

1999 ASSEMBLY BILL 160

March 4, 1999 – Introduced by Representatives GOETSCH, BRANDEMUEHL, URBAN, LADWIG, M. LEHMAN, WALKER, AINSWORTH, SPILLNER, LA FAVE, REYNOLDS, HOVEN, ZIEGELBAUER, RYBA and BOCK, cosponsored by Senators ROESSLER and HUELSMAN. Referred to Committee on Highway Safety.

1 **AN ACT** *to amend* 346.74 (2); and *to create* 346.71 (2g) and 346.74 (2m) of the
2 statutes; **relating to:** testing of blood for alcohol content in motor vehicle
3 accidents involving a fatality or great bodily harm and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, if a person 14 years of age or older is killed in an accident involving a motor vehicle, his or her blood is tested to determine its alcohol content. The results are forwarded to state agencies to be used for statistical purposes and to the coroner or medical examiner.

This bill requires the testing of the blood of all drivers or operators of motor vehicles involved in an accident that results in a fatality or in great bodily harm at the time of the accident, if the drivers or operators are not tested for purposes of determining if they committed a violation involving intoxicated driving. The law enforcement agency requesting the test is told of the results and includes the results in the accident report. The department of transportation pays for the tests and may use the results for statistical purposes.

The bill also provides that any person who refuses to submit to the blood test may be required to forfeit not more than \$1,000.

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:

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1 **SECTION 1.** 346.71 (2g) of the statutes is created to read:

2 346.71 **(2g)** (a) Any person who drives or operates a motor vehicle upon the
3 public highways of this state, or in those areas enumerated in s. 346.61, is deemed
4 to have given consent to one or more tests of his or her blood for the purpose of
5 determining the presence or quantity in his or her blood of alcohol, controlled
6 substances, controlled substance analogs or other drugs, or any combination of
7 alcohol, controlled substances, controlled substance analogs and other drugs, when
8 requested to do so by a law enforcement officer under this subsection. A person who
9 is unconscious or otherwise not capable of giving consent is presumed to have given
10 consent to the testing of his or her blood under this subsection. Testing under this
11 subsection shall be administered upon the request of a law enforcement officer.

12 (b) A law enforcement officer at the scene of an accident that involves the
13 operation of a motor vehicle shall require that a blood specimen of at least 10 cc. be
14 withdrawn from each driver or operator of a motor vehicle involved in the accident
15 who was not tested under s. 343.305 (5) if the law enforcement officer knew any of
16 the following:

17 1. That a person died before he or she was removed from the scene of the
18 accident as a result of the operation of a motor vehicle involved in the accident.

19 2. That a person suffered great bodily harm, as defined in s. 939.22 (14), as a
20 result of the operation of a motor vehicle involved in the accident.

21 (c) The blood specimen shall be withdrawn under par. (b) within 3 hours after
22 the accident. The coroner or medical examiner, a physician or a qualified person at
23 the direction of a physician shall withdraw the blood. The blood so drawn shall be
24 forwarded to a laboratory approved by the department of health and family services
25 for analysis for the purpose of determining the presence or quantity in the blood of

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1 alcohol, controlled substances, controlled substance analogs or other drugs, or any
2 combination of alcohol, controlled substances, controlled substance analogs and
3 other drugs. The laboratory shall notify the law enforcement agency causing the
4 blood to be withdrawn of the results of each analysis. The law enforcement agency
5 shall place those results in the law enforcement agency's report regarding the
6 accident. The laboratory shall send a copy of the results to the department of
7 transportation. The department of transportation shall pay the cost of each analysis
8 and keep a record of those results to be used for statistical purposes. The department
9 of transportation may disseminate and make public the cumulative results of the
10 analyses without identifying the individuals involved.

11 **SECTION 2.** 346.74 (2) of the statutes is amended to read:

12 346.74 **(2)** Any person violating s. 346.70 (1), (2) or (3), 346.71 (1), (2) or (3) or
13 346.73 may be required to forfeit not less than \$40 nor more than \$200 for the first
14 offense and may be required to forfeit not less than \$100 nor more than \$500 for the
15 2nd or subsequent conviction within a year.

16 **SECTION 3.** 346.74 (2m) of the statutes is created to read:

17 346.74 **(2m)** Any person who refuses to allow the withdrawal of his or her blood
18 under s. 346.71 (2g) may be required to forfeit not more than \$1,000.

19 **SECTION 4. Initial applicability.**

20 (1) This act first applies to accidents occurring on the effective date of this
21 subsection.

22 (END)