

1999 DRAFTING REQUEST**Bill**Received: **12/17/98**Received By: **nelsorp1**Wanted: **As time permits**

Identical to LRB:

For: **David Cullen (608) 267-9836**By/Representing: **Mike**This file may be shown to any legislator: **NO**Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **Drunk Driving - penalties**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Use of ignition interlock devices for drunk driving cases

Instructions:

Same as 97-1273 (AB17)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	nelsorp1 12/29/98	wjackson 01/6/99	lpaasch 01/6/99	_____	lrb_docadmin 01/6/99		
/1	nelsorp1 01/21/99	wjackson 01/21/99	jfrantze 01/22/99	_____	lrb_docadmin 01/22/99	lrb_docadminS&L 02/16/99	

FE Sent For:

02-24-99

<END>

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1 1/21 wlj
1 1/21 jlg

Jb 1/22

Jb / RR
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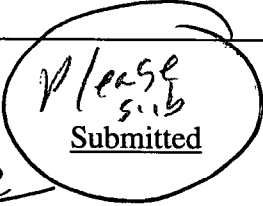
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1?	nelsorp1	/PI WLj 12/30	1/6	1/4 L.P.			
		/PI jLg 12/31	L.P.	1/5			

FE Sent For:

<END>

1997 ASSEMBLY BILL 17

January 28, 1997 - Introduced by Representatives CULLEN, DOBYNS, NOTESTEIN, WASSERMAN, TURNER, BOCK, RYBA, LA FAVE, AINSWORTH, HARSDORF, 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.

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.

the first or any subsequent

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)~~ *and?*

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 *has one or more prior convictions, suspensions or revocations*
14 the procedure under s. 346.65 (6) shall be followed regarding the equipping of a motor
15 vehicle owned by the person with an ignition interlock device. *and and*

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

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

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

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

ASSEMBLY BILL 17

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.** 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~~ ^{one} ~~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

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) ^{(a) shall} 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

SECTION 15

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

3 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1345/P1

RPN.../.....

D-Note

*WJ
+
Jg*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1 **AN ACT** ...; **relating to:** the installation of ignition interlock devices in cases
2 involving refusals to take a test to determine an individual's blood alcohol
3 concentration and involving the criminal offense of intoxicated driving.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

4 **SECTION 1.** 342.12 (4) (a), (b) and (c) 1. (intro.) of the statutes are amended to
5 read:

6 342.12 (4) (a) The district attorney shall notify the department when he or she
7 files a criminal complaint against a person who has been arrested for violating s.
8 346.63 (1) or (2), 940.09 (1) (a), (b), (c), or (d) or 940.25 (a), (b), (c), or (d) and who has
9 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307

10 (1). Except as provided under par. (c), the department may not issue a certificate of
plain

1 title transferring ownership of any motor vehicle owned by the person upon receipt
2 of a notice under this subsection until the court assigned to hear the criminal
3 complaint issues an order permitting the department to issue a certificate of title.

4 (b) Except as provided under par. (c), the department may not issue a certificate
5 of title transferring ownership of any motor vehicle owned by a person upon receipt
6 of a notice of intent to revoke the person's operating privilege under s. 343.305 (9) (a),
7 if the person has ~~2~~ ^{✓✓} one or more prior convictions, suspensions or revocations, as
8 counted under s. 343.307 (1), until the court assigned to the hearing under s. 343.305
9 (9) issues an order permitting the department to issue a certificate of title.

10 (c) 1. (intro.) The department shall issue a certificate of title transferring
11 ownership of a motor vehicle that was owned by a person who has received a notice
12 of intent to revoke the person's operating privilege under s. 343.305 (9) (a) or has been
13 arrested for violating s. 346.63 (1) ~~or (2), 940.09 (1) or 940.25~~ [✓] and who has ~~2~~ [✓] one or
14 more prior convictions, suspensions or revocations, as counted under s. 343.307 (1),
15 or who has been arrested for violating s. 346.63 (2) ^{✓✓} ~~or~~ ² 940.09 (1) (a), (b), (c) or (d) or
16 940.25 ⁽¹⁾ (a), (b), (c) or (d) ^{✓✓} if all of the following conditions are met:

History: 1973 c. 116 s. 6; 1977 c. 29 s. 1654 (7) (a); 1991 a. 39, 277; 1993 a. 317, 490; 1997 a. 199, 237.

