



## 2011 ASSEMBLY BILL 411

December 7, 2011 – Introduced by Representatives ZEPNICK, STASKUNAS, A. OTT and BERCEAU, cosponsored by Senator S. COGGS. Referred to Committee on Transportation.

1     **AN ACT** *to create* 346.65 (8) of the statutes; **relating to:** impounding vehicles  
2           used in certain drunken driving offenses and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Under this bill, in addition to the penalties available under current law for an offense related to operating a vehicle while intoxicated or improperly refusing to be tested for intoxication (OWI offense), a person who commits a first OWI offense will have the vehicle he or she used in the offense impounded for not less than 30 nor more than 60 days. A person who commits a second or subsequent OWI offense will have the vehicle he or she used in the offense impounded for not less than 60 days nor more than six months. Under the bill, the person who committed the offense is responsible for paying the costs of impoundment.

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 concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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:*

3           **SECTION 1.** 346.65 (8) of the statutes is created to read:

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1           346.65 (8) (a) In addition to any penalty imposed for a violation of s. 346.63 (1),  
2 (5), or (7), or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25,  
3 or s. 940.09 where the offense involved the use of a vehicle, or in addition to any  
4 revocation under s. 343.305 (10), the court shall order that the vehicle used in the  
5 violation or improper refusal be seized and impounded for the following period:

6           1. Except as provided in subd. 2., not less than 30 days nor more than 60 days.

7           2. Not less than 60 days nor more than 6 months, if the number of convictions  
8 under ss. 940.09 (1) and 940.25 plus the total number of suspensions, revocations,  
9 and other convictions counted under s. 343.307 (1) equals 2 or more, except that  
10 suspensions, revocations, or convictions arising out of the same incident or  
11 occurrence shall be counted as one.

12           (b) The court shall order a law enforcement officer to seize and impound the  
13 vehicle used in the violation or improper refusal. A law enforcement agency may  
14 contract for seizure and impoundment of vehicles under this subsection. If the  
15 person who committed the violation is not the same person as the owner of the  
16 vehicle, the court shall provide a copy of the order to the owner of the vehicle.

17           (c) The court shall order the person who violated s. 346.63 (1), (5), or (7), or a  
18 local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09  
19 where the offense involved the use of a vehicle, or whose operating privilege was  
20 revoked under s. 343.305 (10), to pay all costs of seizing and impounding the vehicle  
21 used in the violation or improper refusal.

22           (d) Upon expiration of the period specified in par. (a) and payment of the costs  
23 under par. (c), the law enforcement agency or contractor that impounded the vehicle  
24 shall release the vehicle to its owner.

25           **SECTION 2. Initial applicability.**

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1           (1) This act first applies to violations committed on the effective date of this  
2 subsection, but does not preclude the counting of other convictions, suspensions, or  
3 revocations as prior convictions, suspensions, or revocations for purposes of  
4 administrative action by the department of transportation or sentencing by a court.

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(END)