

**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 1999 ASSEMBLY BILL 221**

May 19, 1999 – Offered by Representatives STONE, LADWIG and FOTI.

1 **AN ACT** *to repeal* 346.65 (6) (a) 2. and 800.03 (4); *to renumber* 343.305 (10m),
2 940.09 (1d) and 940.25 (1d); *to renumber and amend* 346.65 (6) (a) 1.; *to*
3 **amend** 20.435 (6) (hx), 66.12 (1) (b), 85.53 (3), 125.07 (4) (bs), 125.07 (4) (c),
4 125.07 (4) (e) 2. (intro.), 165.83 (2) (e), 340.01 (46m) (b), 342.12 (4) (a), 342.12
5 (4) (c) 1. (intro.), 343.10 (5) (a) 3., 343.30 (6) (b), 346.65 (2) (b), 346.65 (2) (c),
6 346.65 (2) (d), 346.65 (2) (e), 346.65 (2e), 346.65 (2g) (a), 346.65 (2g) (b), 346.65
7 (2g) (c), 346.65 (6) (a) 2m., 346.65 (6) (c), 346.65 (6) (d), 346.655 (1), 346.655 (2)
8 (a), 346.655 (2) (b), 346.95 (2), 938.344 (2) (intro.), 938.344 (2) (c), 938.344 (2b)
9 and 938.344 (2d) (c); *to create* 20.395 (5) (ek), 51.30 (4) (b) 25., 85.55, 110.10,
10 303.065 (2m), 303.08 (1) (cg), 303.08 (1) (cm), 303.08 (10m), 340.01 (46m) (c),
11 343.305 (10m) (a), 346.65 (2) (g), 346.65 (2g) (ag), 346.65 (6) (a) 1d., 346.93 (2g),
12 940.09 (1d) (a), 940.25 (1c) and 940.25 (1d) (a) of the statutes; and *to affect* 1997
13 Wisconsin Act 84, section 2, 1997 Wisconsin Act 84, section 3, 1997 Wisconsin

1 Act 84, section 4, 1997 Wisconsin Act 84, section 5, 1997 Wisconsin Act 84,
2 section 30, 1997 Wisconsin Act 84, section 31, 1997 Wisconsin Act 84, section
3 160, 1997 Wisconsin Act 84, section 161 and 1997 Wisconsin Act 84, section 162;
4 **relating to:** operating a motor vehicle while under the influence of an
5 intoxicant or drugs, or both; installation of an ignition interlock device in cases
6 involving intoxicated operation of a motor vehicle; seizure of motor vehicles for
7 offenses related to driving while under the influence of an intoxicant; the
8 prohibited alcohol concentration related to operating a motor vehicle while
9 under the influence of an intoxicant; restrictions on prisoner release from jail
10 or prison; creating a safe-ride grant program; creating an ignition interlock
11 device program; pretrial intoxicated driver intervention grants; requiring a
12 report on incarceration alternatives; certain alcohol beverage offenses
13 committed by persons under the legal drinking age; appearance before a
14 municipal court; granting rule-making authority; making appropriations; and
15 providing penalties.

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

16 **SECTION 1.** 20.395 (5) (ek) of the statutes is created to read:

17 20.395 (5) (ek) *Safe-ride grant program; state funds.* From the general fund,
18 all moneys transferred from the appropriation account under s. 20.435 (6) (hx) for the
19 purpose of awarding grants under s. 85.55.

20 **SECTION 2.** 20.435 (6) (hx) of the statutes is amended to read:

21 20.435 (6) (hx) *Services related to drivers, receipts.* The amounts in the
22 schedule for services related to drivers. All moneys received by the state treasurer
23 from the driver improvement surcharge on court fines and forfeitures authorized

1 under s. 346.655 shall be credited to this appropriation. The secretary of
2 administration shall annually transfer to the appropriation account under s. 20.395
3 (5) (di) ~~31.29%~~ 30.12% of all moneys credited to this appropriation. The secretary of
4 administration shall annually transfer to the appropriation account under s. 20.395
5 (5) (ek) 3.76% of all moneys credited to this appropriation. The moneys remaining
6 may be transferred to sub. (7) (hy) and ss. 20.255 (1) (hm), 20.285 (1) (ia), 20.395 (5)
7 (ci) and 20.455 (5) (h) by the secretary of administration after consultation with the
8 secretaries of health and family services and transportation, the superintendent of
9 public instruction, the attorney general and the president of the university of
10 Wisconsin system.

11 **SECTION 3.** 51.30 (4) (b) 25. of the statutes is created to read:

12 51.30 **(4)** (b) 25. To the department of corrections or to a sheriff, to determine
13 if a person incarcerated is complying with the assessment or the driver safety plan
14 ordered under s. 343.30 (1q) (c).

