10 23.335 (23) (dm) *Alcohol and drug treatment alternatives.* 1. In any county
11 that opts to offer a reduced minimum period of imprisonment for the successful
12 completion of a probation period that includes alcohol and other drug treatment, if
13 the number of suspensions, revocations, and convictions for a violation of the
14 intoxicated operation of an off-highway motorcycle law or of the off-highway
15 motorcycle refusal law within a 5-year period equals 2, except that suspensions,
16 revocations, or convictions arising out of the same incident or occurrence shall be
17 counted as one, the fine shall be the same as under par. (c) 2., but the period of
18 imprisonment shall be not less than 5 days, except that if the person successfully
19 completes a period of probation that includes alcohol and other drug treatment, the
20 period of imprisonment shall be not less than 5 nor more than 7 days.

21 2. In any county that opts to offer a reduced minimum period of imprisonment
22 for the successful completion of a probation period that includes alcohol and other
23 drug treatment, if the number of suspensions, revocations, and convictions for a
24 violation of the intoxicated operation of an off-highway motorcycle law or of the
25 off-highway motorcycle refusal law within a 5-year period equals 3, except that

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1 suspensions, revocations, or convictions arising out of the same incident or
2 occurrence shall be counted as one, the fine shall be the same as under par. (c) 3., but
3 the period of imprisonment shall be not less than 30 days, except that if the person
4 successfully completes a period of probation that includes alcohol and other drug
5 treatment, the period of imprisonment shall be not less than 14 days.

6 3. In any county that opts to offer a reduced minimum period of imprisonment
7 for the successful completion of a probation period that includes alcohol and other
8 drug treatment, if the number of suspensions, revocations, and convictions for a
9 violation of the intoxicated operation of an off-highway motorcycle law or of the
10 off-highway motorcycle refusal law within a 5-year period equals 4, except that
11 suspensions, revocations, or convictions arising out of the same incident or
12 occurrence shall be counted as one, the fine shall be the same as under par. (c) 4b.,
13 but the period of imprisonment shall be not less than 60 days, except that if the
14 person successfully completes a period of probation that includes alcohol and other
15 drug treatment, the period of imprisonment shall be not less than 29 days.

16 4. A person may be sentenced under this paragraph or under s. 23.33 (13) (bm),
17 30.80 (6) (ar), or 350.11 (3) (ar) once in his or her lifetime.

18 **SECTION 46.** 23.335 (23) (dr) of the statutes is created to read:

19 23.335 (23) (dr) *Penalties related to suspension and revocation.* 1. A person
20 who operates a recreational vehicle in violation of sub. (12) (km) 2. a. is subject to a
21 forfeiture of not less than \$50 nor more than \$250. In addition, for each such
22 violation, the court may suspend the person's privilege to operate a recreational
23 vehicle for a period of not more than 6 months. Whenever a court suspends an
24 operating privilege under this subdivision, the court shall notify the department of
25 that action.

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1 2. A person who operates an off-highway motorcycle in violation of sub. (12)
2 (km) 2. b. is subject to a forfeiture of not less than \$150 nor more than \$300. In
3 addition, the court may suspend the person's privilege to operate a recreational
4 vehicle for a period of not more than 6 months. Whenever a court suspends an
5 operating privilege under this subdivision, the court shall notify the department of
6 that action.

7 **SECTION 47.** 23.335 (23) (fm) of the statutes is created to read:

8 23.335 (23) (fm) *Sentence of detention.* The legislature intends that courts use
9 the sentencing option under s. 973.03 (4) whenever appropriate for persons subject
10 to par. (c) 2., 3., 4b., or 5. or (d). The use of this option can result in significant cost
11 savings for the state and local governments.

12 **SECTION 48.** 23.335 (23) (g) of the statutes is renumbered 23.335 (23) (g) 1. and
13 amended to read:

14 23.335 (23) (g) 1. In determining the number of previous convictions under
15 pars. (c) 2. ~~and 3.~~ to 5. and (e), convictions arising out of the same incident or
16 occurrence shall be counted as one previous conviction.

17 **SECTION 49.** 23.335 (23) (g) 2. of the statutes is created to read:

18 23.335 (23) (g) 2. In determining the number of previous convictions under par.
19 (b) 2. to 5., previous convictions under the intoxicated operation of an off-highway
20 motorcycle law or under the off-highway motorcycle refusal law that occurred
21 before, on, or after the effective date of this subdivision [LRB inserts date], and
22 previous convictions under the intoxicated operation of an all-terrain or utility
23 terrain vehicle law, as defined in s. 23.33 (1) (ic), the all-terrain or utility terrain
24 vehicle refusal law, as defined in s. 23.33 (1) (at), the intoxicated boating law, as
25 defined in s. 30.50 (4m), the boating refusal law, as defined in s. 30.50 (2c), the

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1 intoxicated snowmobiling law, as defined in s. 350.01 (9c), or the snowmobiling
2 refusal law, as defined in s. 350.01 (17m), that occur after the effective date of this
3 subdivision ... [LRB inserts date], shall count as previous convictions.

4 **SECTION 50.** 23.335 (23) (h) of the statutes is amended to read:

5 23.335 (23) (h) *Reporting convictions to the department.* Whenever a person
6 is convicted of a violation of the intoxicated operation of an off-highway motorcycle
7 law or the off-highway motorcycle refusal law, the ~~clerk~~ of the court in which the
8 conviction occurred, ~~or the justice, judge, or magistrate of a court not having a clerk,~~
9 shall forward to the department the record of such conviction. The record of
10 conviction forwarded to the department shall state whether the offender was
11 involved in an accident at the time of the offense.