17 SECTION 2. 343.10 (5) (a) 3. [✓] of the statutes is amended to read:

18 343.10 (5) (a) 3. If the applicant has ~~2~~ ^{✓✓} one or more ~~prior~~ [✓] convictions,
19 suspensions or revocations, as counted under s. 343.307 (1), the occupational license
20 of the applicant shall restrict the applicant's operation under the occupational
21 license to vehicles that are equipped with a functioning ignition interlock device if
22 the court has ordered under s. 346.65 (6) (a) ~~1.~~ ^{✓✓} 1d. or 1m. [✓] that a motor vehicle owned
23 by the person be equipped with an ignition interlock device. A person to whom a
24 restriction under this subdivision applies violates that restriction if he or she

1 requests or permits another to blow into an ignition interlock device or to start a
2 motor vehicle equipped with an ignition interlock device for the purpose of providing
3 the person an operable motor vehicle without the necessity of first submitting a
4 sample of his or her breath to analysis by the ignition interlock device. If the
5 occupational license restricts the applicant's operation to a vehicle that is equipped
6 with an ignition interlock device, the applicant shall be liable for the reasonable costs
7 of equipping the vehicle with the ignition interlock device.

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337, 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237.

8 **SECTION 3.** 343.305 (10m) of the statutes is renumbered 343.305 (10m) (b) and
9 amended to read:

10 343.305 (10m) (b) If the person whose operating privilege is revoked under sub.
11 (10) has 2 or more prior convictions, suspensions or revocations, as counted under s.
12 343.307 (1), the procedure under s. 346.65 (6) shall be followed regarding the
13 immobilization or seizure and forfeiture of a motor vehicle owned by the person or
14 ~~the equipping of a motor vehicle owned by the person with an ignition interlock~~
15 ~~device.~~

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290.

16 **SECTION 4.** 343.305 (10m) (a) of the statutes is created to read:

17 343.305 (10m) (a) If the person whose operating privilege is revoked under
18 sub. (10) has one or more prior convictions, suspensions or revocations, as counted
19 under s. 343.307 (1), the procedure under s. 346.65 (6) (a) shall be followed regarding
20 the equipping of a motor vehicle owned by the person with an ignition interlock
21 device.

22 **SECTION 5.** 346.65 (3m) of the statutes is amended to read:

1 **346.65 (3m)** Any person violating s. 346.63 (2) or (6) shall be fined not less than
 2 \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more
 3 than one year in the county jail. If there was a minor passenger under 16 years of
 4 age in the motor vehicle at the time of the violation that gave rise to the conviction
 5 under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum and
 6 maximum fines or periods of imprisonment for the conviction are doubled and the
 7 place of imprisonment shall be determined under s. 973.02. If the person committed
 8 an offense under s. 346.63 (2), the procedure under s. 346.65 (6) shall be followed
 9 regarding the immobilization or seizure and forfeiture of a motor vehicle owned by
 10 the person who committed the offense or the equipping of a motor vehicle owned by
 11 the person with an ignition interlock device.

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337, 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; s. 13.93 (2) (c).

12 **SECTION 6.** 346.65 (6) (a) 1. of the statutes is renumbered 346.65 (6) (a) 1m.

13 **SECTION 7.** 346.65 (6) (a) 1d. and 1g. of the statutes are created to read:

14 **346.65 (6) (a) 1d.** Except as provided in this paragraph, the court may order a
 15 law enforcement officer to equip with an ignition interlock device any motor vehicle
 16 owned by any of the following:

17 a. An individual who committed a violation of s. 346.63 (2), 940.09 (1) (a), (b),
 18 (c) or (d) or 940.25 (1) (a), (b), (c) or (d).

19 b. An individual whose operating privilege is revoked under s. 343.305 (10) or
 20 who committed a violation of s. 346.63 (1), if the individual whose operating privilege
 21 is revoked under s. 343.305 (10) or who committed the violation of s. 346.63 (1) has
 22 one prior suspension, revocation or conviction that would be counted under s.
 23 343.307 (1).

1 1g. The court shall not order a motor vehicle equipped with an ignition interlock
2 device under this paragraph[✓] if that would result in undue hardship or extreme
3 inconvenience or would endanger the health and safety of a person.

