

# Patch II

99-2141df\_pt1of3



stone



nelsorp1



**1999 DRAFTING REQUEST**

**Bill**

Received: 02/5/99

Received By: nelsorp1

Wanted: Soon

Identical to LRB:

For: Jeff Stone (608) 266-8590

By/Representing: Mike Prentiss

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters: nilsepe

Subject: **Drunk Driving - alcohol level**  
**Drunk Driving - penalties**  
**Drunk Driving - procedures**  
**Transportation - motor vehicles**  
**Beverages - miscellaneous**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Comprehensive operating while intoxicated legislation

**Instructions:**

See attached

**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 02/25/99			_____			S&L
/P2			ismith 02/26/99	_____	lrb_docadmin 02/26/99		S&L
/P3		gilfokm 02/26/99	haugeca 02/26/99	_____	lrb_docadmin 02/26/99		S&L

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/1	nelsorp1 03/4/99	chanaman 03/4/99	martykr 03/4/99	_____	lrb_docadmin 03/4/99	lrb_docadminS&L 03/8/99	
/2	nelsorp1 03/10/99	chanaman 03/10/99	martykr 03/11/99	_____	lrb_docadmin 03/11/99	lrb_docadminS&L 03/11/99	

FE Sent For: 03/8/99, , , , , 03/11/99, , , , .

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Jm 11  
Jm 11

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#### Instructions:

See attached

*3/3 & 3/4 Mike Prentiss called*  
*- Remove pretrial - in tor driver program*  
*- change mandatory jail 2nd & 3rd OWE from 5-30 to 30-60*  
*- change 386.65(6)(c) add "or in which a was convicted" to which DA can sue for seizure*

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*CMH 1/3/4*  
*Jm 3/4*  
*JP 3/4*

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**<END>**

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FE Sent For:

LRB - 2141

RPN

To: ~~Peter Dykman~~, LRB

From: Mike Prentiss, Rep. Jeff Stone's office *MP*

Date: February 4, 1999

RE: Comprehensive OWI Legislation

Representative Jeff Stone would like the following proposals related to OWI offenses and penalties drafted as one bill. Many of these ideas have been proposed as separate legislation in previous sessions—this is noted where applicable. If you have any questions, please feel free to contact me at 266-8590.

- Increased penalties for increased blood alcohol content (BAC). It is my understanding that Rep. Bonnie Ladwig has sent in drafting instructions on this as well. Please incorporate her language into this bill.
- Allow the courts to order the installation of ignition interlock devices (IID) for any OWI offender. This would NOT be a mandatory provision. Rather courts would have the discretion to order the installation of an IID in an offender's vehicle. (1997 AB 17, Rep. Cullen).
- Discretionary confiscation of vehicle after three OWI offenses. Like the IID provision, confiscation of a repeat offender's vehicle would be at the discretion of the court. (1997 AB 497, Rep. Olsen)
- Statewide expansion of the pre-trial intervention programs that are currently in effect in Dane and Milwaukee Counties. (1997 SB 214, Sen. Grobschmidt)
- Mandatory six-month driver's license suspension for anyone under the legal drinking age who is caught consuming, purchasing, or attempting to purchase alcohol. Also a mandatory six-month license suspension for any driver under the legal drinking age who is caught with an open intoxicant in his vehicle. (This provision is based on Nebraska LB 126, a copy of which is included with this memo. Please let me know if any of the provisions in LB 126 conflict with current Wisconsin law.)
- Establishment of a safe-ride grant program. (1997 AB 572, Rep. Ward, section 16)
- Absolute sobriety (at 0.02% BAC) for drivers with three or more previous OWI convictions. (1997 AB 325, Rep. Foti, as amended by AA 1)

Use as base  
99-1880

99-1273 ✓

99-3758 ✓

99-1861  
PEN

PEN

PEN 97-3692

99-0170  
99-00749

↑ Now 99-2158

2141

OPEN

King

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

regen cat.

1 AN ACT to amend 343.30 (1q) (b) 2., 343.30 (1q) (b) 3., 343.30 (1q) (b) 4., 343.305  
 2 (10) (b) 2., 343.305 (10) (b) 3., 343.305 (10) (b) 4., 343.31 (3) (bm) 2., 343.31 (3)  
 3 (bm) 3., 343.31 (3) (bm) 4., 343.31 (3) (c), 343.31 (3) (e), 343.31 (3) (f), 346.65 (2)  
 4 (a), 346.65 (2) (b), 346.65 (2) (c), 346.65 (2) (d), 346.65 (2) (e), 346.65 (2e), 346.65  
 5 (2g) (a) and 971.17 (1); and to create 343.30 (1q) (b) 4p., 343.31 (3) (bm) 4p.,  
 6 346.65 (2) (g) and 940.25 (1c) of the statutes; relating to: operating a motor  
 7 vehicle while under the influence of an intoxicant and providing a penalty.

Inserts A-1, A-2, A-3, A-4

Analysis by the Legislative Reference Bureau

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

Insert FE-5/L

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

Inserts 1-8a1w, 1-8a2, 1-8a3, 1-8b, 1-8b1, 1-8c1, 1-8c2

SECTION 1. 343.30 (1q) (b) 2. of the statutes is amended to read:  
 343.30 (1q) (b) 2. Except as provided in subd. 3., 4. or 4m. or 4p., for the first  
 conviction, the court shall suspend the person's operating privilege for not less than

## SECTION 1

1 6 months nor more than 9 months. The person is eligible for an occupational license  
2 under s. 343.10 at any time.

3 **SECTION 2.** 343.30 (1q) (b) 3. of the statutes is amended to read:

4 343.30 (1q) (b) 3. Except as provided in subd. 4m. or 4p., if the number of  
5 convictions, suspensions and revocations within a 10-year period equals 2, the court  
6 shall revoke the person's operating privilege for not less than one year nor more than  
7 18 months. After the first 60 days of the revocation period, the person is eligible for  
8 an occupational license under s. 343.10 if he or she has completed the assessment and  
9 is complying with the driver safety plan ordered under par. (c).

10 **SECTION 3.** 343.30 (1q) (b) 4. of the statutes is amended to read:

11 343.30 (1q) (b) 4. Except as provided in subd. 4m. or 4p., if the number of  
12 convictions, suspensions and revocations equals 3 or more, the court shall revoke the  
13 person's operating privilege for not less than 2 years nor more than 3 years. After  
14 the first 90 days of the revocation period, the person is eligible for an occupational  
15 license under s. 343.10 if he or she has completed the assessment and is complying  
16 with the driver safety plan ordered under par. (c).

17 **SECTION 4.** 343.30 (1q) (b) 4p. of the statutes is created to read:

18 343.30 (1q) (b) 4p. If he or she had an alcohol concentration of 0.15 to 0.199,  
19 the applicable minimum and maximum suspension or revocation periods under  
20 subd. 2., 3. or 4. for the conviction are doubled. If the person convicted under s. 346.63  
21 (1) or a local ordinance in conformity with s. 346.63 (1) had an alcohol concentration  
22 of 0.20 to 0.249, the applicable minimum and maximum suspension or revocation  
23 periods under subd. 2., 3. or 4. for the conviction are tripled. If the person convicted  
24 under s. 346.63 (1) or a local ordinance in conformity with s. 346.63 (1) had an alcohol

1 concentration of 0.25 or above, the applicable minimum and maximum suspension  
2 or revocation periods under subd. 2., 3. or 4. for the conviction are quadrupled.

3 **SECTION 5.** 343.305 (10) (b) 2. of the statutes is amended to read:

4 343.305 (10) (b) 2. Except as provided in subd. 3., 4. or 4m., for the first  
5 improper refusal, the court shall revoke the person's operating privilege for not less  
6 than one year nor more than 3 years. After the first 30 days of the revocation period,  
7 the person is eligible for an occupational license under s. 343.10.

8 **SECTION 6.** 343.305 (10) (b) 3. of the statutes is amended to read:

9 343.305 (10) (b) 3. Except as provided in subd. 4m., if the number of convictions,  
10 suspensions and revocations within a 10-year period equals 2, the court shall revoke  
11 the person's operating privilege for not less than 2 years nor more than 6 years. After  
12 the first 90 days of the revocation period, the person is eligible for an occupational  
13 license under s. 343.10 if he or she has completed the assessment and is complying  
14 with the driver safety plan.

15 **SECTION 7.** 343.305 (10) (b) 4. of the statutes is amended to read:

16 343.305 (10) (b) 4. Except as provided in subd. 4m., if the number of convictions,  
17 suspensions and revocations equals 3 or more, the court shall revoke the person's  
18 operating privilege for not less than 3 years nor more than 12 years. After the first  
19 120 days of the revocation period, the person is eligible for an occupational license  
20 under s. 343.10 if he or she has completed the assessment and is complying with the  
21 driver safety plan.

22 **SECTION 8.** 343.31 (3) (b~~iii~~) 2. of the statutes is amended to read:

23 343.31 (3) (b~~m~~) 2. Except as provided in subd. 3., 4. or 4m. or 4p., for the first  
24 conviction, the department shall suspend the person's operating privilege for not less  
25 than 6 months nor more than 9 months. If an Indian tribal court in this state

✓  
insert  
3-21a



## SECTION 8

1 suspends the person's privilege to operate a motor vehicle on tribal lands for not less  
2 than 6 months nor more than 9 months for the conviction specified in par. (bm)  
3 (intro.), the department shall impose the same period of suspension. The person is  
4 eligible for an occupational license under s. 343.10 at any time.

5 **SECTION 9.** 343.31 (3) (bm) 3. of the statutes is amended to read:

6 343.31 (3) (bm) 3. Except as provided in subd. 4m. or 4p., if the number of  
7 suspensions, revocations and convictions within a 10-year period equals 2, the  
8 department shall revoke the person's operating privilege for not less than one year  
9 nor more than 18 months. If an Indian tribal court in this state revokes the person's  
10 privilege to operate a motor vehicle on tribal lands for not less than one year nor more  
11 than 18 months for the conviction specified in par. (bm) (intro.), the department shall  
12 impose the same period of revocation. After the first 60 days of the revocation period,  
13 the person is eligible for an occupational license under s. 343.10.

