



1995 ASSEMBLY BILL 796

January 18, 1996 - Introduced by Representative SCHNEIDER, by request of Mark Thibodeau - Adams County District Attorney. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to amend** 23.33 (13) (b) 2., 23.33 (13) (b) 3., 23.33 (13) (d), 30.80 (2g) (c),
2 30.80 (2g) (d), 30.80 (6) (a) 2. and 3. and (c), 346.74 (5) (c), 346.74 (5) (d), 350.11
3 (3) (a) 2., 350.11 (3) (a) 3., 350.11 (3) (c) and 939.62 (3) (a) and (b) of the statutes;
4 **relating to:** motor vehicle, boating, all-terrain vehicle and snowmobiling of-
5 fenses; habitual criminality; and providing penalties.

Analysis by the Legislative Reference Bureau

This bill makes various changes in laws relating to motor vehicles, all-terrain vehicles, boating and snowmobiling.

1. This bill increases the maximum period of imprisonment for various crimes. The maximum period of imprisonment for motor vehicle hit and run — causing great bodily harm is increased from 2 years to 5 years, for motor vehicle hit and run — causing death is increased from 5 years to 10 years, for boating hit and run — causing great bodily harm is increased from 2 years to 5 years, and for boating hit and run — causing death is increased from 5 years to 10 years.

2. Under current law, if a criminal offender has a prior felony conviction or 3 prior misdemeanor convictions (on separate occasions) in the 5 years preceding the current crime, the offender is considered a repeater and the maximum period of imprisonment for his or her current crime may be increased. Currently, traffic law crimes are excluded under the repeater law. This bill limits the exclusion to traffic law misdemeanors. Thus, traffic law felonies (such as motor vehicle hit and run — causing great bodily harm or death) are included as repeater offenses under the bill.

3. Current law provides for increased penalties in cases where a person commits a subsequent violation related to the operation of an all-terrain vehicle, motorboat, motor vehicle or snowmobile while under the influence of an intoxicant. The laws related to all-terrain vehicles, motorboats and snowmobiles count the convictions prior to the arrest to determine if the penalty shall be increased. The law

related to motor vehicles requires that the 5-year period be measured from the date of the refusal or violation that resulted in the conviction. This bill changes the all-terrain, motorboat and snowmobile laws to make them consistent with the motor vehicle provisions.

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

1 **SECTION 1.** 23.33 (13) (b) 2. of the statutes is amended to read:

2 23.33 (13) (b) 2. Except as provided under subd. 3., a person who violates sub.
3 (4c) (a) 1. or 2. or (4p) (e) and who, within 5 years prior to the arrest for the current
4 violation, was convicted previously under the intoxicated operation of an all-terrain
5 vehicle law or the refusal law shall be fined not less than \$300 nor more than \$1,000
6 and shall be imprisoned for not less than 5 days nor more than 6 months if the total
7 number of convictions under the intoxicated operation of an all-terrain vehicle law
8 or refusal law equals 2 in a 5-year period.

9 **SECTION 2.** 23.33 (13) (b) 3. of the statutes is amended to read:

10 23.33 (13) (b) 3. A person who violates sub. (4c) (a) 1. or 2. or (4p) (e) and who,
11 within 5 years prior to the arrest for the current violation, was convicted 2 or more
12 times previously under the intoxicated operation of an all-terrain vehicle law or re-
13 fusal law shall be fined not less than \$600 nor more than \$2,000 and shall be impris-
14 oned for not less than 30 days nor more than one year in the county jail if the total
15 number of convictions under the intoxicated operation of an all-terrain vehicle law
16 or refusal law equals 3 or more in a 5-year period.

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

18 23.33 (13) (d) *Calculation of previous convictions.* In determining the number
19 of previous convictions under par. (b) 2. and 3., the 5-year period shall be measured
20 from the date of the refusals or violations that resulted in the convictions, and convic-

1 tions arising out of the same incident or occurrence shall be counted as one previous
2 conviction.

3 **SECTION 4.** 30.80 (2g) (c) of the statutes is amended to read:

4 30.80 (2g) (c) Shall be fined not more than \$10,000 or imprisoned for not more
5 than ~~2~~ 5 years or both if the accident involved injury to a person and the person suf-
6 fered great bodily harm.

7 **SECTION 5.** 30.80 (2g) (d) of the statutes is amended to read:

8 30.80 (2g) (d) Shall be fined not more than \$10,000 or imprisoned for not more
9 than ~~5~~ 10 years or both if the accident involved death to a person.