15 **SECTION 4.** 66.12 (1) (b) of the statutes is amended to read:

16 66.12 **(1)** (b) Local ordinances, except as provided in this paragraph or ss.
17 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any
18 or all violations under those ordinances, and may designate the manner in which the
19 stipulation is to be made and fix the penalty to be paid. When a person charged with
20 a violation for which stipulation of guilt or no contest is authorized makes a timely
21 stipulation and pays the required penalty and pays the penalty assessment imposed
22 by s. 165.87, the jail assessment imposed by s. 302.46 (1), the crime laboratories and
23 drug law enforcement assessment imposed by s. 165.755 and any applicable
24 domestic abuse assessment imposed by s. 973.055 (1) to the designated official, the
25 person need not appear in court and no witness fees or other additional costs may be

1 taxed unless the local ordinance so provides. ~~A court appearance is required for a~~
2 ~~violation of a local ordinance in conformity with s. 346.63 (1).~~ The official receiving
3 the penalties shall remit all moneys collected to the treasurer of the city, village, town
4 sanitary district or public inland lake protection and rehabilitation district in whose
5 behalf the sum was paid, except that all jail assessments shall be remitted to the
6 county treasurer, within 20 days after its receipt by him or her; and in case of any
7 failure in the payment, the treasurer may collect the payment of the officer by action,
8 in the name of the office, and upon the official bond of the officer, with interest at the
9 rate of 12% per year from the time when it should have been paid. In the case of the
10 penalty assessment imposed by s. 165.87, the crime laboratories and drug law
11 enforcement assessment imposed by s. 165.755, the driver improvement surcharge
12 imposed by s. 346.655 (1) and any applicable domestic abuse assessment imposed by
13 s. 973.055 (1), the treasurer of the city, village, town sanitary district or public inland
14 lake protection and rehabilitation district shall remit to the state treasurer the sum
15 required by law to be paid on the actions so entered during the preceding month on
16 or before the first day of the next succeeding month. The governing body of the city,
17 village, town sanitary district or public inland lake protection and rehabilitation
18 district shall by ordinance designate the official to receive the penalties and the
19 terms under which the official shall qualify.

20 **SECTION 5.** 85.53 (3) of the statutes is amended to read:

21 85.53 (3) Grants under this section shall be paid from the appropriation under
22 s. 20.395 (5) (jr). The amount of a grant may not exceed 80% of the amount expended
23 by an eligible applicant for services related to the program. ~~The total amount of~~
24 ~~grants awarded under this section may not exceed \$500,000.~~

25 **SECTION 6.** 85.55 of the statutes is created to read:

1 **85.55 Safe-ride grant program.** The department may award grants to any
2 county or municipality to cover the costs of transporting persons suspected of having
3 a prohibited alcohol concentration, as defined in s. 340.01 (46m), from any premises
4 licensed under ch. 125 to sell alcohol beverages to their places of residence. The
5 amount of a grant under this section may not exceed 50% of the costs necessary to
6 provide the service. The liability of a provider of a safe-ride program to persons
7 transported under the program is limited to the amounts required for an automobile
8 liability policy under s. 344.15 (1). Grants awarded under this section shall be paid
9 from the appropriation under s. 20.395 (5) (ek).

10 **SECTION 7.** 110.10 of the statutes is created to read:

11 **110.10 Ignition interlock device program.** The department shall
12 promulgate rules providing for the implementation of a statewide ignition interlock
13 device program. The rules shall include provisions regarding all of following:

14 **(1)** The selection of persons to install, service and remove ignition interlock
15 devices from motor vehicles.

16 **(2)** The periodic review of the fees charged to the owner of a vehicle for the
17 installation, service and removal of an ignition interlock device.

18 **(3)** Requiring ignition interlock device providers operating in this state to
19 establish pilot programs involving the voluntary use of ignition interlock devices.

20 **(4)** Requiring ignition interlock device providers operating in this state to
21 provide the department and law enforcement agencies designated by the department
22 with installation, service, tampering and failure reports in a timely manner.

23 **SECTION 8.** 125.07 (4) (bs) of the statutes is amended to read:

24 125.07 **(4)** (bs) Any person violating par. (a) ~~is subject to the following penalties~~
25 shall be penalized as follows:

1 1. For a first violation, the person's operating privilege shall be suspended
2 under s. 343.30 (6) (b) 1. In addition, the person is subject to a forfeiture of not less
3 than \$250 nor more than \$500, suspension of the person's operating privilege as
4 provided under s. 343.30 (6) (b) 1., participation in a supervised work program or
5 other community service work under par. (cg) or any combination of these penalties.

6 2. For a violation committed within 12 months of a previous violation, the
7 person's operating privilege shall be suspended under s. 343.30 (6) (b) 2. In addition,
8 the person is subject to either a forfeiture of not less than \$300 nor more than \$500,
9 suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2.,
10 participation in a supervised work program or other community service work under
11 par. (cg) or any combination of these penalties.