14 **SECTION 10.** 343.31 (3) (bm) 4. of the statutes is amended to read:

15 343.31 (3) (bm) 4. Except as provided in subd. 4m. or 4p., if the number of  
16 suspensions, revocations and convictions equals 3 or more, the department shall  
17 revoke the person's operating privilege for not less than 2 years nor more than 3  
18 years. If an Indian tribal court in this state revokes the person's privilege to operate  
19 a motor vehicle on tribal lands for not less than 2 years nor more than 3 years for the  
20 conviction specified in par. (bm) (intro.), the department shall impose the same  
21 period of revocation. After the first 90 days of the revocation period, the person is  
22 eligible for an occupational license under s. 343.10.

23 **SECTION 11.** 343.31 (3) (bm) 4p. of the statutes is created to read:

24 343.31 (3) (bm) 4p. If he or she had an alcohol concentration of 0.15 to 0.199,  
25 the applicable minimum and maximum suspension or revocation periods under

1 subd. 2., 3. or 4. for the conviction are doubled. If the person convicted under a law  
2 of a federally recognized American Indian tribe or band in this state in conformity  
3 with s. 346.63 (1) had an alcohol concentration of 0.20 to 0.249, the applicable  
4 minimum and maximum suspension or revocation periods under subd. 2., 3. or 4. for  
5 the conviction are tripled. If the person convicted under a law of a federally  
6 recognized American Indian tribe or band in this state in conformity with s. 346.63  
7 (1) had an alcohol concentration of 0.25 or above, the applicable minimum and  
8 maximum suspension or revocation periods under subd. 2., 3. or 4. for the conviction  
9 are quadrupled.

10 **SECTION 12.** 343.31 (3) (c) of the statutes is amended to read:

11 343.31 (3) (c) Any person convicted under s. 940.09 (1) of causing the death of  
12 another or of an unborn child by the operation or handling of a motor vehicle shall  
13 have his or her operating privilege revoked for 5 years. If there was a minor  
14 passenger under 16 years of age or an unborn child, as defined in s. 939.75 (1), in the  
15 motor vehicle at the time of the violation that gave rise to the conviction under s.  
16 940.09 (1), the revocation period is 10 years. If the person convicted under s. 940.09  
17 (1) had an alcohol concentration of 0.15 to 0.199, the revocation period is 10 years.  
18 If the person convicted under s. 940.09 (1) had an alcohol concentration of 0.20 to  
19 0.249, the revocation period is 15 years. If the person convicted under s. 940.09 (1)  
20 had an alcohol concentration of 0.25 or above, the revocation period is 20 years.

21 **SECTION 13.** 343.31 (3) (e) of the statutes is amended to read:

22 343.31 (3) (c) Any person convicted under s. 346.63 (2) shall have his or her  
23 operating privilege revoked for not less than one year nor more than 2 years. If there  
24 was a minor passenger under 16 years of age in the motor vehicle at the time of the  
25 violation that gave rise to the conviction under s. 346.63 (2), the minimum and

1 maximum revocation periods are doubled. If the person convicted under s. 346.63  
2 (2) had an alcohol concentration of 0.15 to 0.199, the minimum and maximum  
3 revocation periods are doubled. If the person convicted under s. 346.63 (2) had an  
4 alcohol concentration of 0.20 to 0.249, the minimum and maximum revocation  
5 periods are tripled. If the person convicted under s. 346.63 (2) had an alcohol  
6 concentration of 0.25 or above, the minimum and maximum revocation periods are  
7 quadrupled.

8 SECTION 14. 343.31 (3) (f) of the statutes is amended to read:

9 343.31 (3) (f) Any person convicted under s. 940.25 shall have his or her  
10 operating privilege revoked for 2 years. If there was a minor passenger under 16  
11 years of age or an unborn child, as defined in s. 939.75 (1), in the motor vehicle at the  
12 time of the violation that gave rise to the conviction under s. 940.25, the revocation  
13 period is 4 years. If the person convicted under s. 940.25 had an alcohol  
14 concentration of 0.15 to 0.199, the revocation period is 4 years. If the person  
15 convicted under s. 940.25 had an alcohol concentration of 0.20 to 0.249, the  
16 revocation period is 6 years. If the person convicted under s. 940.25 had an alcohol  
17 concentration of 0.25 or above, the revocation period is 8 years.

18 SECTION 15. 346.65 (2) (a) of the statutes is amended to read:

19 346.65 (2) (a) Shall forfeit not less than \$150 nor more than \$300, except as  
20 provided in pars. (b) to (f) (g).

21 SECTION 16. 346.65 (2) (b) of the statutes is amended to read:

22 346.65 (2) (b) Except as provided in ~~par.~~ pars. (f) and (g), shall be fined not less  
23 than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor more  
24 than 6 months if the total number of suspensions, revocations and convictions  
25 counted under s. 343.307 (1) equals 2 within a 10-year period. Suspensions,

1 revocations or convictions arising out of the same incident or occurrence shall be  
2 counted as one.

3 **SECTION 17.** 346.65 (2) (c) of the statutes is amended to read:

4 346.65 (2) (c) Except as provided in ~~par. pars.~~ (f) and (g), shall be fined not less  
5 than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more  
6 than one year in the county jail if the total number of suspensions, revocations and  
7 convictions counted under s. 343.307 (1) equals 3, except that suspensions,  
8 revocations or convictions arising out of the same incident or occurrence shall be  
9 counted as one.

10 **SECTION 18.** 346.65 (2) (d) of the statutes is amended to read:

11 346.65 (2) (d) Except as provided in ~~par. pars.~~ (f) and (g), shall be fined not less  
12 than \$600 nor more than \$2,000 and imprisoned for not less than 60 days nor more  
13 than one year in the county jail if the total number of suspensions, revocations and  
14 convictions counted under s. 343.307 (1) equals 4, except that suspensions,  
15 revocations or convictions arising out of the same incident or occurrence shall be  
16 counted as one.

17 **SECTION 19.** 346.65 (2) (e) of the statutes is amended to read:

18 346.65 (2) (e) Except as provided in ~~par. pars.~~ (f) and (g), shall be fined not less  
19 than \$600 nor more than \$2,000 and imprisoned for not less than 6 months nor more  
20 than 5 years if the total number of suspensions, revocations and convictions counted  
21 under s. 343.307 (1) equals 5 or more, except that suspensions, revocations or  
22 convictions arising out of the same incident or occurrence shall be counted as one.

23 **SECTION 20.** 346.65 (2) (g) of the statutes is created to read:

24 346.65 (2) (g) Shall, if he or she had an alcohol concentration of 0.15 to 0.199,  
25 be penalized double the applicable minimum and maximum forfeitures, fines or

1 imprisonment under pars. (a) to (e). If the person had an alcohol concentration of  
2 0.20 to 0.249, he or she shall be penalized triple the applicable minimum and  
3 maximum forfeitures, fines or imprisonments under pars. (a) to (e). If the person had  
4 an alcohol concentration of 0.25 or above, he or she shall be penalized four times the  
5 applicable minimum and maximum forfeitures, fines or imprisonments under pars.  
6 (a) to (e). An offense under s. 346.63 (1) that subjects a person to a penalty under par.  
7 (c), (d) or (e) when the person had an alcohol concentration of 0.15 or above is a felony  
8 and the place of imprisonment shall be determined under s. 973.02. An offense under  
9 s. 346.63 (1) that subjects a person to a penalty under par. (b), (c), (d) or (e) when the  
10 person had an alcohol concentration of 0.20 or more is a felony and the place of  
11 imprisonment shall be determined under s. 973.02.

12 **SECTION 21.** 346.65 (2e) of the statutes is amended to read:

13 346.65 (2e) If the court determines that a person does not have the ability to  
14 pay the costs and fine or forfeiture imposed under sub. (2) (a), ~~(b), (c), (d), (e) or (f)~~ to  
15 (g), the court may reduce the costs, fine and forfeiture imposed and order the person  
16 to pay, toward the cost of the assessment and driver safety plan imposed under s.  
17 343.30 (1q) (c), the difference between the amount of the reduced costs and fine or  
18 forfeiture and the amount of costs and fine or forfeiture imposed under sub. (2) (a),  
19 ~~(b), (c), (d), (e) or (f)~~ to (g).

20 **SECTION 22.** 346.65 (2g) (a) of the statutes is amended to read:

21 346.65 (2g) (a) In addition to the authority of the court under s. 973.05 (3) (a)  
22 to provide that a defendant perform community service work for a public agency or  
23 a nonprofit charitable organization in lieu of part or all of a fine imposed under sub.  
24 (2) (b) to ~~(f)~~ (g), the court may provide that a defendant perform community service  
25 work for a public agency or a nonprofit charitable organization in lieu of part or all

1 of a forfeiture under sub. (2) (a) or may require a person who is subject to sub. (2) to  
 2 perform community service work for a public agency or a nonprofit charitable  
 3 organization in addition to the penalties specified under sub. (2). Notwithstanding  
 4 s. 973.05 (3) (b), an order may only apply if agreed to by the organization or agency.  
 5 The court shall ensure that the defendant is provided a written statement of the  
 6 terms of the community service order and that the community service order is  
 7 monitored. Any organization or agency acting in good faith to which a defendant is  
 8 assigned pursuant to an order under this subsection has immunity from any civil  
 9 liability in excess of \$25,000 for acts or omissions by or impacting on the defendant.  
 10 The issuance or possibility of the issuance of a community service order under this  
 11 subsection does not entitle an indigent defendant who is subject to sub. (2) (a) to  
 representation by counsel under ch. 977.