④ **SECTION 8.** 346.65 (6) (a) 2m. of[✓] the statutes is amended to read:

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

24 **SECTION 9.** 346.65 (6) (d)[✓] of the statutes is amended to read:

1 346.65 (6) (d) At the hearing set under par. (c), the state has the burden of
 2 proving to a reasonable certainty by the greater weight of the credible evidence that
 3 the motor vehicle is a motor vehicle owned by a person who committed a violation of
 4 s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a),
 5 (b), (c) or (d) and, if the seizure is under par. (a) ~~1. 1m.~~[✓], that the person had 2 prior
 6 convictions, suspensions or revocations, as counted under s. 343.307 (1) or, if the
 7 seizure is under par. (a) 2., 3 or more prior convictions, suspensions or revocations,
 8 as counted under s. 343.307 (1). If the ~~[(c) or (d)], [(c) or (d)]~~ state fails to meet the
 9 burden of proof required under this paragraph, the motor vehicle shall be returned
 10 to the owner upon the payment of storage costs.

~~NOTE: NOTE: Par. (d) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). The bracketed language was inserted by 1997 Wis. Act 295, but rendered surplusage by 1997 Wis. Act 237. Corrective legislation is pending. NOTE:~~

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; s. 13.93 (2) (c).

11 **SECTION 10. 940.09 (1d)** of the statutes is amended to read:

12 ↓
 12 940.09 (1d) If the person ~~who~~ committed an offense under sub. (1) (a), (b), (c)
 13 or (d) ~~has 2 or more prior convictions, suspensions or revocations, as counted under~~
 14 ~~s. 343.307 (1),~~[✓] the procedure under s. 346.65 (6) ~~may~~^{shall} be followed regarding the
 15 immobilization or seizure and forfeiture of a motor vehicle owned by the person who
 16 committed the offense or the equipping of a motor vehicle owned by the person with
 17 an ignition interlock device.

~~NOTE: NOTE: Sub. (1d) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:~~

History: 1977 c. 173; 1981 c. 20, 184, 314, 391; 1983 a. 459; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 32, 277; 1993 a. 317; 1995 a. 425, 436; 1997 a. 237, 295, 338; 13.93 (2) (c).

18 **SECTION 11. 940.25 (1d)** of the statutes is amended to read:

19 ↓
 19 940.25 (1d) If the person ~~who~~ committed the offense under sub. (1) (a), (b), (c)
 20 or (d) ~~has 2 or more prior convictions, suspensions or revocations, as counted under~~
 21 ~~s. 343.307 (1),~~[✓] the procedure under s. 346.65 (6) ~~may~~^{shall} be followed regarding the
 22 immobilization or seizure and forfeiture of a motor vehicle owned by the person who

1 committed the offense or the equipping of a motor vehicle owned by the person with
2 an ignition interlock device.

~~NOTE: NOTE: Sub. (1d) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:~~
History: 1977 c. 193, 272; 1981 c. 20, 184; 1983 a. 459; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 277; 1993 a. 317, 428, 478; 1995 a. 425, 436; 1997 a. 237, 295; s. 13.93 (2) (c).

3

(END) ✓

Insert 7-3 ✓

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) ^{shall} 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 [#]
23 [#] (1) This act first applies to violations committed on the effective date of this
subsection, but does not preclude the counting of prior suspensions, revocations or ^{NO} _{FP}

1997 - 1998 Legislature
ASSEMBLY BILL 17

WMA

LRB-1273/A
RPN/kaf/km
SECTION 15

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

3 (END)

Insert 7-3

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1345/P1dn

RPN.../.....

WJ
+
JLg

This draft was prepared as a preliminary draft because of problems I discovered when redrafting AB¹⁷ from the 1997-99 session.

In that previous draft, the occupational license of a [↓] person could be restricted to the operation of vehicles equipped with an ignition interlock device even if the person applying for the occupational license did not have any alcohol-related violation. This bill limits the use of an ignition interlock restricted occupational license to those individuals who have had one or more alcohol-related convictions or license suspensions or revocations.

This bill reflects changes made in OWI law after the introduction of AB¹⁷, including the revision of the information provided to the accused drunk driver by the law enforcement officer and the inclusion of the crimes of homicide of and committing great bodily harm to an unborn child while drunk driving.