12 **SECTION 51.** 23.335 (23) (im) of the statutes is created to read:

13 23.335 (23) (im) *Certificate of completion of safety program.* In addition to any
14 other penalty or order, a person who for the first time violates the intoxicated
15 operation of an off-highway motorcycle law or the off-highway motorcycle refusal
16 law shall be ordered by the court to obtain a certificate of satisfactory completion of
17 a safety program established under sub. (14). If the person has a valid certificate at
18 the time that the court imposes a sentence for such a violation, the court shall
19 permanently revoke the certificate and order the person to obtain another certificate
20 of satisfactory completion of the safety program.

21 **SECTION 52.** 30.50 (4n) of the statutes is created to read:

22 30.50 (4n) "Intoxicated operating law" means the intoxicated operation of an
23 all-terrain or utility terrain vehicle law, as defined in s. 23.33 (1) (ic), the intoxicated
24 operation of an off-highway motorcycle law, as defined in s. 23.335 (1) (km), the

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1 intoxicated boating law, or the intoxicated snowmobiling law, as defined in s. 350.01
2 (9c).

3 **SECTION 53.** 30.50 (4v) of the statutes is created to read:

4 30.50 (4v) “Legal drinking age” means 21 years of age.

5 **SECTION 54.** 30.50 (9fm) of the statutes is created to read:

6 30.50 (9fm) “Public premises” means all premises held out to the public for use
7 of a motor vehicle, including highways, all premises provided by employers to
8 employees for the use of their motor vehicles, and all premises provided to tenants
9 of rental housing in buildings of 4 or more units for the use of their motor vehicles,
10 whether such premises are publicly or privately owned and whether or not a fee is
11 charged for the use of those premises.

12 **SECTION 55.** 30.50 (9m) of the statutes is created to read:

13 30.50 (9m) “Recreational motorboat” means a motorboat that is not a
14 commercial motorboat.

15 **SECTION 56.** 30.50 (9s) of the statutes is created to read:

16 30.50 (9s) “Recreational vehicle” means an all-terrain vehicle, as defined in s.
17 340.01 (2g), a utility terrain vehicle, as defined in s. 23.33 (1) (ng), an off-highway
18 motorcycle, as defined in s. 23.335 (1) (q), a recreational motorboat, or a snowmobile,
19 as defined in s. 340.01 (58a).

20 **SECTION 57.** 30.50 (9t) of the statutes is created to read:

21 30.50 (9t) “Recreational vehicle and boating refusal law” means the all-terrain
22 or utility terrain vehicle refusal law, as defined in s. 23.33 (1) (at), the off-highway
23 motorcycle refusal law, as defined in s. 23.335 (1) (tm), the boating refusal law, or the
24 snowmobiling refusal law, as defined in s. 350.01 (17m).

ASSEMBLY BILL 356**SECTION 58**

1 **SECTION 58.** 30.50 (9x) of the statutes is renumbered 30.50 (2c) and amended
2 to read:

3 30.50 (2c) “~~Refusal~~ “Boating refusal law” means s. 30.684 (5) or a local
4 ordinance in conformity with that subsection.

5 **SECTION 59.** 30.681 (1) (bn) of the statutes is amended to read:

6 30.681 (1) (bn) *Operating with alcohol concentrations at specified levels; below*
7 *legal drinking age.* A person who has not attained the legal drinking age, ~~as defined~~
8 ~~in s. 125.02 (8m)~~, may not engage in the operation of a motorboat while he or she has
9 ~~a blood~~ an alcohol concentration of more than 0.0 but less than 0.08.

10 **SECTION 60.** 30.681 (1) (c) of the statutes is amended to read:

11 30.681 (1) (c) *Related charges.* A person may be charged with and a prosecutor
12 may proceed upon a complaint based upon a violation of any combination of par. (a)
13 or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence. If the person
14 is charged with violating any combination of par. (a) or (b) 1., 1m., or 2., the offenses
15 shall be joined. If the person is found guilty of any combination of par. (a) or (b) 1.,
16 1m., or 2. for acts arising out of the same incident or occurrence, there shall be a
17 single conviction for purposes of sentencing and for purposes of counting convictions
18 under s. 30.80 (6) (a) 2. ~~and 3. to 5.~~ Paragraphs (a) and (b) 1., 1m., and 2. each require
19 proof of a fact for conviction ~~which~~ that the others do not require.

20 **SECTION 61.** 30.681 (2) (c) of the statutes is amended to read:

21 30.681 (2) (c) *Related charges.* A person may be charged with and a prosecutor
22 may proceed upon a complaint based upon a violation of any combination of par. (a)
23 or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence. If the person
24 is charged with violating any combination of par. (a) or (b) 1., 1m., or 2. in the
25 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty

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1 of any combination of par. (a) or (b) 1., 1m., or 2. for acts arising out of the same
2 incident or occurrence, there shall be a single conviction for purposes of sentencing
3 and for purposes of counting convictions under s. 30.80 (6) (a) 2. ~~and 3.~~ to 5.
4 Paragraphs (a) and (b) 1., 1m., and 2. each require proof of a fact for conviction ~~which~~
5 that the others do not require.