Insert  
 9-12a12  
 9-12a13  
 9-12a14  
 9-12b1  
 9-12b2  
 9-12c  
 9-12d

SECTION 23. 940.25 (1c) of the statutes is created to read:

940.25 (1c) If the person convicted under s. 940.25 (1) had an alcohol  
 concentration of 0.15 to 0.199, the applicable maximum fine or imprisonment for the  
 conviction is doubled. If the person convicted under s. 940.25 (1) had an alcohol  
 concentration of 0.20 to 0.249, the applicable maximum fine or imprisonment for the  
 conviction is tripled. If the person convicted under s. 940.25 (1) had an alcohol  
 concentration of 0.25 or above, the applicable maximum fine or imprisonment for the  
 conviction is quadrupled.

Insert  
 9-20a

SECTION 24. 971.17 (1) of the statutes is amended to read:

971.17 (1) COMMITMENT PERIOD. When a defendant is found not guilty by reason  
 of mental disease or mental defect, the court shall commit the person to the  
 department of health and family services for a specified period not exceeding  
 two-thirds of the maximum term of imprisonment that could be imposed under s.

1 973.15 (2) (a) against an offender convicted of the same crime or crimes, including  
2 imprisonment authorized by ss. 346.65 (2) (f) or (g), (2j) (d) or (3m), 939.62, 939.621,  
3 939.63, 939.635, 939.64, 939.641, 939.645, 940.09 (1b), 940.25 (1b) and 961.48 and  
4 other penalty enhancement statutes, as applicable, subject to the credit provisions  
5 of s. 973.155. If the maximum term of imprisonment is life, the commitment period  
6 specified by the court may be life, subject to termination under sub. (5).

7 **SECTION 25. Initial applicability.**

8 (1) This act first applies to offenses committed on the effective date of this  
9 subsection, but does not preclude the counting of other violations as prior  
10 convictions, suspensions or revocations for purposes of administrative action by the  
11 department of transportation, sentencing by a court, ~~or~~ revocation or suspension of  
12 operating privileges. *or refusals occurring*

13 **SECTION 26. Effective date.**

14 (1) This act takes effect on the first day of the 4th month beginning after  
15 publication. *determining*

16 (END)

# 1997 ASSEMBLY BILL 17

January 28, 1997 - Introduced by Representatives CULLEN, DOBYNS, NOTESTEIN, WASSERMAN, TURNER, BOCK, RYBA, LA FAVE, AINSWORTH, HARS DORF, 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:  
 , installation of an ignition interlock device in cases involving intoxicated  
 operation of a motor vehicle,

Insert 5 ✓  
R-1 6 ✓

### *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~~ <sup>two</sup> or more prior ~~10~~ <sup>ten</sup> 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.

Insert A-1 ✓



**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).

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 the procedure under s. 346.65 (6) shall be followed regarding the equipping of a motor  
 14 vehicle owned by the person with an ignition interlock device.

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

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

17 346.65 (6) (a) 1d. Except as provided in this subdivision, the court may order  
 18 a law enforcement officer to equip with an ignition interlock device a motor vehicle  
 19 owned by the person whose operating privilege is revoked under s. 343.305 (10) or  
 20 who committed a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a),  
 21 (b) or 940.25 (1) (a), or (b) <sup>(c) or (d)</sup> The court shall not order a motor vehicle equipped with  
 22 an ignition interlock device if that would result in undue hardship or extreme  
 23 inconvenience or would endanger the health or safety of a person.

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

Insert  
3-21a

Insert  
9-12a 21

X (20)

**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:

*(c) or (d),*

*insert  
9-12d*

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) 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:

*(c) or (d)*

*insert  
9-20a*

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

# 1997 ASSEMBLY BILL 497

September 2, 1997 - Introduced by Representatives OLSEN, WASSERMAN, GROTHMAN, HANSON, KELSO, GREEN, DOBYNS, GUNDERSON, HAHN, ZIEGELBAUER, ROBSON, RYBA, OTTE, GOETSCH, HUEBSCH, LAZICH, HARSDFORF, POWERS, LADWIG, VRAKAS, ZUKOWSKI, HUTCHISON, STASKUNAS and PLOUFF, cosponsored by Senators DRZEWIECKI, HUELSMAN, COWLES, A. LASEE, FARROW, DARLING and ROSENZWEIG. Referred to Committee on Judiciary.

1 AN ACT to repeal 346.65 (6) (a) 2.; and to amend 346.65 (6) (a) 1. and 346.65 (6)  
2 (d) of the statutes; relating to seizure of motor vehicles for offenses related to  
3 driving while under the influence of an intoxicant.

### Analysis by the Legislative Reference Bureau

Under current law, if a person is convicted of driving or operating a motor vehicle while under the influence of an intoxicant (OWI) or refuses to submit to a test to determine his or her blood alcohol concentration and the person has 2 prior OWI-related convictions, suspensions or revocations, the court may order a law enforcement officer to seize a motor vehicle owned by the person. Current law requires the court, if the court does not order a motor vehicle seized in this situation, to order a law enforcement officer to immobilize or equip with an ignition interlock device a motor vehicle owned by the person. Under current law, if a person is convicted of OWI or refuses to submit to a test to determine his or her blood alcohol concentration and the person has 2 or more prior OWI-related convictions, suspensions or revocations, the court is required to order a law enforcement officer to seize a motor vehicle owned by the person.

This bill removes the requirement that the court order a law enforcement officer to seize a motor vehicle owned by a person who is convicted of OWI or refuses to submit to a test to determine his or her blood alcohol concentration when the person has 2 or more prior OWI-related convictions, suspensions or revocations. The court continues to have the option of ordering the seizure of a motor vehicle, but the court is not required to order the seizure under this bill.

insert R-2 3

insert A-2

three

three

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. 346.65 (6) (a) 1. of the statutes is amended to read:~~

2 ~~346.65 (6) (a) 1. Except as provided in this paragraph, the court may order a~~  
3 ~~law enforcement officer to seize a motor vehicle, or, if the motor vehicle is not ordered~~  
4 ~~seized, shall order a law enforcement officer to equip the motor vehicle with an~~  
5 ~~ignition interlock device or immobilize any motor vehicle owned by the person whose~~  
6 ~~operating privilege is revoked under s. 343.305 (10) or who committed a violation of~~  
7 ~~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) if~~  
8 ~~the person whose operating privilege is revoked under s. 343.305 (10) or who is~~  
9 ~~convicted of the violation has 2 or more prior suspensions, revocations or convictions~~  
10 ~~within a 10-year period that would be counted under s. 343.307 (1). The court shall~~  
11 ~~not order a motor vehicle equipped with an ignition interlock device or immobilized~~  
12 ~~if that would result in undue hardship or extreme inconvenience or would endanger~~  
13 ~~the health and safety of a person.~~

✓ insert  
9-1261  
SECTION 2. 346.65 (6) (a) 2. of the statutes is repealed.

15 ~~SECTION 3. 346.65 (6) (d) of the statutes is amended to read:~~

16 ~~346.65 (6) (d) At the hearing set under par. (c), the state has the burden of~~  
17 ~~proving to a reasonable certainty by the greater weight of the credible evidence that~~  
18 ~~the motor vehicle is a motor vehicle owned by a person who committed a violation of~~  
19 ~~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,~~  
20 ~~if the seizure is under par. (a) 1., that the person had 2 or more prior convictions,~~  
21 ~~suspensions or revocations within a 10-year period as counted under s. 343.307 (1)~~



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-2138/1  
RPN:kmg:hmh

2141

1999 BILL

1 AN ACT to amend 340.01 (46m) (b); and to create 340.01 (46m) (c) of the statutes;  
2 relating to: the prohibited alcohol concentration related to operating a motor  
3 vehicle while under the influence of an intoxicant or drugs or both,

Insert  
R-3

*Analysis by the Legislative Reference Bureau*

Under current law, a person who has one or no prior convictions, suspensions or revocations for operating a motor vehicle while under the influence of an intoxicant or drugs or both is prohibited from operating a motor vehicle if the alcohol concentration in the person's blood is 0.1 or more.

Current law prohibits a person who has two or more of those convictions, suspensions or revocations from operating a motor vehicle if the alcohol concentration in the person's blood is 0.08 or more.

This bill prohibits a person who has three or more of those convictions, suspensions or revocations from operating a motor vehicle if the alcohol concentration in the person's blood is more than 0.02.

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

Insert  
A-3

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

SECTION 1. 340.01 (46m) (b) of the statutes is amended to read:

Insert  
1-8a2



**BILL**

2141

**SECTION 1**

1 340.01 (46m) (b) If the person has 2 or ~~more~~ prior convictions, suspensions or  
2 revocations, as counted under s. 343.307 (1), an alcohol concentration of 0.08 or more.

3 **SECTION 2.** 340.01 (46m) (c) of the statutes is created to read:

4 340.01 (46m) (c) If the person has 3 or more prior convictions, suspensions or  
5 revocations, as counted under s. 343.307 (1), an alcohol concentration of more than  
6 0.02.

7 **SECTION 3. Initial applicability.**

8 (1) This act first applies to offenses committed or refusals occurring on the  
9 effective date of this subsection, but does not preclude the counting of other  
10 convictions, suspensions or revocations as prior convictions, suspensions or  
11 revocations for purposes of determining the prohibited alcohol concentration.

12 (END)

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2141

# 1997 SENATE BILL 214

May 20, 1997 - Introduced by Senators GROBSCHMIDT, BURKE, MOEN, HUELSMAN, FARROW, DRZEWIECKI and CHVALA, cosponsored by Representatives R. YOUNG, BOCK, WALKER, NOTESTEIN, PLALE, STASKUNAS, CULLEN and KREUSER. Referred to Committee on Labor, Transportation and Financial Institutions.