This bill attempts to limit the use of ignition interlock devices to vehicles operated by a person who has refused to submit to a test to determine his or her blood alcohol concentration and who has one previous drunk driving suspension, revocation or conviction and by a person who has committed a criminal drunk driving offense, which includes a second or subsequent drunk driving violation. I was not sure if the original intent of AB¹⁷ was limited to criminal drunk driving or if it intended to treat first offense drunk driving cases handled in circuit and municipal court. AB¹⁷ did not address this issue directly, so I decided to limit the bill to criminal drunk driving and refusals after a prior drunk driving suspension, revocation or conviction.

Please review the draft carefully and let me know of any necessary changes.

Robert P. Nelson
Senior Legislative Attorney
267-7511

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1345/P1dn
RPN:wlj&jlg:lp

January 6, 1999

This draft was prepared as a preliminary draft because of problems I discovered when redrafting AB-17 from the 1997-99 session.

In that previous draft, the occupational license of a person could be restricted to the operation of vehicles equipped with an ignition interlock device even if the person applying for the occupational license did not have any alcohol-related violation. This bill limits the use of an ignition interlock restricted occupational license to those individuals who have had one or more alcohol-related convictions or license suspensions or revocations.

This bill reflects changes made in OWI law after the introduction of AB-17, including the revision of the information provided to the accused drunk driver by the law enforcement officer and the inclusion of the crimes of homicide of and committing great bodily harm to an unborn child while drunk driving.

This bill attempts to limit the use of ignition interlock devices to vehicles operated by a person who has refused to submit to a test to determine his or her blood alcohol concentration and who has one previous drunk driving suspension, revocation or conviction and by a person who has committed a criminal drunk driving offense, which includes a second or subsequent drunk driving violation. I was not sure if the original intent of AB-17 was limited to criminal drunk driving or if it intended to treat first offense drunk driving cases handled in circuit and municipal court. AB-17 did not address this issue directly, so I decided to limit the bill to criminal drunk driving and refusals after a prior drunk driving suspension, revocation or conviction.

Please review the draft carefully and let me know of any necessary changes.

Robert P. Nelson
Senior Legislative Attorney
267-7511



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Reger

1 AN ACT *to renumber* 346.65 (6) (a) 1.; *to renumber and amend* 343.305 (10m);
2 *to amend* 342.12 (4) (a), (b) and (c) 1. (intro.), 343.10 (5) (a) 3., 346.65 (3m),
3 346.65 (6) (a) 2m., 346.65 (6) (d), 940.09 (1d) and 940.25 (1d); and *to create*
4 343.305 (10m) (a) and 346.65 (6) (a) 1d. and 1g. of the statutes; **relating to:** the
5 installation of ignition interlock devices in cases involving refusals to take a
6 test to determine an individual's blood alcohol concentration and involving the
7 criminal offense of intoxicated driving.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

8 SECTION 1. 342.12 (4) (a), (b) and (c) 1. (intro.) of the statutes are amended to
9 read:

10 342.12 (4) (a) The district attorney shall notify the department when he or she
11 files a criminal complaint against a person who has been arrested for violating s.

SECTION 1

1 346.63 (1) or (2), 940.09 (1) (a), (b), (c), or (d) or 940.25 and who has ~~2 or more~~ prior
2 ~~convictions, suspensions or revocations, as counted under s. 343.307 (1) (a), (b), (c),~~
3 ~~or (d)~~. Except as provided under par. (c), the department may not issue a certificate
4 of title transferring ownership of any motor vehicle owned by the person upon receipt
5 of a notice under this subsection until the court assigned to hear the criminal
6 complaint issues an order permitting the department to issue a certificate of title.

7 (b) Except as provided under par. (c), the department may not issue a certificate
8 of title transferring ownership of any motor vehicle owned by a person upon receipt
9 of a notice of intent to revoke the person's operating privilege under s. 343.305 (9) (a),
10 if the person has ~~2~~ one or more prior convictions, suspensions or revocations, as
11 counted under s. 343.307 (1), until the court assigned to the hearing under s. 343.305
12 (9) issues an order permitting the department to issue a certificate of title.