12 3. For a violation committed within 12 months of 2 previous violations, the
13 person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In addition,
14 the person is subject to either a forfeiture of not less than \$500 nor more than \$750,
15 revocation of the person's operating privilege under s. 343.30 (6) (b) 3., participation
16 in a supervised work program or other community service work under par. (cg) or any
17 combination of these penalties.

18 4. For a violation committed within 12 months of 3 or more previous violations,
19 the person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In
20 addition, the person is subject to either a forfeiture of not less than \$750 nor more
21 than \$1,000, revocation of the person's operating privilege under s. 343.30 (6) (b) 3.,
22 participation in a supervised work program or other community service work under
23 par. (cg) or any combination of these penalties.

24 **SECTION 9.** 125.07 (4) (c) of the statutes is amended to read:

1 125.07 (4) (c) Any person violating par. (b) is subject to the following penalties
2 shall be penalized as follows:

3 1. For a first violation, the person's operating privilege shall be suspended
4 under s. 343.30 (6) (b) 1. In addition, the person is subject to a forfeiture of not less
5 than \$100 nor more than \$200, suspension of the person's operating privilege as
6 provided under s. 343.30 (6) (b) 1., participation in a supervised work program or
7 other community service work under par. (cg) or any combination of these penalties.

8 2. For a violation committed within 12 months of a previous violation, the
9 person's operating privilege shall be suspended under s. 343.30 (6) (b) 2. In addition,
10 the person is subject to either a forfeiture of not less than \$200 nor more than \$300,
11 suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2.,
12 participation in a supervised work program or other community service work under
13 par. (cg) or any combination of these penalties.

14 3. For a violation committed within 12 months of 2 previous violations, the
15 person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In addition,
16 the person is subject to either a forfeiture of not less than \$300 nor more than \$500,
17 revocation of the person's operating privilege under s. 343.30 (6) (b) 3., participation
18 in a supervised work program or other community service work under par. (cg) or any
19 combination of these penalties.

20 4. For a violation committed within 12 months of 3 or more previous violations,
21 the person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In
22 addition, the person is subject to either a forfeiture of not less than \$500 nor more
23 than \$1,000, revocation of the person's operating privilege under s. 343.30 (6) (b) 3.,
24 participation in a supervised work program or other community service work under
25 par. (cg) or any combination of these penalties.

1 **SECTION 10.** 125.07 (4) (e) 2. (intro.) of the statutes is amended to read:

2 125.07 **(4)** (e) 2. (intro.) After ordering a penalty under par. (bs) or (c), the court,
3 with the agreement of the defendant, may enter an additional order staying the
4 execution of the penalty order and suspending or modifying the penalty imposed,
5 except that the court may not stay, suspend or modify the suspension of a person's
6 operating privilege required under par. (bs) or (c). The order under this subdivision
7 shall require the defendant to do any of the following:

8 **SECTION 11.** 165.83 (2) (e) of the statutes is amended to read:

9 165.83 **(2)** (e) Obtain and file a copy or detailed description of each arrest
10 warrant issued in this state for the offenses under par. (a) ~~or s. 800.03 (4)~~ but not
11 served because the whereabouts of the person named on the warrant is unknown or
12 because that person has left the state. All available identifying data shall be
13 obtained with the copy of the warrant, including any information indicating that the
14 person named on the warrant may be armed, dangerous or possessed of suicidal
15 tendencies.

16 **SECTION 12.** 303.065 (2m) of the statutes is created to read:

17 303.065 **(2m)** The department may not grant work release privileges to a
18 prisoner who is imprisoned for a violation of s. 346.63 (1), (2), (5) or (6) and who fails
19 to obtain the assessment or to comply with the driver safety plan ordered under s.
20 343.30 (1q) (c) related to the violation for which he or she was imprisoned. This
21 subsection does not apply if the prisoner does not have sufficient funds to make any
22 payments necessary to obtain the assessment or to comply with the driver safety
23 plan.

24 **SECTION 13.** 303.08 (1) (cg) of the statutes is created to read:

1 303.08 (1) (cg) Attendance at an assessment ordered by a court under s. 343.30
2 (1q) (c);

3 **SECTION 14.** 303.08 (1) (cm) of the statutes is created to read:

4 303.08 (1) (cm) Attendance at a treatment program required by a driver safety
5 plan under s. 343.30 (1q) (c);

6 **SECTION 15.** 303.08 (10m) of the statutes is created to read:

7 303.08 (10m) The sheriff may not permit a prisoner who is imprisoned for a
8 violation of s. 346.63 (1), (2), (5) or (6) to leave the jail under sub. (1) if the prisoner
9 fails to obtain the assessment or to comply with the driver safety plan ordered under
10 s. 343.30 (1q) (c). This subsection does not apply if the prisoner does not have
11 sufficient funds to make any payments necessary to obtain the assessment or to
12 comply with the driver safety plan.

