



1997 ASSEMBLY BILL 627

November 24, 1997 - Introduced by Representatives RUTKOWSKI, WALKER, VRAKAS, PLALE, POWERS, URBAN, RYBA, BOCK, ROBSON, BLACK and NASS, cosponsored by Senators ADELMAN, HUELSMAN, ROESSLER and ROSENZWEIG, by request of Dennis Dziczkowski and Katherin Malloy. Referred to Committee on Judiciary.

1 **AN ACT** *to repeal* 940.10; *to amend* 343.31 (1) (a), 346.65 (3), 346.65 (5), 351.02
2 (1) (a) 1., 940.08, 949.03 (1) (b), 969.035 (1) and 969.08 (10) (b); and *to create*
3 343.30 (1j) and 343.32 (1) (e) of the statutes; **relating to:** negligent operation
4 of a vehicle, motor vehicle operating privilege revocation for a traffic violation
5 that causes a fatal accident, granting rule-making authority and providing
6 penalties.

Analysis by the Legislative Reference Bureau

This bill makes the following changes in current law relating to bodily harm or death by negligent operation of a vehicle and to the revocation of motor vehicle operating privileges:

Homicide by negligent operation of a vehicle

Under current law, whoever causes the death of another human being by the negligent operation or handling of a vehicle may be fined not more than \$10,000 or imprisoned for not more than 2 years or both. This bill increases the maximum period of imprisonment for this crime to 5 years. The bill does not change the maximum amount of the fine.

Current law also provides a program to provide certain compensation to the victims of crime. Under one provision of this program, a person who lived in the same household with or was a family member of a victim of certain homicides may, subject

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to certain limitations, receive compensation from the department of justice for certain economic losses that are a result of the person's or family member's reaction to the death. The homicides covered under this provision of the victim compensation program include homicide by negligent handling of a dangerous weapon, explosives or fire. This bill adds homicide by negligent operation of a vehicle to the homicides covered under this provision of the victim compensation program.

Causing great bodily harm by negligent operation of a vehicle

Under current law, whoever causes great bodily harm to another by the negligent operation of a vehicle must be fined not less than \$600 nor more than \$2,000 and may be imprisoned for not less than 90 days nor more than 18 months. If a person commits this crime in a highway maintenance or construction area where persons engaged in work are at risk from traffic, the minimum and maximum fine is doubled.

This bill increases the maximum fine for this crime to \$5,000 and increases the maximum amount of imprisonment to 2 years. The bill does not change the minimum amount of the fine or the minimum period of imprisonment for the crime. As under current law, the new maximum fine provided in this bill is doubled if a person commits the crime in a highway maintenance or construction area where persons engaged in work are at risk from traffic.

Causing bodily harm by negligent operation of a vehicle

Under current law, whoever causes bodily harm to another by the negligent operation of a vehicle must be fined not less than \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more than one year. If a person commits this crime in a highway maintenance or construction area where persons engaged in work are at risk from traffic, the minimum and maximum fine is doubled.

This bill increases the maximum amount of the fine for this crime to \$5,000. The bill does not change the minimum amount of the fine or the minimum or maximum periods of imprisonment for the crime. As under current law, the new maximum fine provided in this bill is doubled if a person commits the crime in a highway maintenance or construction area where persons engaged in work are at risk from traffic.

Traffic violations causing fatal accidents

Under current law, the department of transportation (DOT) must revoke a person's motor vehicle operating privileges for one year upon the person's conviction of any of the following offenses: causing the death of another human being by the negligent operation or handling of a vehicle, causing great bodily harm to another by the negligent operation of a vehicle or recklessly causing the death of another by the operation of a vehicle.

This bill requires a court to revoke for one year the motor vehicle operating privileges of a person who is convicted of a state or local traffic violation that causes an accident resulting in death to another person unless the court finds that allowing the person to retain his or her operating privileges does not endanger the public health, safety or welfare. Upon receiving notice of a person's conviction in a tribal court of a tribal traffic violation that causes an accident resulting in death to another person, the secretary of transportation is likewise required to revoke for one year the

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person's motor vehicle operating privileges unless the tribal traffic violation does not conform to a state or local traffic violation or the secretary determines that the public health, safety or welfare is not endangered by the person retaining his or her operating privileges. Any revocation of motor vehicle operating privileges imposed under the bill's requirements does not affect any other suspension or revocation of operating privileges, or disqualification from operating commercial motor vehicles (primarily large trucks and buses), that may be imposed for the traffic violation.