1 AN ACT to renumber 346.65 (2m); to amend 20.435 (6) (hx), 20.435 (7) (hz),  
 2 346.655 (1) and 346.655 (2); and to create 20.395 (5) (jk), 85.53 and 346.65 (2m)  
 3 (b) of the statutes; relating to: creating <sup>of the</sup> ~~of the~~ pretrial intoxicated driver  
 intervention grant program and making an appropriation.

insert R-44

Current law

Under current law,

~~DOT~~ <sup>DOT</sup> administers

### Analysis by the Legislative Reference Bureau

~~This bill creates~~ a grant program administered by the department of transportation (DOT) to fund pretrial intoxicated driver intervention programs (pretrial programs) that serve individuals accused of a <sup>second</sup> ~~first~~ or subsequent offense of driving while intoxicated. A pretrial program is eligible for a grant if it: 1) is administered by a city, village, town, county or private nonprofit organization; 2) identifies and notifies defendants who are eligible to participate of the availability of the program; 3) monitors the participants' use of intoxicants to reduce the incidence of abuse and treats such abuse; 4) reports the participant's participation in the program to the court; and 5) requires participants to pay up to 20% of the per capita cost of the program. ~~The bill~~ requires a court to consider an individual's participation in such a program when imposing a sentence for driving while intoxicated. ~~This bill eliminates the limit on the total amount~~

The bill requires DOT to report biennially to the legislature on the relative success of pretrial intoxicated driver intervention programs, including the relative rates of recidivism of individuals who successfully completed such a program and of individuals who did not participate in such a program. The bill also requires each grant recipient to report to the legislature on its program results.

insert A-4

Under current law, DOT may award grants totaling no more than \$500,000 under the program.

total amount of grants awarded under this program

Insert 1-8a1 ✓

Section #. 85.53 (3) of the statutes is amended to read:

85.53 (3) Grants under this section shall be paid from the appropriation under s. 20.395 (5) (jr).

The amount of a grant may not exceed 80% of the amount expended by an eligible applicant for services related to the program. ~~The total amount of grants awarded under this section may not exceed \$500,000.~~

History: 1997 a. 27.



I nsert 1-8a2 ✓

Section #. 342.12 (4) (a) of the statutes is amended to read:

342.12 (4) (a) The district attorney shall notify the department when he or she files a criminal complaint against a person who has been arrested for violating s. 346.63 (1) or (2), 940.09 (1) or 940.25 and who has ~~2 or more prior convictions, suspensions or revocations, as counted under s. 343.307(1).~~ Except as provided under par. (c), the department may not issue a certificate of title transferring ownership of any motor vehicle owned by the person upon receipt of a notice under this subsection until the court assigned to hear the criminal complaint issues an order permitting the department to issue a certificate of title.

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.

Inger + 1-86 ✓

Section #. 342.12 (4) (c) 1. (intro.) of the statutes is amended to read:

342.12 (4) (c) 1. (intro.) The department shall issue a certificate of title transferring ownership of a motor vehicle that was owned by a person who has received a notice of intent to revoke the person's operating privilege under s. 343.305 (9) (a) or has been arrested for violating s. 346.63 (1) or (2), 940.09 (1) or 940.25 and who has ~~2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1)~~, 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.

Insert 1-8c

Section #. 343.10 (5) (a) 3. of the statutes is amended to read:

343.10 (5) (a) 3. ~~If the applicant has 2 or more prior convictions, suspensions or revocations, as~~  
~~counted under s. 343.307 (1), the~~ <sup>The</sup> occupational license of the applicant shall restrict the applicant's  
 operation under the occupational license to vehicles that are equipped with a functioning ignition  
 interlock device if the court has ordered under s. 346.65 (6) (a) ~~1~~ <sup>1g.</sup> that a motor vehicle owned by the  
 person be equipped with an ignition interlock device. A person to whom a restriction under this sub-  
 division applies violates that restriction if he or she requests or permits another to blow into an igni-  
 tion interlock device or to start a motor vehicle equipped with an ignition interlock device for the  
 purpose of providing the person an operable motor vehicle without the necessity of first submitting  
 a sample of his or her breath to analysis by the ignition interlock device. If the occupational license  
 restricts the applicant's operation to a vehicle that is equipped with an ignition interlock device, the  
 applicant shall be liable for the reasonable costs of equipping the vehicle with the ignition interlock  
 device.

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 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.

insert 9-12a1 ✓

Section #. 346.65 (6) (a) 1. of the statutes is renumbered 346.65 (6) (a) 1g. and amended to read:

346.65 (6) (a) 1g. Except as provided in this paragraph, the court may order a law enforcement officer to seize a motor vehicle, or, if the motor vehicle is not ordered seized, shall order a law enforcement officer to equip the motor vehicle with an ignition interlock device or immobilize any motor vehicle owned by the person whose operating privilege is revoked under s. 343.305 (10) or who committed a violation of s. 346.63 (1) (a), (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d) if the person whose operating privilege is revoked under s. 343.305 (10) or who is convicted of the violation has 2 or more prior suspensions, revocations or convictions that would be counted under s. 343.307 (1). The court shall not order a motor vehicle equipped with an ignition interlock device or immobilized if that would result in undue hardship or extreme inconvenience or would endanger the health and safety of a person.

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

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).

Insert 9-12 b2 ✓

Section #. 346.65 (6) (a) 2m. of the statutes is amended to read:

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

**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).

Insert 9-12c

Section #. 346.65 (6) (d) of the statutes is amended to read:

346.65 (6) (d) At the hearing set under par. (c), the state has the burden of proving to a reasonable certainty by the greater weight of the credible evidence that the motor vehicle is a motor vehicle owned by a person who committed a violation of 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), (b), (c) or (d) and, if the seizure is under par. (a) <sup>1g.</sup> ~~1.~~ that the person had <sup>2/ or more</sup> ~~2~~ prior convictions, suspensions or revocations, as counted under s. 343.307 (1) ~~or if the seizure is under par. (a) <sup>2</sup> 3 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1).~~ If the ~~(b), (c) or (d), (e) or (d)~~ <sup>e</sup> state fails to meet the burden of proof required under this paragraph, the motor vehicle shall be returned to the owner upon the payment of storage costs.

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.

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).

## **Nelson, Robert**

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**From:** Nilsen, Paul  
**Sent:** Wednesday, February 24, 1999 10:55 PM  
**To:** Nelson, Robert  
**Subject:** Pretrial grants program

Bob,

I have researched the intoxicated driver improvement surcharge. The only treatment necessary is to amend the last sentence of 85.53 (3). The program is funded from SEG (transportation fund) annual appropriation. 1) Continue funding this way (repeal of schedule by budget, can't pass \$10,000 bill before budget, provide funding in budget?, etc.; or 2) award grants from PR appropriation. I did 97b1049 to increase driver improvement surcharge by \$5 and \$10 to generate funds for grants. Check with me or requester.

--Paul



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-2141/P

RPN&PEN:kmg&cmh:ijs

2

D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Due 2/26  
Friday, 10 a.m.  
By

regen cat.

**AN ACT to repeal 346.65 (6) (a) 2.; to renumber 343.305 (10m), 940.09 (1d) and 940.25 (1d); to renumber and amend 346.65 (6) (a) 1.; to amend 85.53 (3), 340.01 (46m) (b), 342.12 (4) (a), 342.12 (4) (c) 1. (intro.), 343.10 (5) (a) 3., 343.30 (1q) (b) 2., 343.30 (1q) (b) 3., 343.30 (1q) (b) 4., 343.305 (10) (b) 2., 343.305 (10) (b) 3., 343.305 (10) (b) 4., 343.31 (3) (bm) 2., 343.31 (3) (bm) 3., 343.31 (3) (bm) 4., 343.31 (3) (c), 343.31 (3) (e), 343.31 (3) (f), 346.65 (2) (a), 346.65 (2) (b), 346.65 (2) (c), 346.65 (2) (d), 346.65 (2) (e), 346.65 (2e), 346.65 (2g) (a), 346.65 (6) (a) 2m., 346.65 (6) (d) and 971.17 (1); and to create 340.01 (46m) (c), 343.30 (1q) (b) 4p., 343.305 (10m) (a), 343.31 (3) (bm) 4p., 346.65 (2) (g), 346.65 (6) (a) 1d., 940.09 (1d) (a), 940.25 (1c) and 940.25 (1d) (a) of the statutes; relating to:**

operating a motor vehicle while under the influence of an intoxicant, <sup>or drugs, or both</sup> installation of an ignition interlock device in cases involving intoxicated operation of a motor vehicle, seizure of motor vehicles for offenses related to driving while under the influence of an intoxicant, the prohibited alcohol concentration related to operating a motor vehicle while under the influence of an intoxicant ~~or drugs~~

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*creating a safe-ride grant program*

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of both, the pretrial intoxicated driver intervention grant program) and

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providing a penalty.

*making an appropriation*

**Analysis by the Legislative Reference Bureau**

*a first*

*(Subheading)  
Seizure of  
vehicles*

*subsub*

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 two or more prior OWI-related convictions, suspensions or revocations within a ten-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. *No IP*

Current law requires the court, if the court does not order a motor vehicle seized in this situation, to order a law enforcement officer to immobilize or equip with an ignition interlock device a motor vehicle owned by the person. Under current law, if a person is convicted of OWI or refuses to submit to a test to determine his or her blood alcohol concentration and the person has three or more prior OWI-related convictions, suspensions or revocations, the court is required to order a law enforcement officer to seize a motor vehicle owned by the person.

*The* This bill removes the requirement that the court order a law enforcement officer to seize a motor vehicle owned by a person who is convicted of OWI or refuses to submit to a test to determine his or her blood alcohol concentration when the person has three or more prior OWI-related convictions, suspensions or revocations. The court continues to have the option of ordering the seizure of a motor vehicle, but the court is not required to order the seizure under this bill.