13 **SECTION 16.** 340.01 (46m) (b) of the statutes is amended to read:

14 340.01 (46m) (b) If the person has 2 ~~or more~~ prior convictions, suspensions or
15 revocations, as counted under s. 343.307 (1), an alcohol concentration of 0.08 or more.

16 **SECTION 17.** 340.01 (46m) (c) of the statutes is created to read:

17 340.01 (46m) (c) If the person has 3 or more prior convictions, suspensions or
18 revocations, as counted under s. 343.307 (1), an alcohol concentration of more than
19 0.02.

20 **SECTION 18.** 342.12 (4) (a) of the statutes is amended to read:

21 342.12 (4) (a) The district attorney shall notify the department when he or she
22 files a criminal complaint against a person who has been arrested for violating s.
23 346.63 (1) or (2), 940.09 (1) or 940.25 ~~and who has 2 or more prior convictions,~~
24 ~~suspensions or revocations, as counted under s. 343.307 (1).~~ Except as provided
25 under par. (c), the department may not issue a certificate of title transferring

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 19.** 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 20.** 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. 1d. or 1g.~~ that a motor vehicle owned by the
17 person be equipped with an ignition interlock device. A person to whom a restriction
18 under this subdivision applies violates that restriction if he or she requests or
19 permits another to blow into an ignition interlock device or to start a motor vehicle
20 equipped with an ignition interlock device for the purpose of providing the person an
21 operable motor vehicle without the necessity of first submitting a sample of his or her
22 breath to analysis by the ignition interlock device. If the occupational license
23 restricts the applicant's operation to a vehicle that is equipped with an ignition
24 interlock device, the applicant shall be liable for the reasonable costs of equipping
25 the vehicle with the ignition interlock device.

1 **SECTION 21.** 343.30 (6) (b) of the statutes is amended to read:

2 343.30 **(6)** (b) If Whenever a court imposes suspension ~~or revocation~~ of a
3 person's operating privilege under s. 125.07 (4) (bs) or (c) or 938.344 (2), (2b) or (2d),
4 the suspension ~~or revocation~~ imposed shall be one of the following:

5 1. For a first violation, suspension for ~~30 to 90 days~~ not less than 6 months nor
6 more than one year.

7 2. For a violation committed within 12 months of a previous violation,
8 suspension for not ~~more~~ less than one year nor more than 18 months.

9 3. For a violation committed within 12 months of 2 or more previous violations,
10 ~~revocation~~ suspension for not ~~more~~ less than 2 years nor more than 5 years.

11 **SECTION 22.** 343.305 (10m) of the statutes is renumbered 343.305 (10m) (b).

12 **SECTION 23.** 343.305 (10m) (a) of the statutes is created to read:

13 343.305 **(10m)** (a) If the person's operating privilege is revoked under sub. (10),
14 the procedure under s. 346.65 (6) shall be followed regarding the equipping of a motor
15 vehicle owned by the person with an ignition interlock device.

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

17 346.65 **(2)** (b) Except as provided in ~~par.~~ pars. (f) and (g), shall be fined not less
18 than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor more
19 than 6 months if the total number of suspensions, revocations and convictions
20 counted under s. 343.307 (1) equals 2 within a 10-year period. Suspensions,
21 revocations or convictions arising out of the same incident or occurrence shall be
22 counted as one.

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

24 346.65 **(2)** (c) Except as provided in ~~par.~~ pars. (f) and (g), shall be fined not less
25 than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more

1 than one year in the county jail if the total number of suspensions, revocations and
2 convictions counted under s. 343.307 (1) equals 3, except that suspensions,
3 revocations or convictions arising out of the same incident or occurrence shall be
4 counted as one.

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

6 346.65 (2) (d) Except as provided in ~~par. pars.~~ par. (f) and (g), shall be fined not less
7 than \$600 nor more than \$2,000 and imprisoned for not less than 60 days nor more
8 than one year in the county jail if the total number of suspensions, revocations and
9 convictions counted under s. 343.307 (1) equals 4, except that suspensions,
10 revocations or convictions arising out of the same incident or occurrence shall be
11 counted as one.

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

13 346.65 (2) (e) Except as provided in ~~par. pars.~~ par. (f) and (g), shall be fined not less
14 than \$600 nor more than \$2,000 and imprisoned for not less than 6 months nor more
15 than 5 years if the total number of suspensions, revocations and convictions counted
16 under s. 343.307 (1) equals 5 or more, except that suspensions, revocations or
17 convictions arising out of the same incident or occurrence shall be counted as one.

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

19 346.65 (2) (g) 1. If a person convicted had an alcohol concentration of 0.15 to
20 0.199, the applicable minimum and maximum fines under pars. (b) to (e) are doubled.

21 2. If a person convicted had an alcohol concentration of 0.20 to 0.249, the
22 applicable minimum and maximum fines under pars. (b) to (e) are tripled.

