



1997 ASSEMBLY BILL 454

July 15, 1997 - Introduced by Representatives BLACK, OTTE, STASKUNAS, WALKER, URBAN, NOTESTEIN, CULLEN, KELSO, AINSWORTH, HUTCHISON and SYKORA, cosponsored by Senators WEEDEN, HUELSMAN and ROESSLER. Referred to Committee on Natural Resources.

1 **AN ACT to amend** 30.80 (6) (a), 30.80 (6) (c), 885.235 (1m) and 885.235 (4); and
2 **to create** 30.681 (1) (bn), 30.80 (6) (a) 4. and 5. and 30.80 (6) (a) 6. of the
3 statutes; **relating to:** the intoxicated boating law and providing penalties.

Analysis by the Legislative Reference Bureau

This bill makes various changes to the intoxicated boating law, which covers the operation of motorboats, including personal watercraft.

1. The bill creates an absolute-sobriety requirement for a person under 19 years of age who is operating a motorboat and imposes a forfeiture for a violation of the requirement.

2. The bill increases the minimum jail term imposed on a person who is convicted 4 or more times for violating the intoxicated boating law. Under current law, the minimum jail term is 30 days. The bill increases the minimum jail term for a person convicted 4 times to 60 days. For a person convicted 5 or more times, the bill increases the minimum jail term to 6 months. Under current law and under the bill, the maximum jail term for persons who are convicted 4 or more times is one year. These penalties do not apply to a violation of the absolute-sobriety requirement described above.

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:

ASSEMBLY BILL 454**SECTION 1**

1 **SECTION 1.** 30.681 (1) (bn) of the statutes is created to read:

2 30.681 (1) (bn) *Operating with alcohol concentrations at specified levels; below*
3 *age 19.* A person who has not attained the age of 19 may not engage in the operation
4 of a motorboat while the person has an alcohol concentration of more than 0.0 but
5 not more than 0.1.

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

7 30.80 (6) (a) *Penalties related to prohibited operation of a motorboat;*
8 *intoxicants; refusal.* 1. Except as provided under subds. 2. ~~and 3.~~ to 5., a person who
9 violates s. 30.681 (1) (a) or (b) or 30.684 (5) shall forfeit not less than \$150 nor more
10 than \$300.

11 2. ~~Except as provided under subd. 3.,~~ a A person who violates s. 30.681 (1) (a)
12 or (b) or 30.684 (5) and who, within 5 years prior to the arrest for the current
13 violation, was convicted one time previously under the intoxicated boating law or the
14 refusal law shall be fined not less than \$300 nor more than \$1,000 and shall be
15 imprisoned for not less than 5 days nor more than 6 months.

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

21 **SECTION 3.** 30.80 (6) (a) 4. and 5. of the statutes are created to read:

22 30.80 (6) (a) 4. A person who violates s. 30.681 (1) (a) or (b) or 30.684 (5) and
23 who, within 5 years prior to the arrest for the current violation, was convicted 3 times
24 previously under the intoxicated boating law or refusal law shall be fined not less

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1 than \$600 nor more than \$2,000 and shall be imprisoned for not less than 60 days
2 nor more than one year in the county jail.

3 5. A person who violates s. 30.681 (1) (a) or (b) or 30.684 (5) and who, within
4 5 years prior to the arrest for the current violation, was convicted 4 or more times
5 previously under the intoxicated boating law or refusal law shall be fined not less
6 than \$600 nor more than \$2,000 and shall be imprisoned for not less than 6 months
7 nor more than one year in the county jail.

8 **SECTION 4.** 30.80 (6) (a) 6. of the statutes is created to read:

9 30.80 (6) (a) 6. A person who violates s. 30.681 (1) (bn) shall forfeit \$50.

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

11 30.80 (6) (c) *Calculation of previous convictions.* In determining the number
12 of previous convictions under par. (a) 2. ~~and 3.~~ to 5., convictions arising out of the
13 same incident or occurrence shall be counted as one previous conviction.

14 **SECTION 6.** 885.235 (1m) of the statutes is amended to read:

15 885.235 (1m) In any action under s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m)
16 or (7) or 350.101 (1) (c), evidence of the amount of alcohol in the person's blood at the
17 time in question, as shown by chemical analysis of a sample of the person's blood or
18 urine or evidence of the amount of alcohol in the person's breath, is admissible on the
19 issue of whether he or she had an alcohol concentration in the range specified in s.
20 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m) or 350.101 (1) (c) or an alcohol
21 concentration above 0.0 under s. 346.63 (7) if the sample was taken within 3 hours
22 after the event to be proved. The fact that the analysis shows that the person had
23 an alcohol concentration of more than 0.0 but not more than 0.1 is prima facie
24 evidence that the person had an alcohol concentration in the range specified in s.

ASSEMBLY BILL 454**SECTION 6**

1 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m) or 350.101 (1) (c) or an alcohol
2 concentration above 0.0 under s. 346.63 (7).

3 **SECTION 7.** 885.235 (4) of the statutes is amended to read:

4 885.235 (4) The provisions of this section relating to the admissibility of
5 chemical tests for alcohol concentration or intoxication shall not be construed as
6 limiting the introduction of any other competent evidence bearing on the question
7 of whether or not a person was under the influence of an intoxicant, had a specified
8 alcohol concentration or had an alcohol concentration in the range specified in s.
9 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m) or 350.101 (1) (c).

10 **SECTION 8. Initial applicability.**

11 (1) The amendment of section 30.80 (6) (a) of the statutes and the creation of
12 section 30.80 (6) (a) 4. and 5. of the statutes first apply to violations committed on the
13 effective date of this subsection, but do not preclude the counting of previous
14 convictions for sentencing a person.

15 (END)