13 (c) 1. (intro.) The department shall issue a certificate of title transferring
14 ownership of a motor vehicle that was owned by a person who has received a notice
15 of intent to revoke the person's operating privilege under s. 343.305 (9) (a) or has been
16 arrested for violating s. 346.63 (1) ~~or (2), 940.09 (1) or 940.25~~ and who has ~~2~~ one or
17 more prior convictions, suspensions or revocations, as counted under s. 343.307 (1),
18 or who has been arrested for violating s. 346.63 (2), 940.09 (1) (a), (b), (c) or (d) or
19 940.25 (1) (a), (b), (c) or (d) if all of the following conditions are met:

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

21 343.10 (5) (a) 3. If the applicant has ~~2~~ one or more ~~prior~~ convictions,
22 suspensions or revocations, as counted under s. 343.307 (1), the occupational license
23 of the applicant shall restrict the applicant's operation under the occupational
24 license to vehicles that are equipped with a functioning ignition interlock device if
25 the court has ordered under s. 346.65 (6) (a) ~~1. 1d. or 1m.~~ that a motor vehicle owned

1 by the person be equipped with an ignition interlock device. A person to whom a
2 restriction under this subdivision applies violates that restriction if he or she
3 requests or permits another to blow into an ignition interlock device or to start a
4 motor vehicle equipped with an ignition interlock device for the purpose of providing
5 the person an operable motor vehicle without the necessity of first submitting a
6 sample of his or her breath to analysis by the ignition interlock device. If the
7 occupational license restricts the applicant's operation to a vehicle that is equipped
8 with an ignition interlock device, the applicant shall be liable for the reasonable costs
9 of equipping the vehicle with the ignition interlock device.

10 **SECTION 3.** 343.305 (10m) of the statutes is renumbered 343.305 (10m) (b) and
11 amended to read:

12 **343.305 (10m) (b)** If the person whose operating privilege is revoked under sub.
13 (10) has 2 or more prior convictions, suspensions or revocations, as counted under s.
14 343.307 (1), the procedure under s. 346.65 (6) shall be followed regarding the
15 immobilization or seizure and forfeiture of a motor vehicle owned by the person ~~or~~
16 ~~the equipping of a motor vehicle owned by the person with an ignition interlock~~
17 ~~device.~~

18 **SECTION 4.** 343.305 (10m) (a) of the statutes is created to read:

19 **343.305 (10m) (a)** If the person whose operating privilege is revoked under sub.
20 (10) has one or more prior convictions, suspensions or revocations, as counted under
21 s. 343.307 (1), the procedure under s. 346.65 (6) (a) shall be followed regarding the
22 equipping of a motor vehicle owned by the person with an ignition interlock device.

23 **SECTION 5.** 346.65 (3m) of the statutes is amended to read:

24 **346.65 (3m)** Any person violating s. 346.63 (2) or (6) shall be fined not less than
25 \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more

1 than one year in the county jail. If there was a minor passenger under 16 years of
2 age in the motor vehicle at the time of the violation that gave rise to the conviction
3 under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum and
4 maximum fines or periods of imprisonment for the conviction are doubled and the
5 place of imprisonment shall be determined under s. 973.02. If the person committed
6 an offense under s. 346.63 (2), the procedure under s. 346.65 (6) shall be followed
7 regarding the immobilization or seizure and forfeiture of a motor vehicle owned by
8 the person who committed the offense or the equipping of a motor vehicle owned by
9 the person with an ignition interlock device.

10 **SECTION 6.** 346.65 (6) (a) 1. of the statutes is renumbered 346.65 (6) (a) 1m.

11 **SECTION 7.** 346.65 (6) (a) 1d. and 1g. of the statutes are created to read:

12 346.65 (6) (a) 1d. Except as provided in this paragraph, the court may order a
13 law enforcement officer to equip with an ignition interlock device any motor vehicle
14 owned by any of the following:

15 a. An individual who committed a violation of s. 346.63 (2), 940.09 (1) (a), (b),
16 (c) or (d) or 940.25 (1) (a), (b), (c) or (d).

17 b. An individual whose operating privilege is revoked under s. 343.305 (10) or
18 who committed a violation of s. 346.63 (1), if the individual whose operating privilege
19 is revoked under s. 343.305 (10) or who committed the violation of s. 346.63 (1) has
20 one prior suspension, revocation or conviction that would be counted under s.
21 343.307 (1).