6 **SECTION 62.** 30.681 (2) (d) 1. a. of the statutes is amended to read:

7 30.681 (2) (d) 1. a. In an action under this subsection for a violation of the
8 intoxicated boating law where the defendant was operating a recreational motorboat
9 ~~that is not a commercial motorboat~~, the defendant has a defense if he or she proves
10 by a preponderance of the evidence that the injury would have occurred even if he
11 or she had been exercising due care and he or she had not been under the influence
12 of an intoxicant or did not have an alcohol concentration of 0.08 or more or a
13 detectable amount of a restricted controlled substance in his or her blood.

14 **SECTION 63.** 30.686 of the statutes is amended to read:

15 **30.686 Report arrest to department.** If a law enforcement officer arrests
16 a person for a violation of the intoxicated boating law or the boating refusal law, the
17 law enforcement officer shall notify the department of the arrest as soon as
18 practicable.

19 **SECTION 64.** 30.688 of the statutes is created to read:

20 **30.688 Suspension or revocation of operating privileges. (1) ORDERS TO**
21 **SUSPEND OR REVOKE.** (a) If a court imposes a penalty for a violation of the intoxicated
22 boating law or the boating refusal law and if the violation involved the operation of
23 a recreational motorboat, the court shall order the suspension of the person's
24 privilege to operate a recreational vehicle for a period of not less than 12 months and
25 not more than 16 months. As part of the order, the court may authorize the person

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1 to operate a recreational motorboat if the court finds that such operation is essential
2 for the purpose of engaging in an occupation or trade. Whenever a court suspends
3 an operating privilege under this paragraph, the court shall notify the department
4 of that action.

5 (b) In addition to the order under par. (a), the court shall also order the
6 revocation of the person's privilege to operate a motor vehicle on public premises, as
7 defined in s. 23.33 (1) (jd), if the person, within 5 years prior to the arrest for the
8 current violation subject to the order under par. (a), violated the intoxicated
9 operating law or the recreational vehicle and boating refusal law. The period of
10 revocation shall be not less than 6 months and not more than 12 months. Whenever
11 a court revokes an operating privilege under this paragraph, the court may take
12 possession of the revoked license. If the court takes possession of the revoked license,
13 the court shall destroy the license. The court shall forward to the department of
14 transportation the record of the conviction and notice of revocation. The person is
15 eligible for an occupational license under s. 343.10 at any time.

16 **(2) OPERATING WHILE SUSPENDED OR REVOKED.** (a) No person may operate a
17 recreational vehicle in violation of a suspension order imposed under sub. (1) (a).

18 (b) No person may operate a recreational motorboat during the time that the
19 person's motor vehicle operating privilege is suspended or revoked for a conviction
20 counted under s. 343.307 (1).

21 **SECTION 65.** 30.74 (1) (bn) of the statutes is amended to read:

22 30.74 (1) (bn) A certificate issued to a person under this subsection is valid for
23 life unless the certificate or the person's privilege to operate a recreational motorboat
24 is suspended or revoked by a court under s. 30.688 (1) (a), 30.80 (2m) or (6) (e), or
25 938.343 (5).

ASSEMBLY BILL 356**SECTION 66**

1 **SECTION 66.** 30.80 (6) (a) 1. of the statutes is amended to read:

2 30.80 **(6)** (a) 1. Except as provided under subds. 2. to 5., a person who violates
3 s. 30.681 (1) (a) or (b), ~~a local ordinance in conformity with s. 30.681 (1) (a) or (b) or~~
4 ~~the refusal law~~ 30.684 (5) shall forfeit not less than \$150 \$400 nor more than \$300
5 \$550.

6 **SECTION 67.** 30.80 (6) (a) 2. of the statutes is amended to read:

7 30.80 **(6)** (a) 2. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~
8 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law~~ and who, within 5 years
9 prior to the arrest for the current violation, was convicted one time previously under
10 the intoxicated boating operating law or the recreational vehicle and boating refusal
11 law shall be fined not less than \$300 nor more than \$1,000 \$1,100 and shall be
12 imprisoned for not less than 5 days nor more than ~~6 months~~ one year in the county
13 jail.

14 **SECTION 68.** 30.80 (6) (a) 3. of the statutes is amended to read:

15 30.80 **(6)** (a) 3. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~
16 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law~~ and who, within 5 years
17 prior to the arrest for the current violation, was convicted 2 times previously under
18 the intoxicated boating operating law ~~or, the recreational vehicle and boating~~ refusal
19 law, or any combination of these laws, shall be fined not less than \$600 nor more than
20 \$2,000 and shall be imprisoned for not less than 30 days nor more than one year in
21 the county jail.

22 **SECTION 69.** 30.80 (6) (a) 4. of the statutes is amended to read:

23 30.80 **(6)** (a) 4. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~
24 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law~~ and who, within 5 years
25 prior to the arrest for the current violation, was convicted 3 times previously under

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1 the intoxicated boating operating law ~~or, the recreational vehicle and boating refusal~~
2 law, ~~or any combination of these laws~~, shall be fined not less than \$600 nor more than
3 \$2,000 and shall be imprisoned for not less than 60 days nor more than one year in
4 the county jail.

5 **SECTION 70.** 30.80 (6) (a) 5. of the statutes is amended to read:

6 30.80 (6) (a) 5. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~
7 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law~~ and who, within 5 years
8 prior to the arrest for the current violation, was convicted 4 or more times previously
9 under the intoxicated boating operating law ~~or, the recreational vehicle and boating~~
10 refusal law, ~~or any combination of these laws~~, shall be fined not less than \$600 nor
11 more than \$2,000 and shall be imprisoned for not less than 6 months nor more than
12 one year in the county jail.

