



## 1997 ASSEMBLY BILL 17

January 28, 1997 - Introduced by Representatives CULLEN, DOBYNS, NOTESTEIN, WASSERMAN, TURNER, BOCK, RYBA, LA FAVE, AINSWORTH, HARSDF, ZIEGELBAUER, HUBER, SPRINGER, GOETSCH, KREIBICH, MURAT, TRAVIS, HASENOHRL, HAHN, OLSEN, GUNDERSON, WALKER, OTT and F. LASEE, cosponsored by Senators PLACHE, WIRCH, GROBSCHMIDT, RISSER, HUELSMAN, ROSENZWEIG and WEEDEN. Referred to Committee on Judiciary.

1     **AN ACT to renumber** 343.305 (10m), 346.65 (6) (a) 1., 940.09 (1d) and 940.25 (1d);  
2             **to amend** 342.12 (4) (a), 343.10 (5) (a) 3., 346.65 (6) (a) 2m. and 346.65 (6) (d);  
3             and **to create** 343.305 (4) (am), 343.305 (4) (bd), 343.305 (10m) (a), 346.65 (6)  
4             (a) 1d., 940.09 (1d) (a) and 940.25 (1d) (a) of the statutes; **relating to:**  
5             installation of an ignition interlock device in cases involving intoxicated  
6             operation of a motor vehicle.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if a person is convicted of operating a motor vehicle while under the influence of an intoxicant or controlled substance (OWI), including the improper refusal to submit to a test to determine if he or she operated a motor vehicle while having a prohibited blood alcohol level, and the person has 2 or more prior OWI-related convictions, suspensions or revocations within a 10-year period, a vehicle owned by that person may be seized and subject to forfeiture. This bill allows a court to order that a vehicle owned by a person convicted of an OWI offense be equipped with an ignition interlock device.

**ASSEMBLY BILL 17**

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

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

1           **SECTION 1.** 342.12 (4) (a) of the statutes is amended to read:

2           342.12 (4) (a) The district attorney shall notify the department when he or she  
3 files a criminal complaint against a person who has been arrested for violating s.  
4 346.63 (1) or (2), 940.09 (1) or 940.25 and who has ~~2 or more prior convictions,~~  
5 ~~suspensions or revocations within a 10-year period, as counted under s. 343.307 (1).~~  
6 The department may not issue a certificate of title transferring ownership of any  
7 motor vehicle owned by the person upon receipt of a notice under this subsection until  
8 the court assigned to hear the criminal complaint issues an order permitting the  
9 department to issue a certificate of title.

10           **SECTION 2.** 343.10 (5) (a) 3. of the statutes is amended to read:

11           343.10 (5) (a) 3. ~~If the applicant has 2 or more prior convictions, suspensions~~  
12 ~~or revocations, as counted under s. 343.307 (1), the~~ The occupational license of the  
13 applicant may restrict the applicant's operation under the occupational license to  
14 vehicles that are equipped with a functioning ignition interlock device as provided  
15 under s. 346.65 (6). A person to whom a restriction under this subdivision applies  
16 violates that restriction if he or she requests or permits another to blow into an  
17 ignition interlock device or to start a motor vehicle equipped with an ignition  
18 interlock device for the purpose of providing the person an operable motor vehicle  
19 without the necessity of first submitting a sample of his or her breath to analysis by  
20 the ignition interlock device.

21           **SECTION 3.** 343.305 (4) (am) of the statutes is created to read:

**ASSEMBLY BILL 17**

1           343.305 (4) (am) If testing is refused, a motor vehicle owned by the person may  
2 be equipped with an ignition interlock device and the person's operating privilege  
3 will be revoked under this section;

4           **SECTION 4.** 343.305 (4) (bd) of the statutes is created to read:

5           343.305 (4) (bd) If one or more tests are taken and the results of any test  
6 indicate that the person has a prohibited alcohol concentration and was driving or  
7 operating a motor vehicle, the person will be subject to penalties, the person's  
8 operating privilege will be suspended under this section and a motor vehicle owned  
9 by the person may be equipped with an ignition interlock device;

10          **SECTION 5.** 343.305 (10m) of the statutes is renumbered 343.305 (10m) (b).

11          **SECTION 6.** 343.305 (10m) (a) of the statutes is created to read:

12          343.305 (10m) (a) If the person's operating privilege is revoked under sub. (10),  
13 the procedure under s. 346.65 (6) shall be followed regarding the equipping of a motor  
14 vehicle owned by the person with an ignition interlock device.

15          **SECTION 7.** 346.65 (6) (a) 1. of the statutes is renumbered 346.65 (6) (a) 1g.