10 **SECTION 6.** 30.80 (6) (a) 2. and 3. and (c) of the statutes are amended to read:

11 30.80 (6) (a) 2. Except as provided under subd. 3., a person who violates s.
12 30.681 (1) or 30.684 (5) ~~and who, within 5 years prior to the arrest for the current~~
13 ~~violation, was convicted previously under the intoxicated boating law or the refusal~~
14 ~~law~~ shall be fined not less than \$300 nor more than \$1,000 and shall be imprisoned
15 for not less than 5 days nor more than 6 months if the total number of convictions
16 under the intoxicated boating law or refusal law equals 2 in a 5-year period.

17 3. A person who violates s. 30.681 (1) or 30.684 (5) ~~and who, within 5 years prior~~
18 ~~to the arrest for the current violation, was convicted 2 or more times previously under~~
19 ~~the intoxicated boating law or refusal law~~ shall be fined not less than \$600 nor more
20 than \$2,000 and shall be imprisoned for not less than 30 days nor more than one year
21 in the county jail if the total number of convictions under the intoxicated boating law
22 or refusal law equals 3 or more in a 5-year period.

23 (c) *Calculation of previous convictions.* In determining the number of previous
24 convictions under par. (a) 2. and 3., the 5-year period shall be measured from the date

1 of the refusals or violations that resulted in the convictions, and convictions arising
2 out of the same incident or occurrence shall be counted as one ~~previous~~ conviction.

3 **SECTION 7.** 346.74 (5) (c) of the statutes is amended to read:

4 346.74 (5) (c) May be fined not more than \$10,000 or imprisoned for not more
5 than ~~2~~ 5 years or both if the accident involved injury to a person and the person suf-
6 fered great bodily harm.

7 **SECTION 8.** 346.74 (5) (d) of the statutes is amended to read:

8 346.74 (5) (d) May be fined not more than \$10,000 or imprisoned for not more
9 than ~~5~~ 10 years or both if the accident involved death to a person.

10 **SECTION 9.** 350.11 (3) (a) 2. of the statutes is amended to read:

11 350.11 (3) (a) 2. Except as provided under subd. 3., a person who violates s.
12 350.101 (1) (a) or (b) or 350.104 (5) ~~and who, within 5 years prior to the arrest for the~~
13 ~~current violation, was convicted previously under the intoxicated snowmobiling law~~
14 ~~or the refusal law~~ shall be fined not less than \$300 nor more than \$1,000 and shall
15 be imprisoned for not less than 5 days nor more than 6 months if the total number
16 of convictions under the intoxicated snowmobiling law or refusal law equals 2 or
17 more in a 5-year period.

18 **SECTION 10.** 350.11 (3) (a) 3. of the statutes is amended to read:

19 350.11 (3) (a) 3. A person who violates s. 350.101 (1) (a) or (b) or 350.104 (5) ~~and~~
20 ~~who, within 5 years prior to the arrest for the current violation, was convicted 2 or~~
21 ~~more times previously under the intoxicated snowmobiling law or refusal law~~ shall
22 be fined not less than \$600 nor more than \$2,000 and shall be imprisoned for not less
23 than 30 days nor more than one year in the county jail if the total number of convic-
24 tions under the intoxicated snowmobiling law or refusal law equals 3 or more in a
25 5-year period.

1 **SECTION 11.** 350.11 (3) (c) of the statutes is amended to read:

2 350.11 **(3)** (c) *Calculation of previous convictions.* In determining the number
3 of previous convictions under par. (a) 2. and 3., the 5-year period shall be measured
4 from the date of the refusals or violations that resulted in the convictions, and convic-
5 tions arising out of the same incident or occurrence shall be counted as one previous
6 conviction.

7 **SECTION 12.** 939.62 (3) (a) and (b) of the statutes are amended to read:

8 939.62 **(3)** (a) In case of crimes committed in this state, the terms do not include
9 motor vehicle offenses misdemeanors under chs. 341 to 349 and offenses handled
10 through court proceedings under ch. 48, but otherwise have the meanings designated
11 in s. 939.60

12 (b) In case of crimes committed in other jurisdictions, the terms do not include
13 those crimes which are equivalent to motor vehicle offenses misdemeanors under
14 chs. 341 to 349 or to offenses handled through court proceedings under ch. 48. Other-
15 wise, felony means a crime which under the laws of that jurisdiction carries a pre-
16 scribed maximum penalty of imprisonment in a prison or penitentiary for one year
17 or more. Misdemeanor means a crime which does not carry a prescribed maximum
18 penalty sufficient to constitute it a felony and includes crimes punishable only by a
19 fine.

20 **SECTION 13. Initial applicability.**

21 (1) This act first applies to offenses committed on the effective date of this sub-
22 section, but does not preclude the counting of other offenses as prior offenses for sen-
23 tencing a person.

24

(END)