



1995 SENATE BILL 570

February 21, 1996 - Introduced by LAW REVISION COMMITTEE. Referred to
Committee on Judiciary.

1 **AN ACT to amend** 343.305 (9) (a) 1. of the statutes; **relating to:** alcohol testing
2 before issuance of a citation.

Analysis by the Legislative Reference Bureau

Under current law, a law enforcement officer may, after arresting a person for operating a vehicle while under the influence of an intoxicant, request the person to submit to a breath, blood or urine test. In *State v. Sutton*, 177 Wis. 2d 709, 503 N.W. 2d 326 (Ct. App. 1993), the court of appeals noted an ambiguity in the statutes that seemed to require the arrest and issuance of a citation before a request can be made that a person submit to a breath, blood or urine test. The court held that only an arrest is needed, not the issuance of a citation. This bill codifies that court decision.

For further information, see the NOTE provided by the law revision committee of the joint legislative council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is introduced by the law revision committee under s. 13.83 (1) (c) 1., stats. After careful consideration of the court of appeals decisions in *State v. Sutton*, 177 Wis. 2d 709, 503 N.W. 2d 326 (Ct. App. 1993), the law revision committee has determined that codifying these decisions is desirable as a matter of public policy.

3 **SECTION 1.** 343.305 (9) (a) 1. of the statutes is amended to read:
4 343.305 (9) (a) 1. That prior to a request under sub. (3) (a), the officer had placed
5 the person under arrest ~~and issued a citation, if appropriate,~~ for a violation of s.

1 346.63 (1), (2m) or (5) or a local ordinance in conformity therewith or s. 346.63 (2) or
2 (6), 940.09 (1) or 940.25.

3 (END)