16          **SECTION 8.** 346.65 (6) (a) 1d. of the statutes is created to read:

17          346.65 (6) (a) 1d. Except as provided in this subdivision, the court may order  
18 a law enforcement officer to equip with an ignition interlock device a motor vehicle  
19 owned by the person whose operating privilege is revoked under s. 343.305 (10) or  
20 who committed a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a) or  
21 (b) or 940.25 (1) (a) or (b). The court shall not order a motor vehicle equipped with  
22 an ignition interlock device if that would result in undue hardship or extreme  
23 inconvenience or would endanger the health or safety of a person.

24          **SECTION 9.** 346.65 (6) (a) 2m. of the statutes is amended to read:

**ASSEMBLY BILL 17****SECTION 9**

1           346.65 (6) (a) 2m. A person who owns a motor vehicle subject to seizure,  
2 equipping with an ignition interlock device or immobilization under this paragraph  
3 shall surrender to the clerk of circuit court the certificate of title issued under ch. 342  
4 for every motor vehicle owned by the person. The person shall comply with this  
5 subdivision within 5 working days after receiving notification of this requirement  
6 from the district attorney. When a district attorney receives a copy of a notice of  
7 intent to revoke the operating privilege under s. 343.305 (9) (a) of a person who has  
8 ~~2 or more convictions, suspensions or revocations within a 5-year period, as counted~~  
9 ~~under s. 343.307 (1),~~ or when a district attorney notifies the department of the filing  
10 of a criminal complaint against a person under s. 342.12 (4) (a), the district attorney  
11 shall notify the person of the requirement to surrender all certificates of title to the  
12 clerk of circuit court. The notification shall include the time limits for that surrender,  
13 the penalty for failure to comply with the requirement and the address of the clerk  
14 of circuit court. The clerk of circuit court shall promptly return each certificate of title  
15 surrendered to the clerk of circuit court under this subdivision after stamping the  
16 certificate of title with the notation "Per section 346.65 (6) of the Wisconsin statutes,  
17 ownership of this motor vehicle may not be transferred without prior court approval".  
18 Any person failing to surrender a certificate of title as required under this  
19 subdivision shall forfeit not more than \$500.

20           **SECTION 10.** 346.65 (6) (d) of the statutes is amended to read:

21           346.65 (6) (d) At the hearing set under par. (c), the state has the burden of  
22 proving to a reasonable certainty by the greater weight of the credible evidence that  
23 the motor vehicle is a motor vehicle owned by a person who committed a violation of  
24 s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a) or (b) or 940.25 (1) (a) or (b) and,  
25 if the seizure is under par. (a) ~~1.~~ 1g., that the person had 2 prior convictions,

**ASSEMBLY BILL 17**

1 suspensions or revocations within a 10-year period as counted under s. 343.307 (1)  
2 or, if the seizure is under par. (a) 2., 3 or more prior convictions, suspensions or  
3 revocations within a 10-year period as counted under s. 343.307 (1). If the owner of  
4 the motor vehicle proves by a preponderance of the evidence that he or she was not  
5 convicted of a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a) or (b)  
6 or 940.25 (1) (a) or (b), or, if the seizure is under par. (a) 1., that he or she did not have  
7 2 prior convictions, suspensions or revocations within a 10-year period as counted  
8 under s. 343.307 (1) or, if the seizure is under par. (a) 2., 3 or more prior convictions,  
9 suspensions or revocations within a 10-year period as counted under s. 343.307 (1),  
10 the motor vehicle shall be returned to the owner upon the payment of storage costs.

11 **SECTION 11.** 940.09 (1d) of the statutes is renumbered 940.09 (1d) (b).

12 **SECTION 12.** 940.09 (1d) (a) of the statutes is created to read:

13 940.09 **(1d)** (a) If a person commits an offense under sub. (1) (a) or (b), the  
14 procedure under s. 346.65 (6) may be followed regarding the equipping of a motor  
15 vehicle owned by the person with an ignition interlock device.

16 **SECTION 13.** 940.25 (1d) of the statutes is renumbered 940.25 (1d) (b).

17 **SECTION 14.** 940.25 (1d) (a) of the statutes is created to read:

18 940.25 **(1d)** (a) If a person commits an offense under sub. (1) (a) or (b), the  
19 procedure under s. 346.65 may be followed regarding the equipping of a motor vehicle  
20 owned by the person with an ignition interlock device.

21 **SECTION 15. Initial applicability.**

22 (1) This act first applies to violations committed on the effective date of this  
23 subsection, but does not preclude the counting of prior suspensions, revocations or

**ASSEMBLY BILL 17**

1 convictions by a court taking action that affects a vehicle owned by the person who  
2 committed the violation.

3 (END)