23 3. If a person convicted had an alcohol concentration of 0.25 or above, the
24 applicable minimum and maximum fines under pars. (b) to (e) are quadrupled.

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

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

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

9 346.65 **(2g)** (a) In addition to the authority of the court under s. 973.05 (3) (a)
10 to provide that a defendant perform community service work for a public agency or
11 a nonprofit charitable organization in lieu of part or all of a fine imposed under sub.
12 (2) (b) to ~~(f)~~ (g) and except as provided in par. (ag), the court may provide that a
13 defendant perform community service work for a public agency or a nonprofit
14 charitable organization in lieu of part or all of a forfeiture under sub. (2) (a) or may
15 require a person who is subject to sub. (2) to perform community service work for a
16 public agency or a nonprofit charitable organization in addition to the penalties
17 specified under sub. (2).

18 (am) Notwithstanding s. 973.05 (3) (b), an order under par. (a) or (ag) may only
19 apply if agreed to by the organization or agency. The court shall ensure that the
20 defendant is provided a written statement of the terms of the community service
21 order and that the community service order is monitored. Any organization or
22 agency acting in good faith to which a defendant is assigned pursuant to an order
23 under this subsection has immunity from any civil liability in excess of \$25,000 for
24 acts or omissions by or impacting on the defendant. The issuance or possibility of the
25 issuance of a community service order under this subsection does not entitle an

1 indigent defendant who is subject to sub. (2) (a) to representation by counsel under
2 ch. 977.

3 **SECTION 31.** 346.65 (2g) (ag) of the statutes is created to read:

4 346.65 **(2g)** (ag) If the court determines that a person does not have the ability
5 to pay a fine imposed under sub. (2) (b) to (g), the court shall require the defendant
6 to perform community service work for a public agency or a nonprofit charitable
7 organization in lieu of paying the fine imposed or, if the amount of the fine was
8 reduced under sub. (2e), in lieu of paying the remaining amount of the fine. Each
9 hour of community service performed in compliance with an order under this
10 paragraph shall reduce the amount of the fine owed by an amount determined by the
11 court.

12 **SECTION 32.** 346.65 (2g) (b) of the statutes is amended to read:

13 346.65 **(2g)** (b) The court may require a person ordered to perform community
14 service work under par. (a) or (ag), or under s. 973.05 (3) (a) if that person's fine
15 resulted from violating s. 346.63 (2), 940.09 (1) or 940.25, to participate in community
16 service work that demonstrates the adverse effects of substance abuse or of operating
17 a vehicle while under the influence of an intoxicant or other drug, including working
18 at an alcoholism treatment facility approved under s. 51.45, an emergency room of
19 a general hospital or a driver awareness program under s. 346.637. The court may
20 order the person to pay a reasonable fee, based on the person's ability to pay, to offset
21 the cost of establishing, maintaining and monitoring the community service work
22 ordered under this paragraph. If the opportunities available to perform community
23 service work are fewer in number than the number of defendants eligible under this
24 subsection, the court shall, when making an order under this paragraph, give
25 preference to defendants who were under 21 years of age at the time of the offense.

1 All provisions of par. ~~(a)~~ (am) apply to any community service work ordered under
2 this paragraph.

3 **SECTION 33.** 346.65 (2g) (c) of the statutes is amended to read:

4 346.65 **(2g)** (c) If there was a minor passenger under 16 years of age in the
5 motor vehicle or commercial motor vehicle at the time of the violation that gave rise
6 to the conviction, the court may require a person ordered to perform community
7 service work under par. (a) or (ag), or under s. 973.05 (3) (a) if that person's fine
8 resulted from violating s. 346.63 (2), (5) (a) or (6) (a), 940.09 (1) or 940.25, to
9 participate in community service work that benefits children or that demonstrates
10 the adverse effects on children of substance abuse or of operating a vehicle while
11 under the influence of an intoxicant or other drug. The court may order the person
12 to pay a reasonable fee, based on the person's ability to pay, to offset the cost of
13 establishing, maintaining and monitoring the community service work ordered
14 under this paragraph.

15 **SECTION 34.** 346.65 (6) (a) 1. of the statutes is renumbered 346.65 (6) (a) 1g. and
16 amended to read:

17 346.65 **(6)** (a) 1g. Except as provided in this paragraph, the court may order a
18 law enforcement officer to seize a motor vehicle, or, if the motor vehicle is not ordered
19 seized, shall order a law enforcement officer to equip the motor vehicle with an
20 ignition interlock device or immobilize any motor vehicle owned by the person whose
21 operating privilege is revoked under s. 343.305 (10) or who committed a violation of
22 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),
23 (c) or (d) if the person whose operating privilege is revoked under s. 343.305 (10) or
24 who is convicted of the violation has 2 or more prior suspensions, revocations or
25 convictions that would be counted under s. 343.307 (1). The court shall not order a

1 motor vehicle equipped with an ignition interlock device or immobilized if that would
2 result in undue hardship or extreme inconvenience or would endanger the health
3 and safety of a person.