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:

1 **SECTION 1.** 343.30 (1j) of the statutes is created to read:

2 343.30 (1j) A court shall revoke a person's operating privilege upon the person's
3 conviction under a state law or under a local ordinance enacted under ch. 349 of a
4 traffic violation that is a cause of an accident resulting in the death of another person
5 unless the court finds that the public health, safety or welfare is not endangered by
6 the person retaining his or her operating privileges.

7 **SECTION 2.** 343.31 (1) (a) of the statutes is amended to read:

8 343.31 (1) (a) Homicide or great bodily harm resulting from the operation of
9 a motor vehicle and which is criminal under s. 346.62 (4), 940.06, 940.08, 940.09,
10 940.10 or 940.25.

11 **SECTION 3.** 343.32 (1) (e) of the statutes is created to read:

12 343.32 (1) (e) A record of conviction has been received showing that the person
13 has been convicted under a law of a federally recognized American Indian tribe or
14 band in this state in conformity with one or more provisions of chs. 341 to 349 of a
15 traffic violation that is a cause of an accident resulting in the death of another person
16 unless the secretary determines that the public health, safety or welfare is not
17 endangered by the person retaining his or her operating privileges.

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1 **SECTION 4.** 346.65 (3) of the statutes is amended to read:

2 346.65 (3) Except as provided in sub. (5m), any person violating s. 346.62 (3)
3 shall be fined not less than \$300 nor more than ~~\$2,000~~ \$5,000 and may be imprisoned
4 for not less than 30 days nor more than one year in the county jail.

5 **SECTION 5.** 346.65 (5) of the statutes is amended to read:

6 346.65 (5) Except as provided in sub. (5m), any person violating s. 346.62 (4)
7 shall be fined not less than \$600 nor more than ~~\$2,000~~ \$5,000 and may be imprisoned
8 for not less than 90 days nor more than ~~18 months~~ 2 years.

9 **SECTION 6.** 351.02 (1) (a) 1. of the statutes is amended to read:

10 351.02 (1) (a) 1. Homicide under s. 940.06, 940.08 or 940.09 ~~or 940.10~~ involving
11 the use of a vehicle.

12 **SECTION 7.** 940.08 of the statutes is amended to read:

13 **940.08 (title) Homicide by negligent operation or handling of vehicle,**
14 **dangerous weapon, explosives or fire.** Whoever causes the death of another
15 human being by the negligent operation or handling of a vehicle, dangerous weapon,
16 explosives or fire is guilty of a Class D felony.

17 **SECTION 8.** 940.10 of the statutes is repealed.

18 **SECTION 9.** 949.03 (1) (b) of the statutes is amended to read:

19 949.03 (1) (b) The commission or the attempt to commit any crime specified in
20 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
21 940.09, ~~940.10~~, 940.19, 940.20, 940.21, 940.22 (2), 940.225, 940.23, 940.24, 940.25,
22 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03, 943.04,
23 943.10, 943.20, 943.23 (1g), (1m) or (1r), 943.32, 948.02, 948.025, 948.03, 948.04,
24 948.07, 948.095, 948.20, 948.30 or 948.51.

25 **SECTION 10.** 969.035 (1) of the statutes is amended to read:

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1 969.035 (1) In this section, “violent crime” means any crime specified in s.
2 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08, 940.10, 940.19 (5), 940.21,
3 940.225 (1), 940.23, 941.327, 948.02 (1) or (2), 948.025 or 948.03.

4 **SECTION 11.** 969.08 (10) (b) of the statutes is amended to read:

5 969.08 (10) (b) “Serious crime” means any crime specified in s. 346.62 (4),
6 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.20,
7 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1.,
8 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.013,
9 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), (1m) or (1r), 943.30, 943.32,
10 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05,
11 948.06, 948.07 or 948.30.

12 **SECTION 12. Nonstatutory provisions.**

13 (1) The department of transportation shall create a committee to study the
14 problems of aggressive motor vehicle driving patterns (“road rage”) on the highways
15 of this state, and whether there is evidence that such driving patterns have increased
16 during the past 5 years. The committee shall also study possible alternatives to
17 decreasing aggressive motor vehicle driving patterns on the highways of this state.
18 The committee shall consist of at least 5 members appointed by the secretary of
19 transportation, of which not more than 2 may be employes of the department of
20 transportation. The committee shall submit a report containing its findings,
21 conclusions and recommendations, to the legislature in the manner provided under
22 section 13.172 (2) of the statutes and to the governor no later than January 1, 1999.

23 **SECTION 13. Initial applicability.**