*(Subheading)  
Blood alcohol  
concentration*

*subsub*

Under current law, a person who has one or no prior convictions, suspensions or revocations for operating a motor vehicle while under the influence of an intoxicant or drugs or both is prohibited from operating a motor vehicle if the alcohol concentration in the person's blood is 0.1 or more.

Current law prohibits a person who has two or more of those convictions, suspensions or revocations from operating a motor vehicle if the alcohol concentration in the person's blood is 0.08 or more.

This bill prohibits a person who has three or more of those convictions, suspensions or revocations from operating a motor vehicle if the alcohol concentration in the person's blood is more than 0.02.

*(Subheading)  
Driver  
intervention  
program*

*subsub*

Under current law, the department of transportation (DOT) administers a grant program to fund pretrial intoxicated driver intervention programs (pretrial programs) that serve individuals accused of a second or subsequent offense of driving while intoxicated. A pretrial program is eligible for a grant if it: 1) is administered by a city, village, town, county or private nonprofit organization; 2) identifies and notifies defendants who are eligible to participate of the availability of the program; 3) monitors the participants' use of intoxicants to reduce the incidence of abuse and treats such abuse; 4) reports the participant's participation in the program to the

court; and 5) requires participants to pay up to 20% of the per capita cost of the program. Current law requires a court to consider an individual's participation in such a program when imposing a sentence for driving while intoxicated. Under current law, DOT may award grants totaling no more than \$500,000 under the program. This bill eliminates the limit on the total amount of grants awarded under this program.

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

Inserts  
a n l - 1 ✓  
a n l - 2 ✓

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

Insert  
3-1 ✓

→ SECTION 1. 85.53 (3) of the statutes is amended to read:

85.53 (3) Grants under this section shall be paid from the appropriation under s. 20.395 (5) (jr). The amount of a grant may not exceed 80% of the amount expended by an eligible applicant for services related to the program. ~~The total amount of grants awarded under this section may not exceed \$500,000.~~

Insert  
3-5 ✓

→ SECTION 2. 340.01 (46m) (b) of the statutes is amended to read:

340.01 (46m) (b) If the person has 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), an alcohol concentration of 0.08 or more.

SECTION 3. 340.01 (46m) (c) of the statutes is created to read:

340.01 (46m) (c) If the person has 3 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), an alcohol concentration of more than 0.02.

SECTION 4. 342.12 (4) (a) of the statutes is amended to read:

342.12 (4) (a) The district attorney shall notify the department when he or she files a criminal complaint against a person who has been arrested for violating s. 346.63 (1) or (2), 940.09 (1) or 940.25 ~~and who has 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1).~~ Except as provided under par. (c), the department may not issue a certificate of title transferring

## SECTION 4

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

4 **SECTION 5.** 342.12 (4) (c) 1. (intro.) of the statutes is amended to read:

5 342.12 (4) (c) 1. (intro.) The department shall issue a certificate of title  
6 transferring ownership of a motor vehicle that was owned by a person who has  
7 received a notice of intent to revoke the person's operating privilege under s. 343.305  
8 (9) (a) or has been arrested for violating s. 346.63 (1) or (2), 940.09 (1) or 940.25 and  
9 who has ~~2 or more prior convictions, suspensions or revocations, as counted under~~  
10 ~~s. 343.307 (1)~~, if all of the following conditions are met:

11 **SECTION 6.** 343.10 (5) (a) 3. of the statutes is amended to read:

12 343.10 (5) (a) 3. ~~If the applicant has 2 or more prior convictions, suspensions~~  
13 ~~or revocations, as counted under s. 343.307 (1), the~~ The occupational license of the  
14 applicant shall restrict the applicant's operation under the occupational license to  
15 vehicles that are equipped with a functioning ignition interlock device if the court  
16 has ordered under s. 346.65 (6) (a) ~~1-~~ 1g. that a motor vehicle owned by the person  
17 be equipped with an ignition interlock device. A person to whom a restriction under  
18 this subdivision applies violates that restriction if he or she requests or permits  
19 another to blow into an ignition interlock device or to start a motor vehicle equipped  
20 with an ignition interlock device for the purpose of providing the person an operable  
21 motor vehicle without the necessity of first submitting a sample of his or her breath  
22 to analysis by the ignition interlock device. If the occupational license restricts the  
23 applicant's operation to a vehicle that is equipped with an ignition interlock device,  
24 the applicant shall be liable for the reasonable costs of equipping the vehicle with the  
25 ignition interlock device.

Inserts  
4-25a ✓  
4-25b ✓

1           **SECTION 7.** 343.30 (1q) (b) 2. of the statutes is amended to read:

2           343.30 (1q) (b) 2. Except as provided in subd. 3., 4. ~~or~~ 4m. or 4p., for the first  
3 conviction, the court shall suspend the person's operating privilege for not less than  
4 6 months nor more than 9 months. The person is eligible for an occupational license  
5 under s. 343.10 at any time.

6           **SECTION 8.** 343.30 (1q) (b) 3. of the statutes is amended to read:

7           343.30 (1q) (b) 3. Except as provided in subd. 4m. or 4p., if the number of  
8 convictions, suspensions and revocations within a 10-year period equals 2, the court  
9 shall revoke the person's operating privilege for not less than one year nor more than  
10 18 months. After the first 60 days of the revocation period, the person is eligible for  
11 an occupational license under s. 343.10 if he or she has completed the assessment and  
12 is complying with the driver safety plan ordered under par. (c).

13           **SECTION 9.** 343.30 (1q) (b) 4. of the statutes is amended to read:

14           343.30 (1q) (b) 4. Except as provided in subd. 4m. or 4p., if the number of  
15 convictions, suspensions and revocations equals 3 or more, the court shall revoke the  
16 person's operating privilege for not less than 2 years nor more than 3 years. After  
17 the first 90 days of the revocation period, the person is eligible for an occupational  
18 license under s. 343.10 if he or she has completed the assessment and is complying  
19 with the driver safety plan ordered under par. (c).

20           **SECTION 10.** 343.30 (1q) (b) 4p. of the statutes is created to read:

21           343.30 (1q) (b) 4p. If he or she had an alcohol concentration of 0.15 to 0.199,  
22 the applicable minimum and maximum suspension or revocation periods under  
23 subd. 2., 3. or 4. for the conviction are doubled. If the person convicted under s. 346.63  
24 (1) or a local ordinance in conformity with s. 346.63 (1) had an alcohol concentration  
25 of 0.20 to 0.249, the applicable minimum and maximum suspension or revocation

**SECTION 10**

1 periods under subd. 2., 3. or 4. for the conviction are tripled. If the person convicted  
2 under s. 346.63 (1) or a local ordinance in conformity with s. 346.63 (1) had an alcohol  
3 concentration of 0.25 or above, the applicable minimum and maximum suspension  
4 or revocation periods under subd. 2., 3. or 4. for the conviction are quadrupled.

5 **SECTION 11.** 343.305 (10) (b) 2. of the statutes is amended to read:

6 343.305 (10) (b) 2. Except as provided in subd. 3., 4. or 4m., for the first  
7 improper refusal, the court shall revoke the person's operating privilege for not less  
8 than one year nor more than 3 years. After the first 30 days of the revocation period,  
9 the person is eligible for an occupational license under s. 343.10.

10 **SECTION 12.** 343.305 (10) (b) 3. of the statutes is amended to read:

11 343.305 (10) (b) 3. Except as provided in subd. 4m., if the number of convictions,  
12 suspensions and revocations within a 10-year period equals 2, the court shall revoke  
13 the person's operating privilege for not less than 2 years nor more than 6 years. After  
14 the first 90 days of the revocation period, the person is eligible for an occupational  
15 license under s. 343.10 if he or she has completed the assessment and is complying  
16 with the driver safety plan.

17 **SECTION 13.** 343.305 (10) (b) 4. of the statutes is amended to read:

18 343.305 (10) (b) 4. Except as provided in subd. 4m., if the number of convictions,  
19 suspensions and revocations equals 3 or more, the court shall revoke the person's  
20 operating privilege for not less than 3 years nor more than 12 years. After the first  
21 120 days of the revocation period, the person is eligible for an occupational license  
22 under s. 343.10 if he or she has completed the assessment and is complying with the  
23 driver safety plan.

24 **SECTION 14.** 343.305 (10m) of the statutes is renumbered 343.305 (10m) (b).

25 **SECTION 15.** 343.305 (10m) (a) of the statutes is created to read:

1           343.305 (10m) (a) If the person's operating privilege is revoked under sub. (10),  
2 the procedure under s. 346.65 (6) shall be followed regarding the equipping of a motor  
3 vehicle owned by the person with an ignition interlock device.

4           **SECTION 16.** 343.31 (3) (bm) 2. of the statutes is amended to read:

5           343.31 (3) (bm) 2. Except as provided in subd. 3., 4. ~~or~~ 4m. or 4p., for the first  
6 conviction, the department shall suspend the person's operating privilege for not less  
7 than 6 months nor more than 9 months. If an Indian tribal court in this state  
8 suspends the person's privilege to operate a motor vehicle on tribal lands for not less  
9 than 6 months nor more than 9 months for the conviction specified in par. (bm)  
10 (intro.), the department shall impose the same period of suspension. The person is  
11 eligible for an occupational license under s. 343.10 at any time.

12           **SECTION 17.** 343.31 (3) (bm) 3. of the statutes is amended to read:

13           343.31 (3) (bm) 3. Except as provided in subd. 4m. or 4p., if the number of  
14 suspensions, revocations and convictions within a 10-year period equals 2, the  
15 department shall revoke the person's operating privilege for not less than one year  
16 nor more than 18 months. If an Indian tribal court in this state revokes the person's  
17 privilege to operate a motor vehicle on tribal lands for not less than one year nor more  
18 than 18 months for the conviction specified in par. (bm) (intro.), the department shall  
19 impose the same period of revocation. After the first 60 days of the revocation period,  
20 the person is eligible for an occupational license under s. 343.10.