4 **SECTION 35.** 346.65 (6) (a) 1d. of the statutes is created to read:

5 346.65 (6) (a) 1d. Except as provided in this subdivision, the court may order
6 a law enforcement officer to equip with an ignition interlock device a motor vehicle
7 owned by the person whose operating privilege is revoked under s. 343.305 (10) or
8 who committed a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a),
9 (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d). The court shall not order a motor vehicle
10 equipped with an ignition interlock device if that would result in undue hardship or
11 extreme inconvenience or would endanger the health or safety of a person.

12 **SECTION 36.** 346.65 (6) (a) 2. of the statutes is repealed.

13 **SECTION 37.** 346.65 (6) (a) 2m. of the statutes is amended to read:

14 346.65 (6) (a) 2m. A person who owns a motor vehicle subject to seizure,
15 equipping with an ignition interlock device or immobilization under this paragraph
16 shall surrender to the clerk of circuit court the certificate of title issued under ch. 342
17 for every motor vehicle owned by the person. The person shall comply with this
18 subdivision within 5 working days after receiving notification of this requirement
19 from the district attorney. When a district attorney receives a copy of a notice of
20 intent to revoke the operating privilege under s. 343.305 (9) (a) ~~of a person who has~~
21 ~~2 or more convictions, suspensions or revocations, as counted under s. 343.307 (1),~~
22 or when a district attorney notifies the department of the filing of a criminal
23 complaint against a person under s. 342.12 (4) (a), the district attorney shall notify
24 the person of the requirement to surrender all certificates of title to the clerk of circuit
25 court. The notification shall include the time limits for that surrender, the penalty

1 for failure to comply with the requirement and the address of the clerk of circuit
2 court. The clerk of circuit court shall promptly return each certificate of title
3 surrendered to the clerk of circuit court under this subdivision after stamping the
4 certificate of title with the notation “Per section 346.65 (6) of the Wisconsin statutes,
5 ownership of this motor vehicle may not be transferred without prior court approval”.
6 Any person failing to surrender a certificate of title as required under this
7 subdivision shall forfeit not more than \$500.

8 **SECTION 38.** 346.65 (6) (c) of the statutes is amended to read:

9 346.65 **(6)** (c) The district attorney of the county where the motor vehicle was
10 seized, or of the county where the owner’s operating privilege was ordered revoked
11 under s. 343.305 (10) or where the owner committed the violation under s. 346.63 (1)
12 (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),
13 shall commence an action to forfeit the motor vehicle within 30 days after the motor
14 vehicle is seized. The action shall name the owner of the motor vehicle and all
15 lienholders of record as parties. The forfeiture action shall be commenced by filing
16 a summons, complaint and affidavit of the law enforcement agency with the clerk of
17 circuit court. Upon service of an answer, the action shall be set for hearing within
18 60 days after the service of the answer. If no answer is served or no issue of law or
19 fact joined and the time for that service or joining of issues has expired, the court may
20 render a default judgment as provided in s. 806.02.

21 **SECTION 39.** 346.65 (6) (d) of the statutes is amended to read:

22 346.65 **(6)** (d) At the hearing set under par. (c), the state has the burden of
23 proving to a reasonable certainty by the greater weight of the credible evidence that
24 the motor vehicle is a motor vehicle owned by a person whose operating privilege was
25 ordered revoked under s. 343.305 (10) or who committed a violation of s. 346.63 (1)

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

8 **SECTION 40.** 346.655 (1) of the statutes is amended to read:

9 346.655 (1) ~~On or after July 1, 1988, if~~ If a court imposes a fine or a forfeiture
10 for a violation of s. 346.63 (1) or (5), or a local ordinance in conformity therewith, or
11 s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a
12 vehicle, it shall impose a driver improvement surcharge in an amount of \$340 \$345
13 in addition to the fine or forfeiture, penalty assessment, jail assessment and crime
14 laboratories and drug law enforcement assessment.

15 **SECTION 41.** 346.655 (2) (a) of the statutes is amended to read:

16 346.655 (2) (a) Except as provided in par. (b), the clerk of court shall collect and
17 transmit the amount under sub. (1) to the county treasurer as provided in s. 59.40
18 (2) (m). The county treasurer shall then make payment of ~~37.6%~~ 38.5% of the amount
19 to the state treasurer as provided in s. 59.25 (3) (f) 2.

20 **SECTION 42.** 346.655 (2) (b) of the statutes is amended to read:

21 346.655 (2) (b) If the forfeiture is imposed by a municipal court, the court shall
22 transmit the amount to the treasurer of the county, city, town or village, and that
23 treasurer shall make payment of ~~37.6%~~ 38.5% of the amount to the state treasurer
24 as provided in s. 66.12 (1) (b). The treasurer of the city, town or village shall transmit
25 the remaining ~~62.4%~~ 61.5% of the amount to the treasurer of the county.