22 1g. The court shall not order a motor vehicle equipped with an ignition
23 interlock device under this paragraph if that would result in undue hardship or
24 extreme inconvenience or would endanger the health and safety of a person.

25 **SECTION 8.** 346.65 (6) (a) 2m. of the statutes is amended to read:

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 one or more convictions, suspensions or revocations, as counted under s. 343.307
9 (1), or when a district attorney notifies the department of the filing of a criminal
10 complaint against a person under s. 342.12 (4) (a), the district attorney shall notify
11 the person of the requirement to surrender all certificates of title to the clerk of circuit
12 court. The notification shall include the time limits for that surrender, the penalty
13 for failure to comply with the requirement and the address of the clerk of circuit
14 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 9.** 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), (b), (c) or (d) or 940.25 (1) (a),
25 (b), (c) or (d) and, if the seizure is under par. (a) ~~1.~~ 1m., that the person had 2 prior

1 convictions, suspensions or revocations, as counted under s. 343.307 (1) or, if the
2 seizure is under par. (a) 2., 3 or more prior convictions, suspensions or revocations,
3 as counted under s. 343.307 (1). If the [~~, (e) or (d)~~, ~~(e) or (d)~~] state fails to meet the
4 burden of proof required under this paragraph, the motor vehicle shall be returned
5 to the owner upon the payment of storage costs.

6 **SECTION 10.** 940.09 (1d) of the statutes is amended to read:

7 940.09 (1d) If the person who committed an offense under sub. (1) (a), (b), (c)
8 or (d) ~~has 2 or more prior convictions, suspensions or revocations, as counted under~~
9 ~~s. 343.307(1)~~, the procedure under s. 346.65 (6) ~~may~~ shall be followed regarding the
10 immobilization or seizure and forfeiture of a motor vehicle owned by the person who
11 committed the offense or the equipping of a motor vehicle owned by the person with
12 an ignition interlock device.

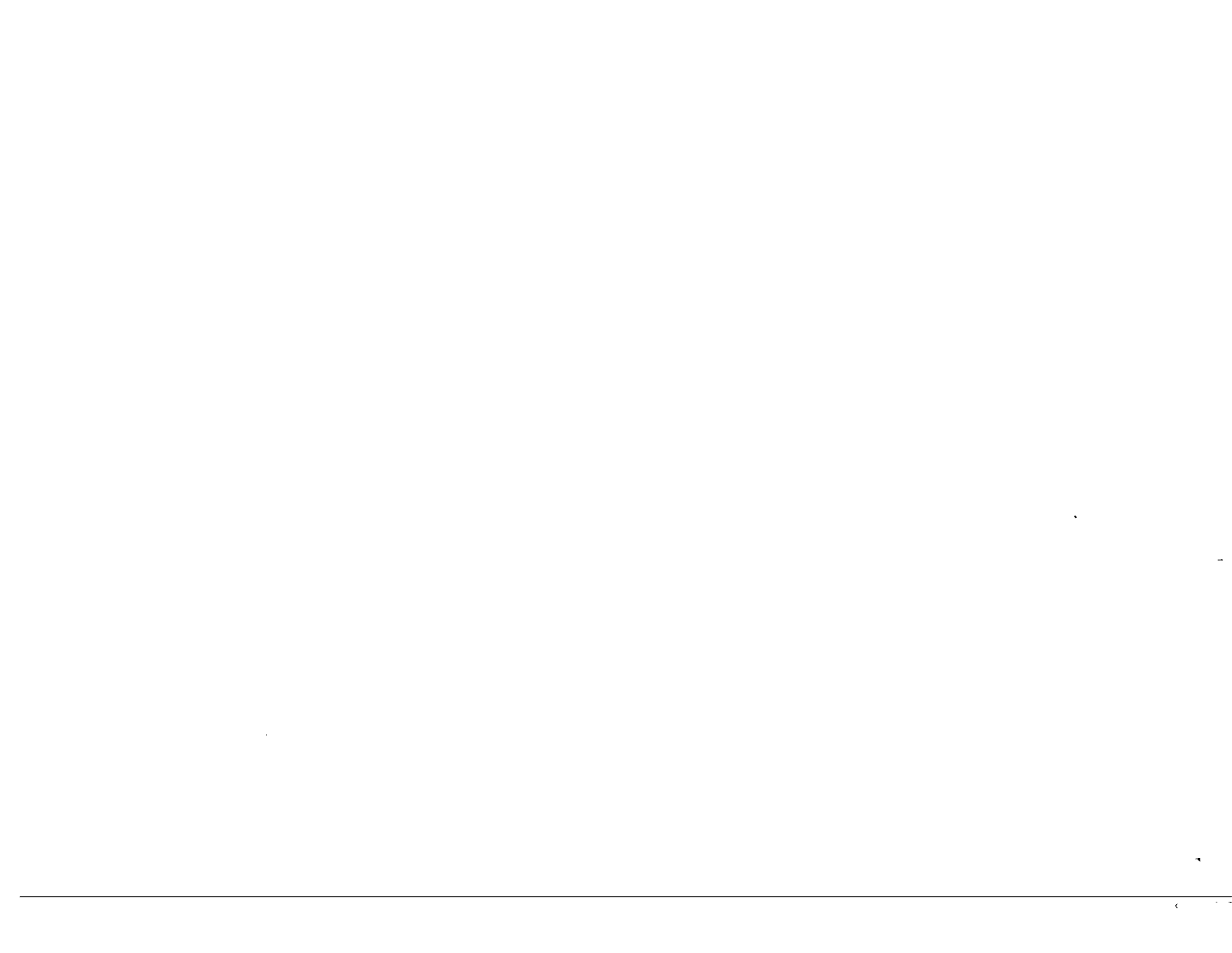
13 **SECTION 11.** 940.25 (1d) of the statutes is amended to read:

14 940.25 (1d) If the person who committed the offense under sub. (1) (a), (b), (c)
15 or (d) ~~has 2 or more prior convictions, suspensions or revocations, as counted under~~
16 ~~s. 343.307(1)~~, the procedure under s. 346.65 (6) ~~may~~ shall be followed regarding the
17 immobilization or seizure and forfeiture of a motor vehicle owned by the person who
18 committed the offense or the equipping of a motor vehicle owned by the person with
19 an ignition interlock device.

20 **SECTION 12. Initial applicability.**

21 (1) This act first applies to violations committed on the effective date of this
22 subsection, but does not preclude the counting of prior suspensions, revocations or
23 convictions by a court taking action that affects a vehicle owned by the person who
24 committed the violation.

25 (END)



1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1345/lins
RPN::lp

insert anl:

Under current law, if a person has two or more prior convictions, revocations or suspensions resulting from the operation of a motor vehicle while under the influence of an intoxicant, controlled substance or other drug (OWI), any occupational license granted to that person includes a restriction requiring the person to only operate vehicles equipped with ignition interlock devices. This bill requires the ignition interlock device restriction if the person has one or more prior OWI-related convictions, revocations or suspensions.

Currently, if a person's operating privilege is revoked for refusing to submit to a test to determine his or her blood alcohol concentration, when determining if the person has committed an OWI offense (refusal) the court may order that a vehicle owned by the person be equipped with an ignition interlock device if the person has two or more prior OWI-related convictions, revocations or suspensions. This bill allows the court to order the vehicle equipped with an ignition interlock device if the person has one or more prior OWI-related convictions, revocations or suspensions.

Currently, if a person has two or more prior OWI-related convictions, revocations or suspensions, the court may order a law enforcement officer to seize a motor vehicle owned by the person when the person is convicted of committing another OWI-related offense. If the court does not order the seizure in that situation, current law requires the court to order ~~that~~ the motor vehicle ~~be~~ equipped with an ignition interlock device or ~~be~~ immobilized.

This bill provides that a court may also order a law enforcement officer to equip with an ignition interlock device any motor vehicle owned by a person whose operating privilege is revoked for a refusal if that person has one or more prior OWI-related convictions, revocations or suspensions and to equip any motor vehicle owned by a person who is convicted of a first or subsequent OWI offense that results in a criminal penalty.

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

the imposition of

when the arresting officer believes



**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 1/22/99

To: Representative Cullen

Relating to LRB drafting number: LRB-1345

Topic

Use of ignition interlock devices for drunk driving cases

Subject(s)

Drunk Driving - penalties

1. **JACKET** the draft for introduction

David A. Cullen

in the **Senate** _____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney
Telephone: (608) 267-7511