13 **SECTION 71.** 30.80 (6) (a) 6. of the statutes is amended to read:

14 30.80 (6) (a) 6. A person who violates s. 30.681 (1) (bn) or ~~a local ordinance in~~
15 ~~conformity with s. 30.681 (1) (bn)~~ who violates s. 30.684 (5) and has not attained the
16 legal drinking age shall forfeit \$50.

17 **SECTION 72.** 30.80 (6) (am) of the statutes is created to read:

18 30.80 (6) (am) *Penalties related to operating with underage passengers.* If there
19 is a passenger under 16 years of age in a motorboat at the time of a violation that
20 gives rise to a conviction under s. 30.681 (1) (a) or (b) 1. or 1m. or 30.684 (5), the
21 applicable minimum and maximum forfeitures, fines, and terms of imprisonment
22 under par. (a) 1. to 5. for the conviction are doubled.

23 **SECTION 73.** 30.80 (6) (ar) of the statutes is created to read:

24 30.80 (6) (ar) *Alcohol and drug treatment alternatives.* 1. In any county that
25 opts to offer a reduced minimum period of imprisonment for the successful

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1 completion of a probation period that includes alcohol and other drug treatment, if
2 the number of suspensions, revocations, and convictions for a violation of the
3 intoxicated boating law or the boating refusal law within a 5-year period equals 2,
4 except that suspensions, revocations, or convictions arising out of the same incident
5 or occurrence shall be counted as one, the fine shall be the same as under par. (a) 2.,
6 but the period of imprisonment shall be not less than 5 days, except that if the person
7 successfully completes a period of probation that includes alcohol and other drug
8 treatment, the period of imprisonment shall be not less than 5 nor more than 7 days.

9 2. In any county that opts to offer a reduced minimum period of imprisonment
10 for the successful completion of a probation period that includes alcohol and other
11 drug treatment, if the number of suspensions, revocations, and convictions for a
12 violation of the intoxicated boating law or the boating refusal law within a 5-year
13 period equals 3, except that suspensions, revocations, or convictions arising out of
14 the same incident or occurrence shall be counted as one, the fine shall be the same
15 as under par. (a) 3., but the period of imprisonment shall be not less than 30 days,
16 except that if the person successfully completes a period of probation that includes
17 alcohol and other drug treatment, the period of imprisonment shall be not less than
18 14 days.

19 3. In any county that opts to offer a reduced minimum period of imprisonment
20 for the successful completion of a probation period that includes alcohol and other
21 drug treatment, if the number of suspensions, revocations, and convictions for a
22 violation of the intoxicated boating law or the boating refusal law within a 5-year
23 period equals 4, except that suspensions, revocations, or convictions arising out of
24 the same incident or occurrence shall be counted as one, the fine shall be the same
25 as under par. (a) 4., but the period of imprisonment shall be not less than 60 days,

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1 except that if the person successfully completes a period of probation that includes
2 alcohol and other drug treatment, the period of imprisonment shall be not less than
3 29 days.

4 4. A person may be sentenced under this paragraph or under s. 23.33 (13) (bm),
5 23.335 (23) (dm), or 350.11 (3) (ar) once in his or her lifetime.

6 **SECTION 74.** 30.80 (6) (bg) of the statutes is created to read:

7 30.80 (6) (bg) *Penalties related to suspension and revocation.* 1. A person who
8 operates a recreational vehicle in violation of s. 30.688 (2) (a) is subject to a forfeiture
9 of not less than \$50 nor more than \$250. In addition, for each such violation, the court
10 may suspend the person's privilege to operate a recreational vehicle for a period of
11 not more than 6 months. Whenever a court suspends an operating privilege under
12 this subdivision, the court shall notify the department of that action.

13 2. A person who operates a recreational motorboat in violation of s. 30.688 (2)
14 (b) is subject to a forfeiture of not less than \$150 nor more than \$300. In addition,
15 the court may suspend the person's privilege to operate a recreational vehicle for a
16 period of not more than 6 months. Whenever a court suspends an operating privilege
17 under this subdivision, the court shall notify the department of that action.

18 **SECTION 75.** 30.80 (6) (bn) of the statutes is created to read:

19 30.80 (6) (bn) *Sentence of detention.* The legislature intends that courts use the
20 sentencing option under s. 973.03 (4) whenever appropriate for persons subject to
21 par. (a) 2., 3., 4., or 5. or (b). The use of this option can result in significant cost savings
22 for the state and local governments.

23 **SECTION 76.** 30.80 (6) (c) of the statutes is renumbered 30.80 (6) (c) 1.

24 **SECTION 77.** 30.80 (6) (c) 2. of the statutes is created to read:

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1 30.80 (6) (c) 2. In determining the number of previous convictions under par.
2 (a) 2. to 5., previous convictions under the intoxicated boating law or the boating
3 refusal law that occurred before, on, or after the effective date of this subdivision ...
4 [LRB inserts date], and previous convictions under the intoxicated operation of an
5 all-terrain or utility terrain vehicle law, as defined in s. 23.33 (1) (ic), the all-terrain
6 or utility terrain vehicle refusal law, as defined in s. 23.33 (1) (at), the intoxicated
7 operation of an off-highway motorcycle law, as defined in s. 23.335 (1) (L), the
8 off-highway motorcycle refusal law, as defined in s. 23.335 (1) (tm), the intoxicated
9 snowmobiling law, as defined in s. 350.01 (9c), or the snowmobiling refusal law, as
10 defined in s. 350.01 (17m), that occur after the effective date of this subdivision ...
11 [LRB inserts date], shall count as previous convictions.