21           **SECTION 18.** 343.31 (3) (bm) 4. of the statutes is amended to read:

22           343.31 (3) (bm) 4. Except as provided in subd. 4m. or 4p., if the number of  
23 suspensions, revocations and convictions equals 3 or more, the department shall  
24 revoke the person's operating privilege for not less than 2 years nor more than 3  
25 years. If an Indian tribal court in this state revokes the person's privilege to operate

1 a motor vehicle on tribal lands for not less than 2 years nor more than 3 years for the  
2 conviction specified in par. (bm) (intro.), the department shall impose the same  
3 period of revocation. After the first 90 days of the revocation period, the person is  
4 eligible for an occupational license under s. 343.10.

5 **SECTION 19.** 343.31 (3) (bm) 4p. of the statutes is created to read:

6 343.31 (3) (bm) 4p. If he or she had an alcohol concentration of 0.15 to 0.199,  
7 the applicable minimum and maximum suspension or revocation periods under  
8 subd. 2., 3. or 4. for the conviction are doubled. If the person convicted under a law  
9 of a federally recognized American Indian tribe or band in this state in conformity  
10 with s. 346.63 (1) had an alcohol concentration of 0.20 to 0.249, the applicable  
11 minimum and maximum suspension or revocation periods under subd. 2., 3. or 4. for  
12 the conviction are tripled. If the person convicted under a law of a federally  
13 recognized American Indian tribe or band in this state in conformity with s. 346.63  
14 (1) had an alcohol concentration of 0.25 or above, the applicable minimum and  
15 maximum suspension or revocation periods under subd. 2., 3. or 4. for the conviction  
16 are quadrupled.

17 **SECTION 20.** 343.31 (3) (c) of the statutes is amended to read:

18 343.31 (3) (c) Any person convicted under s. 940.09 (1) of causing the death of  
19 another or of an unborn child by the operation or handling of a motor vehicle shall  
20 have his or her operating privilege revoked for 5 years. If there was a minor  
21 passenger under 16 years of age or an unborn child, as defined in s. 939.75 (1), in the  
22 motor vehicle at the time of the violation that gave rise to the conviction under s.  
23 940.09 (1), the revocation period is 10 years. If the person convicted under s. 940.09  
24 (1) had an alcohol concentration of 0.15 to 0.199, the revocation period is 10 years.  
25 If the person convicted under s. 940.09 (1) had an alcohol concentration of 0.20 to

1 0.249, the revocation period is 15 years. If the person convicted under s. 940.09 (1)  
2 had an alcohol concentration of 0.25 or above, the revocation period is 20 years.

3 **SECTION 21.** 343.31 (3) (e) of the statutes is amended to read:

4 343.31 (3) (e) Any person convicted under s. 346.63 (2) shall have his or her  
5 operating privilege revoked for not less than one year nor more than 2 years. If there  
6 was a minor passenger under 16 years of age in the motor vehicle at the time of the  
7 violation that gave rise to the conviction under s. 346.63 (2), the minimum and  
8 maximum revocation periods are doubled. If the person convicted under s. 346.63  
9 (2) had an alcohol concentration of 0.15 to 0.199, the minimum and maximum  
10 revocation periods are doubled. If the person convicted under s. 346.63 (2) had an  
11 alcohol concentration of 0.20 to 0.249, the minimum and maximum revocation  
12 periods are tripled. If the person convicted under s. 346.63 (2) had an alcohol  
13 concentration of 0.25 or above, the minimum and maximum revocation periods are  
14 quadrupled.

15 **SECTION 22.** 343.31 (3) (f) of the statutes is amended to read:

16 343.31 (3) (f) Any person convicted under s. 940.25 shall have his or her  
17 operating privilege revoked for 2 years. If there was a minor passenger under 16  
18 years of age or an unborn child, as defined in s. 939.75 (1), in the motor vehicle at the  
19 time of the violation that gave rise to the conviction under s. 940.25, the revocation  
20 period is 4 years. If the person convicted under s. 940.25 had an alcohol  
21 concentration of 0.15 to 0.199, the revocation period is 4 years. If the person  
22 convicted under s. 940.25 had an alcohol concentration of 0.20 to 0.249, the  
23 revocation period is 6 years. If the person convicted under s. 940.25 had an alcohol  
24 concentration of 0.25 or above, the revocation period is 8 years.

25 **SECTION 23.** 346.65 (2) (a) of the statutes is amended to read:



1           346.65 (2) (a) Shall forfeit not less than \$150 nor more than \$300, except as  
2 provided in pars. (b) to (f) (g).

3           **SECTION 24.** 346.65 (2) (b) of the statutes is amended to read:

4           346.65 (2) (b) Except as provided in ~~par. pars.~~ pars. (f) and (g), shall be fined not less  
5 than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor more  
6 than 6 months if the total number of suspensions, revocations and convictions  
7 counted under s. 343.307 (1) equals 2 within a 10-year period. Suspensions,  
8 revocations or convictions arising out of the same incident or occurrence shall be  
9 counted as one.

10          **SECTION 25.** 346.65 (2) (c) of the statutes is amended to read:

11          346.65 (2) (c) Except as provided in ~~par. pars.~~ pars. (f) and (g), shall be fined not less  
12 than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more  
13 than one year in the county jail if the total number of suspensions, revocations and  
14 convictions counted under s. 343.307 (1) equals 3, except that suspensions,  
15 revocations or convictions arising out of the same incident or occurrence shall be  
16 counted as one.

17          **SECTION 26.** 346.65 (2) (d) of the statutes is amended to read:

18          346.65 (2) (d) Except as provided in ~~par. pars.~~ pars. (f) and (g), shall be fined not less  
19 than \$600 nor more than \$2,000 and imprisoned for not less than 60 days nor more  
20 than one year in the county jail if the total number of suspensions, revocations and  
21 convictions counted under s. 343.307 (1) equals 4, except that suspensions,  
22 revocations or convictions arising out of the same incident or occurrence shall be  
23 counted as one.

24          **SECTION 27.** 346.65 (2) (e) of the statutes is amended to read:

1           346.65 (2) (e) Except as provided in ~~par.~~ pars. (f) and (g), shall be fined not less  
2 than \$600 nor more than \$2,000 and imprisoned for not less than 6 months nor more  
3 than 5 years if the total number of suspensions, revocations and convictions counted  
4 under s. 343.307 (1) equals 5 or more, except that suspensions, revocations or  
5 convictions arising out of the same incident or occurrence shall be counted as one.

6           **SECTION 28.** 346.65 (2) (g) of the statutes is created to read:

7           346.65 (2) (g) Shall, if he or she had an alcohol concentration of 0.15 to 0.199,  
8 be penalized double the applicable minimum and maximum forfeitures, fines or  
9 imprisonments under pars. (a) to (e). If the person had an alcohol concentration of  
10 0.20 to 0.249, he or she shall be penalized triple the applicable minimum and  
11 maximum forfeitures, fines or imprisonments under pars. (a) to (e). If the person had  
12 an alcohol concentration of 0.25 or above, he or she shall be penalized four times the  
13 applicable minimum and maximum forfeitures, fines or imprisonments under pars.  
14 (a) to (e). An offense under s. 346.63 (1) that subjects a person to a penalty under par.  
15 (c), (d) or (e) when the person had an alcohol concentration of 0.15 or above is a felony  
16 and the place of imprisonment shall be determined under s. 973.02. An offense under  
17 s. 346.63 (1) that subjects a person to a penalty under par. (b), (c), (d) or (e) when the  
18 person had an alcohol concentration of 0.20 or more is a felony and the place of  
19 imprisonment shall be determined under s. 973.02.

20           **SECTION 29.** 346.65 (2e) of the statutes is amended to read:

21           346.65 (2e) If the court determines that a person does not have the ability to  
22 pay the costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), (d), (e) or (f) to  
23 (g), the court may reduce the costs, fine and forfeiture imposed and order the person  
24 to pay, toward the cost of the assessment and driver safety plan imposed under s.  
25 343.30 (1q) (c), the difference between the amount of the reduced costs and fine or

1 forfeiture and the amount of costs and fine or forfeiture imposed under sub. (2) (a),  
2 (b), (c), (d), (e) or (f) to (g).

3 **SECTION 30.** 346.65 (2g) (a) of the statutes is amended to read:

4 346.65 (2g) (a) In addition to the authority of the court under s. 973.05 (3) (a)  
5 to provide that a defendant perform community service work for a public agency or  
6 a nonprofit charitable organization in lieu of part or all of a fine imposed under sub.  
7 (2) (b) to ~~(f)~~ (g), the court may provide that a defendant perform community service  
8 work for a public agency or a nonprofit charitable organization in lieu of part or all  
9 of a forfeiture under sub. (2) (a) or may require a person who is subject to sub. (2) to  
10 perform community service work for a public agency or a nonprofit charitable  
11 organization in addition to the penalties specified under sub. (2). Notwithstanding  
12 s. 973.05 (3) (b), an order may only apply if agreed to by the organization or agency.  
13 The court shall ensure that the defendant is provided a written statement of the  
14 terms of the community service order and that the community service order is  
15 monitored. Any organization or agency acting in good faith to which a defendant is  
16 assigned pursuant to an order under this subsection has immunity from any civil  
17 liability in excess of \$25,000 for acts or omissions by or impacting on the defendant.  
18 The issuance or possibility of the issuance of a community service order under this  
19 subsection does not entitle an indigent defendant who is subject to sub. (2) (a) to  
20 representation by counsel under ch. 977.