1 **SECTION 43.** 346.93 (2g) of the statutes is created to read:

2 346.93 **(2g)** Any person violating this section may be required to forfeit not less
3 than \$20 nor more than \$400 and shall have his or her operating privilege:

4 (a) For a first violation, suspended under s. 343.30 (6) (b) 1.

5 (b) For a violation committed within 12 months of a previous violation,
6 suspended under s. 343.30 (6) (b) 2.

7 (c) For a violation committed within 12 months of 2 or more previous violations,
8 suspended under s. 343.30 (6) (b) 3.

9 **SECTION 44.** 346.95 (2) of the statutes is amended to read:

10 346.95 **(2)** Any person violating s. 346.89 (1), ~~346.93~~ or 346.94 (2), (4) or (7) may
11 be required to forfeit not less than \$20 nor more than \$400.

12 **SECTION 45.** 800.03 (4) of the statutes is repealed.

13 **SECTION 46.** 938.344 (2) (intro.) of the statutes is amended to read:

14 938.344 **(2)** (intro.) If a court finds a juvenile committed a violation under s.
15 ~~125.07 (4) (b) or 125.09 (2)~~, or a local ordinance that strictly conforms to ~~one of those~~
16 statutes that statute, the court shall order one or any combination of the following
17 penalties:

18 **SECTION 47.** 938.344 (2) (c) of the statutes is amended to read:

19 938.344 **(2)** (c) For a violation committed within 12 months of 2 or more
20 previous violations, a forfeiture of not more than \$500, ~~revocation~~ suspension of the
21 juvenile's operating privilege as provided under s. 343.30 (6) (b) 3. or the juvenile's
22 participation in a supervised work program or other community service work under
23 s. 938.34 (5g).

24 **SECTION 48.** 938.344 (2b) of the statutes is amended to read:

1 938.344 **(2b)** If a court finds a juvenile committed a violation under s. 125.07
2 (4) (a) or (b), or a local ordinance which strictly conforms to s. 125.07 (4) (a) or (b), the
3 court shall order one or any combination of the following penalties:

4 (a) For a first violation, a forfeiture of not less than \$250 nor more than \$500,
5 ~~suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 1.~~
6 or the juvenile's participation in a supervised work program or other community
7 service work under s. 938.34 (5g). In addition to any penalty imposed under this
8 paragraph, the court shall suspend the juvenile's operating privilege as provided in
9 s. 343.30 (6) (b) 1.

10 (b) For a violation committed within 12 months of a previous violation, a
11 forfeiture of not less than \$300 nor more than \$500, ~~suspension of the juvenile's~~
12 ~~operating privilege as provided under s. 343.30 (6) (b) 2.~~ or the juvenile's
13 participation in a supervised work program or other community service work under
14 s. 938.34 (5g). In addition to any penalty imposed under this paragraph, the court
15 shall suspend the juvenile's operating privilege as provided in s. 343.30 (6) (b) 2.

16 (c) For a violation committed within 12 months of 2 or more previous violations,
17 a forfeiture of \$500, ~~revocation of the juvenile's operating privilege as provided under~~
18 ~~s. 343.30 (6) (b) 3.~~ or the juvenile's participation in a supervised work program or
19 other community service work under s. 938.34 (5g). In addition to any penalty
20 imposed under this paragraph, the court shall suspend the juvenile's operating
21 privilege as provided in s. 343.30 (6) (b) 3.

22 **SECTION 49.** 938.344 (2d) (c) of the statutes is amended to read:

23 938.344 **(2d)** (c) For a violation committed within 12 months of 2 or more
24 previous violations, a forfeiture of \$500, ~~revocation~~ suspension of the juvenile's
25 operating privilege as provided under s. 343.30 (6) (b) 3. or the juvenile's

1 participation in a supervised work program or other community service work under
2 s. 938.34 (5g).

3 **SECTION 50.** 940.09 (1d) of the statutes is renumbered 940.09 (1d) (b).

4 **SECTION 51.** 940.09 (1d) (a) of the statutes is created to read:

5 940.09 **(1d)** (a) If a person commits an offense under sub. (1) (a), (b), (c) or (d),
6 the procedure under s. 346.65 (6) may be followed regarding the equipping of a motor
7 vehicle owned by the person with an ignition interlock device.