12 **SECTION 78.** 30.80 (6) (cm) of the statutes is created to read:

13 30.80 (6) (cm) *Reporting convictions to the department.* Whenever a person is
14 convicted of a violation of the intoxicated boating law or the boating refusal law, the
15 court in which the conviction occurred shall forward to the department the record of
16 such conviction. The record of conviction forwarded to the department shall state
17 whether the offender was involved in an accident at the time of the offense.

18 **SECTION 79.** 30.80 (6) (e) of the statutes is amended to read:

19 30.80 (6) (e) *Certificate of satisfactory completion of safety course.* In addition
20 to any other penalty or order, a person who for the first time violates s. ~~30.681 (1) or~~
21 ~~(2) or 30.684 (5) or who violates s. 940.09 or 940.25 if the violation involves the~~
22 operation of a motorboat, the intoxicated boating law or the boating refusal law shall
23 be ordered by the court to obtain a certificate of satisfactory completion of a safety
24 course under s. 30.74 (1). If the person has a valid certificate at the time that the
25 court imposes a sentence for such a violation, the court shall permanently revoke the

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1 certificate and order the person to obtain ~~a~~ another certificate of satisfactory
2 completion of ~~a~~ the safety course under ~~s. 30.74 (1).~~

3 **SECTION 80.** 59.54 (14) (g) of the statutes is amended to read:

4 59.54 (14) (g) A county may establish extensions of the jail, which need not be
5 at the county seat, to serve as places of temporary confinement. No person may be
6 detained in such an extension for more than 24 consecutive hours, except that a court
7 may order that a person subject to imprisonment under s. 23.33 (13) (b) 2. ~~or~~, 3., 4b.
8 or 5. or (c), 23.335 (23) (c) 2. ~~or~~, 3., 4b., or 5. or (d), 30.80 (6) (a) 2., 3., 4., or 5. or (b),
9 or 350.11 (3) (a) 2. ~~or~~, 3., 4b., or 5. or (b) be imprisoned for more than 24 consecutive
10 hours in such an extension. Jail extensions shall be subject to the approval of plans
11 and specifications ~~approval~~ by the department of corrections and shall conform to
12 other requirements imposed by law on jails, except that cells may be designed and
13 used for multiple occupancy.

14 **SECTION 81.** 343.10 (1) (a) of the statutes is amended to read:

15 343.10 (1) (a) If a person's license or operating privilege is revoked or
16 suspended under this chapter or s. 23.33 (4y) (a) 2., 23.335 (12) (km) 1. b., 30.688 (1)
17 (b), 350.1075 (1) (b), 767.73, 938.34 (14q), 943.21 (3m), or 961.50 and if the person
18 is engaged in an occupation, including homemaking or full-time or part-time study,
19 or a trade making it essential that he or she operate a motor vehicle, the person, after
20 payment of the fee provided in sub. (6), may file an application with the department
21 setting forth in detail the need for operating a motor vehicle. No person may file more
22 than one application with respect to each revocation or suspension of the person's
23 license or operating privilege under this chapter or s. 23.33 (4y) (a) 2., 23.335 (12)
24 (km) 1. b., 30.688 (1) (b), 350.1075 (1) (b), 767.73, 938.34 (14q), 943.21 (3m), or 961.50,

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1 except that this limitation does not apply to an application to amend an occupational
2 license restriction.

3 **SECTION 82.** 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. 23.33 (4y) (a) 2.,
8 23.335 (12) (km) 1. b., 30.688 (1) (b), 350.1075 (1) (b), 943.21 (3m) or 961.50 within
9 the one-year period immediately preceding the present revocation or suspension,
10 except as provided in s. 344.40.

11 **SECTION 83.** 343.10 (9) of the statutes is amended to read:

12 343.10 (9) NOTICE. The department shall inform a person whose operating
13 privilege is revoked or suspended under this chapter or chs. 23, 30, or 350 of his or
14 her right to apply to the department for issuance of an occupational license under
15 this section.

16 **SECTION 84.** 343.21 (1) (jr) of the statutes is amended to read:

17 343.21 (1) (jr) In addition to any other fee under this subsection, for
18 reinstatement of an operating privilege previously revoked or suspended under s.
19 23.33 (4y) (a) 2., 23.335 (12) (km) 1. b., 30.688 (1) (b), 343.305 (7), or 350.1075 (1) (b)
20 or resulting from the commission of an offense listed in s. 343.307, \$140.

21 **SECTION 85.** 350.01 (9b) of the statutes is created to read:

22 350.01 (9b) "Intoxicated operating law" means the intoxicated operation of an
23 all-terrain or utility terrain vehicle law, as defined in s. 23.33 (1) (ic), the intoxicated
24 operation of an off-highway motorcycle law, as defined in s. 23.335 (1) (km), the

ASSEMBLY BILL 356**SECTION 85**

1 intoxicated boating law, as defined in s. 30.50 (4m), or the intoxicated snowmobiling
2 law.

3 **SECTION 86.** 350.01 (10c) of the statutes is created to read:

4 350.01 (10c) "Public premises" means all premises held out to the public for use
5 of a motor vehicle, including highways, all premises provided by employers to
6 employees for the use of their motor vehicles, and all premises provided to tenants
7 of rental housing in buildings of 4 or more units for the use of their motor vehicles,
8 whether such premises are publicly or privately owned and whether or not a fee is
9 charged for the use of those premises.