21 **SECTION 31.** 346.65 (6) (a) 1. of the statutes is renumbered 346.65 (6) (a) 1g. and  
22 amended to read:

23 346.65 (6) (a) 1g. Except as provided in this paragraph, the court may order a  
24 law enforcement officer to seize a motor vehicle, or, if the motor vehicle is not ordered  
25 seized, shall order a law enforcement officer to equip the motor vehicle with an

1 ignition interlock device or immobilize any motor vehicle owned by the person whose  
2 operating privilege is revoked under s. 343.305 (10) or who committed a violation of  
3 s. 346.63 (1) (a), (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b),  
4 (c) or (d) if the person whose operating privilege is revoked under s. 343.305 (10) or  
5 who is convicted of the violation has 2 or more prior suspensions, revocations or  
6 convictions that would be counted under s. 343.307 (1). The court shall not order a  
7 motor vehicle equipped with an ignition interlock device or immobilized if that would  
8 result in undue hardship or extreme inconvenience or would endanger the health  
9 and safety of a person.

10 **SECTION 32.** 346.65 (6) (a) 1d. of the statutes is created to read:

11 346.65 (6) (a) 1d. Except as provided in this subdivision, the court may order  
12 a law enforcement officer to equip with an ignition interlock device a motor vehicle  
13 owned by the person whose operating privilege is revoked under s. 343.305 (10) or  
14 who committed a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a),  
15 (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d). The court shall not order a motor vehicle  
16 equipped with an ignition interlock device if that would result in undue hardship or  
17 extreme inconvenience or would endanger the health or safety of a person.

18 **SECTION 33.** 346.65 (6) (a) 2. of the statutes is repealed.

19 **SECTION 34.** 346.65 (6) (a) 2m. of the statutes is amended to read:

20 346.65 (6) (a) 2m. A person who owns a motor vehicle subject to seizure,  
21 equipping with an ignition interlock device or immobilization under this paragraph  
22 shall surrender to the clerk of circuit court the certificate of title issued under ch. 342  
23 for every motor vehicle owned by the person. The person shall comply with this  
24 subdivision within 5 working days after receiving notification of this requirement  
25 from the district attorney. When a district attorney receives a copy of a notice of

1 intent to revoke the operating privilege under s. 343.305 (9) (a) of a person who has  
2 ~~2 or more convictions, suspensions or revocations, as counted under s. 343.307 (1),~~  
3 or when a district attorney notifies the department of the filing of a criminal  
4 complaint against a person under s. 342.12 (4) (a), the district attorney shall notify  
5 the person of the requirement to surrender all certificates of title to the clerk of circuit  
6 court. The notification shall include the time limits for that surrender, the penalty  
7 for failure to comply with the requirement and the address of the clerk of circuit  
8 court. The clerk of circuit court shall promptly return each certificate of title  
9 surrendered to the clerk of circuit court under this subdivision after stamping the  
10 certificate of title with the notation "Per section 346.65 (6) of the Wisconsin statutes,  
11 ownership of this motor vehicle may not be transferred without prior court approval".  
12 Any person failing to surrender a certificate of title as required under this  
13 subdivision shall forfeit not more than \$500.

14 **SECTION 35.** 346.65 (6) (d) of the statutes is amended to read:

15 346.65 (6) (d) At the hearing set under par. (c), the state has the burden of  
16 proving to a reasonable certainty by the greater weight of the credible evidence that  
17 the motor vehicle is a motor vehicle owned by a person who committed a violation of  
18 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),  
19 (b), (c) or (d) and, if the seizure is under par. (a) 1. 1g., that the person had 2 or more  
20 prior convictions, suspensions or revocations, as counted under s. 343.307 (1) ~~or, if~~  
21 ~~the seizure is under par. (a) 2., 3 or more prior convictions, suspensions or~~  
22 ~~revocations, as counted under s. 343.307 (1).~~ If the ,, (c) or (d) ,, (c) or (d) state fails  
23 to meet the burden of proof required under this paragraph, the motor vehicle shall  
24 be returned to the owner upon the payment of storage costs.

25 **SECTION 36.** 940.09 (1d) of the statutes is renumbered 940.09 (1d) (b).

1           **SECTION 37.** 940.09 (1d) (a) of the statutes is created to read:

2           940.09 (1d) (a) If a person commits an offense under sub. (1) (a), (b), (c) or (d),  
3 the procedure under s. 346.65 (6) may be followed regarding the equipping of a motor  
4 vehicle owned by the person with an ignition interlock device.

5           **SECTION 38.** 940.25 (1c) of the statutes is created to read:

6           940.25 (1c) If the person convicted under s. 940.25 (1) had an alcohol  
7 concentration of 0.15 to 0.199, the applicable maximum fine or imprisonment for the  
8 conviction is doubled. If the person convicted under s. 940.25 (1) had an alcohol  
9 concentration of 0.20 to 0.249, the applicable maximum fine or imprisonment for the  
10 conviction is tripled. If the person convicted under s. 940.25 (1) had an alcohol  
11 concentration of 0.25 or above, the applicable maximum fine or imprisonment for the  
12 conviction is quadrupled.

13           **SECTION 39.** 940.25 (1d) of the statutes is renumbered 940.25 (1d) (b).

14           **SECTION 40.** 940.25 (1d) (a) of the statutes is created to read:

15           940.25 (1d) (a) If a person commits an offense under sub. (1) (a), (b), (c) or (d),  
16 the procedure under s. 346.65 may be followed regarding the equipping of a motor  
17 vehicle owned by the person with an ignition interlock device.

18           **SECTION 41.** 971.17 (1) of the statutes is amended to read:

19           971.17 (1) COMMITMENT PERIOD. When a defendant is found not guilty by reason  
20 of mental disease or mental defect, the court shall commit the person to the  
21 department of health and family services for a specified period not exceeding  
22 two-thirds of the maximum term of imprisonment that could be imposed under s.  
23 973.15 (2) (a) against an offender convicted of the same crime or crimes, including  
24 imprisonment authorized by ss. 346.65 (2) (f) or (g), (2j) (d) or (3m), 939.62, 939.621,  
25 939.63, 939.635, 939.64, 939.641, 939.645, 940.09 (1b), 940.25 (1b) and 961.48 and

1 other penalty enhancement statutes, as applicable, subject to the credit provisions  
2 of s. 973.155. If the maximum term of imprisonment is life, the commitment period  
3 specified by the court may be life, subject to termination under sub. (5).

4 **SECTION 42. Initial applicability.**

5 (1) This act first applies to offenses committed or refusals occurring on the  
6 effective date of this subsection, but does not preclude the counting of other violations  
7 as prior convictions, suspensions or revocations for purposes of administrative action  
8 by the department of transportation, sentencing by a court, revocation or suspension  
9 of operating privileges or determining the prohibited alcohol concentration.

10 **SECTION 43. Effective date.**

11 (1) This act takes effect on the first day of the 4th month beginning after  
12 publication.

13 (END)

an ignition interlock device for the same 6-month period if the court determines that it is necessary to ensure public safety. If a person is convicted of his or her 2nd or subsequent OWI-related offense, the court is required, in addition to other penalties, to restrict the person to operating a motor vehicle equipped with an ignition interlock device for the first 2 years that the person is authorized to operate a motor vehicle under an occupational license or regular license. The current requirement that a motor vehicle owned by a person be subject to seizure, immobilization or ignition interlock device equipping if the person is convicted of his or her 3rd OWI-related offense is revised to remove the seizure option.

Under the bill, when ordering a person to equip his or her motor vehicle with an ignition interlock device, the court may consider his or her ability to pay for the costs of complying with that order and reduce the amount of the fine imposed, but not to an amount below the minimum fine specified for the violation. The bill requires that the period of time of the ignition interlock device restriction start over if a person tampers with or circumvents the operation of the device. The bill also requires that all ignition interlock devices prevent a person from starting the motor vehicle if the person's blood alcohol concentration is 0.04 or more.

This bill requires the department of transportation (DOT) to develop and administer a program to assist individuals in complying with a court order restricting the person's operating privilege to operating only vehicles equipped with an ignition interlock device. The bill requires DOT to contract with a person to create and implement a service delivery plan to install and monitor ignition interlock devices in vehicles and to report the results of the monitoring to DOT. The bill specifies eligibility criteria for contracting with DOT, and specifies the terms and conditions required to be included in the contract. The bill requires DOT to amend its vehicle registration records to indicate that an ignition interlock device is installed in or removed from a vehicle.

The bill authorizes a person who has contracted with DOT to implement a service delivery plan ("service provider") to charge a person a uniform fee for the installation and monitoring of an ignition interlock device.

The bill also creates a safe-ride grant program, administered by DOT, to award grants to any city, village, town or county for costs associated with transporting intoxicated persons from any premises licensed to sell alcohol beverages to their places of residence. Grants are limited to an amount that the grants are funded with revenues received from the increased occupational license fee and from the applicable \$30 increase in the fee to reinstate an operating privilege.

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

*Substantive  
subsub  
safe-ride grant  
program.*  
*insert  
anl-1*

*50% of the cost of providing the service*

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

1 SECTION 1. 16.75 (1) (a) 1. of the statutes is amended to read:



**1999-2000 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2141/PlinsB  
RPN & PEN:.....

insert anl-2:

***Increased penalties for high blood alcohol concentration***

Under current law, the penalties for an OWI offense increase based on the number of prior OWI offenses that the person has committed. This bill doubles whatever penalty the person is subject to for the current OWI offense if the person's blood alcohol concentration is from 0.15 to 0.199. The bill triples the appropriate penalty if the person's blood alcohol concentration is from 0.20 to 0.249 and qaudruples the appropriate penalty if the person's blood alcohol concentration is 0.25 or above.

1 16.75 (1) (a) 1. All orders awarded or contracts made by the department for all  
 2 materials, supplies, equipment and contractual services to be provided to any  
 3 agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t),  
 4 (6), (7), (8) and (9) and ss. 16.73 (4) (a), 16.754, 50.05 (7) (f), 110.10 (2) (b), 287.15 (7)  
 5 and 301.265, shall be awarded to the lowest responsible bidder, taking into  
 6 consideration life cycle cost estimates under sub. (1m), when appropriate, the  
 7 location of the agency, the quantities of the articles to be supplied, their conformity  
 8 with the specifications, and the purposes for which they are required and the date  
 9 of delivery.