8 **SECTION 52.** 940.25 (1c) of the statutes is created to read:

9 940.25 **(1c)** If the person convicted under sub. (1) (a), (b), (c) or (d) had any
10 previous suspensions, revocations or convictions that would be counted under s.
11 343.307 (1) and had an alcohol concentration of 0.15 to 0.199, the applicable
12 maximum fine for the conviction under sub. (1) (a), (b), (c) or (d) is doubled. If the
13 person convicted under sub. (1) (a), (b), (c) or (d) had any previous suspensions,
14 revocations or convictions that would be counted under s. 343.307 (1) and had an
15 alcohol concentration of 0.20 to 0.249, the applicable maximum fine for the conviction
16 under sub. (1) (a), (b), (c) or (d) is tripled. If the person convicted under sub. (1) (a),
17 (b), (c) or (d) had any previous suspensions, revocations or convictions that would be
18 counted under s. 343.307 (1) and had an alcohol concentration of 0.25 or above, the
19 applicable maximum fine for the conviction under sub. (1) (a), (b), (c) or (d) is
20 quadrupled.

21 **SECTION 53.** 940.25 (1d) of the statutes is renumbered 940.25 (1d) (b).

22 **SECTION 54.** 940.25 (1d) (a) of the statutes is created to read:

23 940.25 **(1d)** (a) If a person commits an offense under sub. (1) (a), (b), (c) or (d),
24 the procedure under s. 346.65 may be followed regarding the equipping of a motor
25 vehicle owned by the person with an ignition interlock device.

1 **SECTION 55.** 1997 Wisconsin Act 84, section 2 is repealed.

2 **SECTION 56.** 1997 Wisconsin Act 84, section 3 is repealed.

3 **SECTION 57.** 1997 Wisconsin Act 84, section 4 is repealed.

4 **SECTION 58.** 1997 Wisconsin Act 84, section 5 is repealed.

5 **SECTION 59.** 1997 Wisconsin Act 84, section 30 is repealed.

6 **SECTION 60.** 1997 Wisconsin Act 84, section 31 is repealed.

7 **SECTION 61.** 1997 Wisconsin Act 84, section 160 is repealed.

8 **SECTION 62.** 1997 Wisconsin Act 84, section 161 is repealed.

9 **SECTION 63.** 1997 Wisconsin Act 84, section 162 is repealed.

10 **SECTION 64. Nonstatutory provisions.**

11 (1) The departments of corrections and transportation shall jointly study and
12 evaluate the desirability of using treatment programs and other alternatives to
13 incarceration as a way to reduce the length of incarceration or the need for
14 incarceration of persons convicted of a 2nd or subsequent violation of operating a
15 motor vehicle while under the influence on an intoxicant, controlled substance or
16 other drug. The departments shall consult with the counties regarding this study
17 and evaluation. No later than the first day of the 9th month beginning after the
18 effective date of this subsection, the departments shall jointly submit a report to the
19 legislature in the manner provided under section 13.172 (2) of the statutes that
20 contains the conclusions of the departments' study and evaluation and any
21 recommendations concerning implementation of the conclusions.

22 **SECTION 65. Initial applicability.**

23 (1) MANDATORY OPERATING PRIVILEGE SUSPENSIONS. The treatment of sections
24 125.07 (4) (bs), (c) and (e) 2. (intro.), 343.30 (6) (b), 346.93 (2g), 346.95 (2) and 938.344
25 (2) (intro.) and (c), (2b) and (2d) (c) of the statutes first applies to violations committed

1 on the effective date of this subsection, but does not preclude the counting of other
2 violations as prior violations for sentencing a person or for suspending or revoking
3 a person's operating privilege.

4 (2) INTOXICATED DRIVER PROGRAMS. The treatment of sections 85.55, 340.01
5 (46m) (b) and (c), 342.12 (4) (a) and (c) 1. (intro.), 343.10 (5) (a) 3., 343.305 (10m) (a),
6 346.65 (6) (a) 1., 1d., 2. and 2m., (c) and (d), 940.09 (1d) (a) and 940.25 (1d) (a) of the
7 statutes and the renumbering of sections 343.305 (10m), 940.09 (1d) and 940.25 (1d)
8 of the statutes first apply to violations 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 administrative action by the department of
12 transportation, sentencing by a court, revocation or suspension of operating
13 privileges or determining the prohibited alcohol concentration.

14 (3) INTOXICATED DRIVER IMPROVEMENT SURCHARGE. The treatment of sections
15 20.395 (5) (ek), 20.435 (6) (hx) and 346.655 (1) and (2) (a) and (b) of the statutes first
16 applies to intoxicated driver improvement surcharges imposed for violations
17 committed on the effective date of this subsection.

18 **SECTION 66. Appropriation changes.**

19 (1) PRETRIAL INTOXICATED DRIVER INTERVENTION GRANTS. In the schedule under
20 section 20.005 (3) of the statutes for the appropriation to the department of
21 transportation under section 20.395 (5) (jr) of the statutes, as affected by the acts of
22 1999, the dollar amount is increased by \$115,000 for fiscal year 1999–00 and the
23 dollar amount is increased by \$314,700 for fiscal year 2000–01 to provide additional
24 funding for grants under the pretrial intoxicated driver intervention grant program.

25 **SECTION 67. Effective date.**