10 **SECTION 87.** 350.01 (10p) of the statutes is created to read:

11 350.01 (10p) "Recreational vehicle" means an all-terrain vehicle, as defined
12 in s. 340.01 (2g), a utility terrain vehicle, as defined in s. 23.33 (1) (ng), an
13 off-highway motorcycle, as defined in s. 23.335 (1) (q), a recreational motorboat, as
14 defined in s. 30.50 (9m), or a snowmobile.

15 **SECTION 88.** 350.01 (10q) of the statutes is created to read:

16 350.01 (10q) "Recreational vehicle and boating refusal law" means the
17 all-terrain or utility terrain vehicle refusal law, as defined in s. 23.33 (1) (at), the
18 off-highway motorcycle refusal law, as defined in s. 23.335 (1) (tm), the boating
19 refusal law, as defined in s. 30.50 (2c), or the snowmobiling refusal law.

20 **SECTION 89.** 350.01 (10r) of the statutes is renumbered 350.01 (17m) and
21 amended to read:

22 350.01 (17m) "~~Refusal~~ "Snowmobiling refusal law" means s. 350.104 (5) or a
23 local ordinance in conformity therewith.

24 **SECTION 90.** 350.101 (1) (d) of the statutes is amended to read:

ASSEMBLY BILL 356**SECTION 90**

1 350.101 (1) (d) *Related charges*. A person may be charged with and a prosecutor
2 may proceed upon a complaint based upon a violation of any combination of par. (a),
3 (b), or (bm) for acts arising out of the same incident or occurrence. If the person is
4 charged with violating any combination of par. (a), (b), or (bm), the offenses shall be
5 joined. If the person is found guilty of any combination of par. (a), (b), or (bm) for acts
6 arising out of the same incident or occurrence, there shall be a single conviction for
7 purposes of sentencing and for purposes of counting convictions under s. 350.11 (3)
8 (a) 2. ~~and 3.~~ to 5. Paragraphs (a), (b), and (bm) each require proof of a fact for
9 conviction ~~which~~ that the others do not require.

10 **SECTION 91.** 350.101 (2) (c) of the statutes is amended to read:

11 350.101 (2) (c) *Related charges*. A person may be charged with and a prosecutor
12 may proceed upon a complaint based upon a violation of any combination of par. (a),
13 (b), or (bm) for acts arising out of the same incident or occurrence. If the person is
14 charged with violating any combination of par. (a), (b), or (bm) in the complaint, the
15 crimes shall be joined under s. 971.12. If the person is found guilty of any
16 combination of par. (a), (b), or (bm) for acts arising out of the same incident or
17 occurrence, there shall be a single conviction for purposes of sentencing and for
18 purposes of counting convictions under s. 350.11 (3) (a) 2. ~~and 3.~~ to 5. Paragraphs
19 (a), (b), and (bm) each require proof of a fact for conviction ~~which~~ that the others do
20 not require.

21 **SECTION 92.** 350.106 of the statutes is amended to read:

22 **350.106 Report arrest to department.** If a law enforcement officer arrests
23 a person for a violation of the intoxicated snowmobiling law or the snowmobiling
24 refusal law, the law enforcement officer shall notify the department of the arrest as
25 soon as practicable.

ASSEMBLY BILL 356**SECTION 93**

1 **SECTION 93.** 350.1075 of the statutes is created to read:

2 **350.1075 Suspension or revocation of operating privileges. (1) ORDERS**
3 TO SUSPEND OR REVOKE. (a) If a court imposes a penalty for a violation of the
4 intoxicated snowmobiling law or the snowmobiling refusal law, the court shall order
5 the suspension of the person's privilege to operate a recreational vehicle for a period
6 of not less than 12 months and not more than 16 months. As part of the order, the
7 court may authorize the person to operate a snowmobile exclusively on land under
8 the management and control of the person's immediate family if the court finds that
9 such operation is essential for the purpose of engaging in an occupation or trade.
10 Whenever a court suspends an operating privilege under this paragraph, the court
11 shall notify the department of that action.

12 (b) In addition to the order under par. (a), the court shall also order the
13 revocation of the person's privilege to operate a motor vehicle on public premises, as
14 defined in s. 23.33 (1) (jd), if the person, within 5 years prior to the arrest for the
15 current violation of the intoxicated snowmobiling law or the snowmobiling refusal
16 law, violated the intoxicated operating law or the recreational vehicle and boating
17 refusal law. The period of revocation shall be not less than 6 months and not more
18 than 12 months. Whenever a court revokes an operating privilege under this
19 paragraph, the court may take possession of the revoked license. If the court takes
20 possession of the revoked license, the court shall destroy the license. The court shall
21 forward to the department of transportation the record of the conviction and notice
22 of revocation. The person is eligible for an occupational license under s. 343.10 at any
23 time.

24 **(2) OPERATING WHILE SUSPENDED OR REVOKED.** (a) No person may operate a
25 recreational vehicle in violation of a suspension order imposed under sub. (1) (a).

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1 (b) No person may operate a snowmobile during the time that the person's
2 motor vehicle operating privilege is suspended or revoked for a conviction counted
3 under s. 343.307 (1).

4 **SECTION 94.** 350.11 (3) (a) 1. of the statutes is amended to read:

5 350.11 (3) (a) 1. Except as provided under subds. 2. ~~and 3. to 5.~~, a person who
6 violates s. 350.101 (1) (a), (b), or (bm) or s. 350.104 (5) shall forfeit not less than \$400
7 nor more than \$550.