10 SECTION 2. 20.395 (5) (er) of the statutes is created to read:

11 20.395 (5) (er) <sup>Safe-ride grant</sup> ~~Ignition interlock device~~ program, state funds. All moneys  
 12 received under ss. 343.10 (6) (b) and 343.21 (1) (j) 2. that are credited to this  
 13 appropriation, ~~for the ignition interlock device~~ program under s. 110.10, for  
 14 educational and informational materials and technical equipment related to that  
 15 program and for grants under s. 85.55.

16 SECTION 3. 85.01 (2m) of the statutes is created to read:

17 85.01 (2m) "Municipality" means a city, village or town.

18 SECTION 4. 85.022 (3) of the statutes is amended to read:

19 85.022 (3) A recipient of funding under this section shall make the results of  
 20 its study available to any interested city, village, town municipality or county.

21 SECTION 5. 85.024 (1) of the statutes is amended to read:

22 85.024 (1) In this section, "political subdivision" means a municipality or  
 23 county, ~~city, village or town~~.

24 SECTION 6. 85.063 (1) (b) of the statutes is amended to read:

in ser 3-1

1 SECTION 11. 85.08 (5) (a) 1. of the statutes is amended to read:

2 85.08 (5) (a) 1. A ~~city, town or village~~ municipality with a population of 4,000  
3 or less.

4 SECTION 12. 85.08 (5) (a) 2. of the statutes is amended to read:

5 85.08 (5) (a) 2. A ~~city, town or village~~ municipality that is located in a county  
6 with a population density of less than 150 persons per square mile.

7 SECTION 13. 85.09 (1) (b) of the statutes is repealed.

8 SECTION 14. 85.095 (1) (a) of the statutes is amended to read:

9 85.095 (1) (a) "Eligible applicant" means a county, or municipality, ~~town~~ or  
10 agency thereof or a board of harbor commissioners organized under s. 30.37.

11 SECTION 15. 85.095 (4) of the statutes is amended to read:

12 85.095 (4) HARBOR IMPROVEMENTS ON MISSISSIPPI RIVER. An eligible applicant  
13 may receive a grant under this section for harbor improvements located on an island  
14 in the Mississippi River regardless of the state in which the island is located if the  
15 island is owned by a ~~city, village, town~~ municipality or county in this state.

16 SECTION 16. 85.55 of the statutes is created to read:

insert 3-5

17 85.55 Safe-ride grant program. The department may award grants to any  
18 county or municipality to cover the costs of transporting persons suspected of having  
19 a prohibited alcohol concentration, as defined in s. 340.01 (46m), from any premises  
20 licensed under ch. 125 to sell alcohol beverages to their places of residence. The  
21 amount of a grant under this section may not exceed 50% of the costs necessary to  
22 provide the service. Grants awarded under this section shall be paid from the  
23 appropriation under s. 20.395 (5) (er).

24 SECTION 17. ~~110.10~~ of the statutes is created to read:

25 110.10 Ignition interlock device program. (1) In this section:

1 ~~the person with an operable motor vehicle without the necessity of first submitting~~  
 2 ~~a sample of his or her breath to analysis by the ignition interlock device, the period~~  
 3 ~~of the ignition interlock device restriction shall be increased by the amount of time~~  
 4 ~~from the issuance of the restricted occupational license under this subdivision to the~~  
 5 ~~date of violation of the ignition interlock device restriction.~~

6 SECTION 23. 343.10 (5) (a) 4. of the statutes is created to read:

7 343.10 (5) (a) 4. If the department issues a person an occupational license  
 8 under sub. (7) restricted to operating motor vehicles equipped with an ignition  
 9 interlock device, the department shall inform the person of the ignition interlock  
 10 program under s. 110.10 and that he or she is liable for the reasonable costs of  
 11 equipping any motor vehicle that he or she operates with a functioning ignition  
 12 interlock device.

13 SECTION 24. 343.10 (6) of the statutes is renumbered 343.10 (6) (a) and  
 14 amended to read:

15 343.10 (6) (a) ~~No~~ Except as provided in par. (b), no person may file an  
 16 application for an occupational license under sub. (1) unless he or she first pays a fee  
 17 of \$40 to the department ~~59.25 (3) (a).~~

18 SECTION 25. 343.10 (6) (b) of the statutes is created to read:

19 343.10 (6) (b) No person whose operating privilege is restricted to operating  
 20 only vehicles equipped with an ignition interlock device may file an application for  
 21 an occupational license under sub. (1) unless he or she first pays a fee of \$70 to the  
 22 department. Forty-three percent of the fees collected under this paragraph shall be  
 23 credited to the appropriation account under s. 20.395 (5) (er).

24 SECTION 26. 343.10 (7) (cm) of the statutes is amended to read:

4-25a  
 sent  
 1-25a  
 1-25a

insert 4-25-6  
prop 45  
stat.

1 provided in s. 343.10 (8) (a) and the person's operating privilege shall be revoked  
2 under s. 343.31 (3) (h).

3 SECTION 31. 343.21 (1) (j) of the statutes is renumbered 343.21 (1) (j) 1. and  
amended to read:

4 343.21 (1) (j) 1. For ~~Except as provided in subd. 2.,~~ for reinstatement of an  
5 operating privilege previously revoked or suspended, \$50.

6 SECTION 32. 343.21 (1) (j) 2. of the statutes is created to read:

7 343.21 (1) (j) 2. For reinstatement of an operating privilege previously revoked  
8 or suspended, \$80 if the person's operating privilege is restricted under s. 343.38 (5)  
9 to operating vehicles equipped with an ignition interlock device and the person has  
10 not paid a fee under s. 343.10 (6) (b) within the past 2 years. Thirty-eight percent  
11 of the fees collected under this subdivision shall be credited to the appropriation  
12 under s. 20.395 (5) (er).  
13

14 SECTION 33. 343.30 (1q) (b) 2. of the statutes is amended to read:

15 343.30 (1q) (b) 2. Except as provided in subd. 3., 4. or 4m., for the first  
16 conviction, the court shall suspend the person's operating privilege for not less than  
17 6 months nor more than 9 months. If the person's conviction resulted from the person  
18 having an alcohol concentration of 0.18 or more, or if the court determines that an  
19 ignition interlock device restriction is needed to ensure public safety, the court shall  
20 order that, for the first 6 months that the person is authorized to operate a motor  
21 vehicle after his or her conviction, either with an occupational license or a regular  
22 license, the person be restricted to operating a motor vehicle equipped with an  
23 ignition interlock device. The person is eligible for an occupational license under s.  
24 343.10 at any time.

25 SECTION 34. 343.30 (1q) (b) 3. of the statutes is amended to read:

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2141/P/dn<sup>2</sup>

RPN... King

The previous proposal related to a safe-ride grant program increased the fees for occupational licenses and for reinstatement of an operating privilege by \$30 if the person was restricted to operating a motor vehicle equipped with an ignition interlock device. This \$30 fee was meant to cover the safe-ride grant program and an expanded ignition interlock device program, which is not in this draft. I do not think a \$30 increase is necessary for this safe-ride program, but I did not know what amount was necessary, so I left the \$30 increase until you give me different instructions. a

Increasing the penalties based on the blood alcohol concentration does create an incentive to refuse to submit to the blood test, because the license revocation period for refusal is less than the license revocation period for operating a motor vehicle while having a high blood alcohol concentration. I increased the license revocation periods for refusals to reduce this incentive.

Causing great bodily harm by the operation of a motor vehicle while under the influence of an intoxicant is a Class D felony. The maximum imprisonment for a Class D felony is currently five years, but that is increasing to ten years effective December 31, 1999. Causing death by the operation of a motor vehicle while under the influence of an intoxicant is a Class B felony. The maximum imprisonment for a Class B felony is currently 40 years, but that is increasing to 60 years effective December 31, 1999. Because the Class B felony penalty is already scheduled to increase to 60 years, I did not double, triple or quadruple the penalty for the Class B felony.

Under current law, the pretrial intoxicated driver program has a total dollar limit for the program of \$500,000 and has an annual scheduled appropriation of \$150,000. I removed the \$500,000 limit, but the chapter 20 schedule is repealed and recreated in the budget bill, so any change I made in those numbers would be meaningless. I do not know what the costs would be for a statewide pretrial intoxicated driver program. Perhaps you could obtain that amount from the legislative fiscal bureau. That amount would then have to be reflected in the chapter 20 schedule in the proposed 1999-2000 budget bill.

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

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2141/P2dn  
RPN:kmg:ijs

February 26, 1999

The previous proposal related to a safe-ride grant program increased the fees for occupational licenses and for reinstatement of an operating privilege by \$30 if the person was restricted to operating a motor vehicle equipped with an ignition interlock device. This \$30 fee was meant to cover the safe-ride grant program and an expanded ignition interlock device program, which is not in this draft. I do not think a \$30 increase is necessary for this safe-ride program, but I did not know what amount was necessary, so I left the \$30 increase until you give me different instructions.

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

## Nelson, Robert

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**From:** Nilsen, Paul  
**Sent:** Thursday, February 25, 1999 6:55 PM  
**To:** Nelson, Robert  
**Subject:** OWI Package

Bob:  
My draft is LRB-2348. It should be out by 11 am Friday.  
You must rework the back of your bill so that instead of reading "this act (takes effect/first applies)" it reads, "the treatment of sections...." I had to do that with mine, which means you can't use "this act" in yours. Sorry.

Karen Gilfoy suggests that when you compile both drafts that you first ask Caroline to run the autocompile routine to merge the 2 drafts. After both drafts are merged you can review the drafts for reconciliation problems and fix as needed. After you have finished reviewing and fixing the merged drafts, Karen will edit it.

Best of luck to you.

--Paul

P.S. I will be home late Saturday night and will check my voicemail then. If necessary, I can come in Sunday.