8 **SECTION 95.** 350.11 (3) (a) 2. of the statutes is amended to read:

9 350.11 (3) (a) 2. ~~Except as provided under subd. 3., a~~ A person who violates
10 s. 350.101 (1) (a), (b), or (bm) ~~or 350.104 (5)~~ and who, within 5 years prior to the arrest
11 for the current violation, was convicted one time previously under the intoxicated
12 snowmobiling operating law or the recreational vehicle and boating refusal law shall
13 be fined not less than \$300 nor more than ~~\$1,000~~ \$1,100 and shall be imprisoned not
14 less than 5 days nor more than ~~6 months~~ one year in the county jail.

15 **SECTION 96.** 350.11 (3) (a) 3. of the statutes is amended to read:

16 350.11 (3) (a) 3. A person who violates s. 350.101 (1) (a), (b), or (bm) ~~or 350.104~~
17 ~~(5)~~ and who, within 5 years prior to the arrest for the current violation, was convicted
18 ~~2 or more times~~ previously under the intoxicated snowmobiling operating law ~~or, the~~
19 recreational vehicle and boating refusal law, or any combination of these laws, shall
20 be fined not less than \$600 nor more than \$2,000 and shall be imprisoned not less
21 than 30 days nor more than one year in the county jail.

22 **SECTION 97.** 350.11 (3) (a) 4. of the statutes is renumbered 350.11 (3) (a) 6.

23 **SECTION 98.** 350.11 (3) (a) 4b. of the statutes is created to read:

24 350.11 (3) (a) 4b. A person who violates s. 350.101 (1) (a), (b), or (bm) and who,
25 within 5 years prior to the arrest for the current violation, was convicted 3 times

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1 previously under the intoxicated operating law, the recreational vehicle and boating
2 refusal law, or any combination of these laws, shall be fined not less than \$600 nor
3 more than \$2,000 and shall be imprisoned not less than 60 days nor more than one
4 year in the county jail.

5 **SECTION 99.** 350.11 (3) (a) 5. of the statutes is created to read:

6 350.11 (3) (a) 5. A person who violates s. 350.101 (1) (a), (b), or (bm) and who,
7 within 5 years prior to the arrest for the current violation, was convicted 4 or more
8 times previously under the intoxicated operating law, the recreational vehicle and
9 boating refusal law, or any combination of these laws, shall be fined not less than
10 \$600 nor more than \$2,000 and shall be imprisoned not less than 6 months nor more
11 than one year in the county jail.

12 **SECTION 100.** 350.11 (3) (am) of the statutes is created to read:

13 350.11 (3) (am) *Penalties related to operating with underage passengers.* If
14 there is a passenger under 16 years of age on a snowmobile at the time of a violation
15 that gives rise to a conviction under s. 350.101 (1) (a), (b), or (bm) or 350.104 (5), the
16 applicable minimum and maximum forfeitures, fines, and terms of imprisonment
17 under par. (a) 1. to 5. for the conviction are doubled.

18 **SECTION 101.** 350.11 (3) (ar) of the statutes is created to read:

19 350.11 (3) (ar) *Alcohol and drug treatment alternatives.* 1. In any county that
20 opts to offer a reduced minimum period of imprisonment for the successful
21 completion of a probation period that includes alcohol and other drug treatment, if
22 the number of suspensions, revocations, and convictions for a violation of the
23 intoxicated snowmobiling law or the snowmobiling refusal law within a 5-year
24 period equals 2, except that suspensions, revocations, or convictions arising out of
25 the same incident or occurrence shall be counted as one, the fine shall be the same

ASSEMBLY BILL 356**SECTION 101**

1 as under par. (a) 2., but the period of imprisonment shall be not less than 5 days,
2 except that if the person successfully completes a period of probation that includes
3 alcohol and other drug treatment, the period of imprisonment shall be not less than
4 5 nor more than 7 days.

5 2. In any county that opts to offer a reduced minimum period of imprisonment
6 for the successful completion of a probation period that includes alcohol and other
7 drug treatment, if the number of suspensions, revocations, and convictions for a
8 violation of the intoxicated snowmobiling law or the snowmobiling refusal law within
9 a 5-year period equals 3, except that suspensions, revocations, or convictions arising
10 out of the same incident or occurrence shall be counted as one, the fine shall be the
11 same as under par. (a) 3., but the period of imprisonment shall be not less than 30
12 days, except that if the person successfully completes a period of probation that
13 includes alcohol and other drug treatment, the period of imprisonment shall be not
14 less than 14 days.

15 3. In any county that opts to offer a reduced minimum period of imprisonment
16 for the successful completion of a probation period that includes alcohol and other
17 drug treatment, if the number of suspensions, revocations, and convictions for a
18 violation of the intoxicated snowmobiling law or the snowmobiling refusal law within
19 a 5-year period equals 4, except that suspensions, revocations, or convictions arising
20 out of the same incident or occurrence shall be counted as one, the fine shall be the
21 same as under par. (a) 4b., but the period of imprisonment shall be not less than 60
22 days, except that if the person successfully completes a period of probation that
23 includes alcohol and other drug treatment, the period of imprisonment shall be not
24 less than 29 days.

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1 4. A person may be sentenced under this paragraph or under s. 23.33 (13) (bm),
2 23.335 (23) (dm), or 30.80 (6) (ar) once in his or her lifetime.

3 **SECTION 102.** 350.11 (3) (bg) of the statutes is created to read:

4 350.11 (3) (bg) *Penalties related to suspension and revocation.* 1. A person who
5 operates a recreational vehicle in violation of s. 350.1075 (2) (a) is subject to a
6 forfeiture of not less than \$50 nor more than \$250. In addition, for each such
7 violation, the court may suspend the person's privilege to operate a recreational
8 vehicle for a period of not more than 6 months. Whenever a court suspends an
9 operating privilege under this subdivision, the court shall notify the department of
10 that action.

11 2. A person who operates a snowmobile in violation of s. 350.1075 (2) (b) is
12 subject to a forfeiture of not less than \$150 nor more than \$300. In addition, the court
13 may suspend the person's privilege to operate a recreational vehicle for a period of
14 not more than 6 months. Whenever a court suspends an operating privilege under
15 this subdivision, the court shall notify the department of that action.

16 **SECTION 103.** 350.11 (3) (bm) of the statutes is amended to read:

17 350.11 (3) (bm) *Sentence of detention.* The legislature intends that courts use
18 the sentencing option under s. 973.03 (4) whenever appropriate for persons subject
19 to par. (a) 2. ~~or 3.~~, 4b., or 5. or (b). The use of this option can result in significant cost
20 savings for the state and local governments.

21 **SECTION 104.** 350.11 (3) (c) of the statutes is renumbered 350.11 (3) (c) 1. and
22 amended to read:

23 350.11 (3) (c) 1. In determining the number of previous convictions under par.
24 (a) 2. ~~and 3.~~ to 5., convictions arising out of the same incident or occurrence shall be
25 counted as one previous conviction.

ASSEMBLY BILL 356**SECTION 105**

1 **SECTION 105.** 350.11 (3) (c) 2. of the statutes is created to read:

2 350.11 (3) (c) 2. In determining the number of previous convictions under par.
3 (a) 2. to 5., previous convictions under the intoxicated snowmobiling law or the
4 snowmobiling refusal law that occurred before, on, or after the effective date of this
5 subdivision [LRB inserts date], and previous convictions under the intoxicated
6 operation of an all-terrain or utility terrain vehicle law, as defined in s. 23.33 (1) (ic),
7 the all-terrain or utility terrain vehicle refusal law, as defined in s. 23.33 (1) (at), the
8 intoxicated operation of an off-highway motorcycle law, as defined in s. 23.335 (1) (L),
9 the off-highway motorcycle refusal law, as defined in s. 23.335 (1) (tm), the
10 intoxicated boating law, as defined in s. 30.50 (4m), or the boating refusal law, as
11 defined in s. 30.50 (2c), that occur after the effective date of this subdivision [LRB
12 inserts date], shall count as previous convictions.

13 **SECTION 106.** 350.11 (3) (cm) of the statutes is amended to read:

14 350.11 (3) (cm) *Reporting convictions to the department.* Whenever a person
15 is convicted of a violation of the intoxicated snowmobiling law or the snowmobiling
16 refusal law, the clerk of the court in which the conviction occurred, ~~or the justice,~~
17 ~~judge or magistrate of a court not having a clerk,~~ shall forward to the department the
18 record of such conviction. The record of conviction forwarded to the department shall
19 state whether the offender was involved in an accident at the time of the offense.

20 **SECTION 107.** 350.11 (3) (e) of the statutes is created to read:

21 350.11 (3) (e) *Certificate of completion of safety program.* In addition to any
22 other penalty or order, a person who for the first time violates the intoxicated
23 snowmobiling law or the snowmobiling refusal law shall be ordered by the court to
24 obtain a certificate of satisfactory completion of a safety program established under
25 s. 350.055 (1). If the person has a valid certificate at the time that the court imposes

ASSEMBLY BILL 356**SECTION 107**

1 a sentence for such a violation, the court shall permanently revoke the certificate and
2 order the person to obtain another certificate of satisfactory completion of the safety
3 program.

4 **SECTION 108.** 940.09 (1m) (b) of the statutes is amended to read:

5 940.09 (1m) (b) If a person is charged in an information with any of the
6 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
7 971.12. If the person is found guilty of more than one of the crimes so charged for
8 acts arising out of the same incident or occurrence, there shall be a single conviction
9 for purposes of sentencing and for purposes of counting convictions under s. 23.33
10 (13) (b) 2. ~~and 3. to 5.~~, under s. 23.335 (23) (c) 2. ~~and 3. to 5.~~, under s. 30.80 (6) (a) 2.
11 ~~and 3. to 5.~~, under s. 343.307 (1), or under s. 350.11 (3) (a) 2. ~~and 3. to 5.~~ Subsection
12 (1) (a), (am), (b), (bm), (c), (cm), (d), and (e) each require proof of a fact for conviction
13 ~~which~~ that the others do not require, and sub. (1g) (a), (am), (b), (c), (cm), and (d) each
14 require proof of a fact for conviction ~~which~~ that the others do not require.

15 **SECTION 109.** 940.25 (1m) (b) of the statutes is amended to read:

16 940.25 (1m) (b) If a person is charged in an information with any of the
17 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
18 971.12. If the person is found guilty of more than one of the crimes so charged for
19 acts arising out of the same incident or occurrence, there shall be a single conviction
20 for purposes of sentencing and for purposes of counting convictions under s. 23.33
21 (13) (b) 2. ~~and 3. to 5.~~, under s. 23.335 (23) (c) 2. ~~and 3. to 5.~~, under s. 30.80 (6) (a) 2.
22 ~~or 3. to 5.~~, under ss. 343.30 (1q) and 343.305, or under s. 350.11 (3) (a) 2. ~~and 3. to 5.~~
23 Subsection (1) (a), (am), (b), (bm), (c), (cm), (d), and (e) each require proof of a fact for
24 conviction ~~which~~ that the others do not require.

25 **SECTION 110. Effective date.**

