1999 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB221)

Received: **05/14/99**

Received By: **nelsorpl**

Wanted: **05/17/99**

Identical to LRB:

For: **Jeff Stone (608) 266-8590**

By/Representing: **Mike Prentiss**

This file may be shown to any legislator: NO

Drafter: **nelsorpl**

May Contact:

Alt. Drafters:

Subject: **Drunk Driving - alcohol level**
Drunk Driving - penalties
Drunk Driving - procedures

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Penalties for drunk driving, ignition interlock devices and safe-ride program, etc.

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Reouired
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FE Sent For:

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LRBs0075

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		/2 5/18 jcg	5/18 kjf	kjf/jf 5/18			

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<END>

Sub to
AB 221

a 0399 - Not penalty enhancers
study by DOT, DOI with
consultation with com
-2391 Gundrum

High BAC offenders
Only Fines doubled, tripled
& quadrupled

125.07(4) Com Service condition
appropriate to the offence
if fine cannot be paid
because of inability

Rep. Stone
Mike Prentiss

Due: 5/19 4 pm

-1999 - 2000 LEGISLATURE

LRBs0074/1
RPN,PEN&JEO:all:hmh

stays

ASSEMBLY SUBSTITUTE AMENDMENT,

TO 1999 ASSEMBLY BILL 221

WPO: fix request sheet

regn.

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 20.435 (6)* (hx), 125.07 (4) (bs), 125.07 (4) (c), 125.07 (4) (e) 2. (intro.), 340.01 (46m) (b), 342.12 (4) (a), 342.12 (4) (c) 1. (intro.), 343.10 (5) (a) 3., 343.30 (6) (b), 346.65 (6) (a) 2m., 346.65 (6) (c), 346.65 (6) (d), 346.655 (1), 346.655 (2>(a), 346.655 (2) (b), 346.95 (2), 938.344 (2) (intro.), 938.344 (2) (c), 938.344 (2b) and 938.344 (2d) (c); *to create 20.395 (5)* (ek), 51.30 (4) (b) 25., 85.55, 110.10, 303.065 (2m), 303.08 (1) (cg), 303.08 (1) (cm), 303.08 (10m), 340.01 (46m) (c), 343.305 (10m) (a), 346.65 (6) (a) Id., 346.93 (2g), 940.09 (1d) (a) and 940.25 (1d) (a) of the statutes; and *to affect* 1997 Wisconsin Act 84, section 2, 1997 Wisconsin Act 84, section 3, 1997 Wisconsin Act 84, section 4, 1997 Wisconsin Act 84, section 5, 1997 Wisconsin Act 84, section 30, 1997 Wisconsin Act 84, section 31, 1997 Wisconsin Act 84, section 160, 1997 Wisconsin Act 84, section 161 and 1997 Wisconsin Act

Insert 2-9

84, section 162; **relating to:** operating a motor vehicle while under the influence of an intoxicant or drugs, or both; 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; restrictions on prisoner release from jail or prison; creating a safe-ride grant program; creating an ignition interlock device program; certain alcohol beverage offenses committed by persons under the legal drinking age; granting rule-making authority; making an appropriation; and providing penalties.

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

Insert 2-11

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

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

Ins. 3-5

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

20.435 (6) (hx) ***Services related*** *to drivers, receipts.* The amounts in the schedule for services related to drivers. All moneys received by the state treasurer from the driver improvement surcharge on court fines and forfeitures authorized under s. *346.655* shall be credited to this appropriation. The secretary of administration shall annually transfer to the appropriation account under s. 20.395 *(5)* (di) ~~31.29%~~ 30.12% of all moneys credited to this appropriation. The secretary of administration shall annually transfer to the appropriation account under s. 20.395 (5) (ek) *3.76%* of all moneys credited to this appropriation. The moneys remaining

may be transferred to sub. (7) (hy) and ss. 20.255 (1) (hm), 20.285 (1) (ia), 20.395 (5) (ci) and 20.455 (5) (h) by the secretary of administration after consultation with the secretaries of health and family services and transportation, the superintendent of public instruction, the attorney general and the president of the university of Wisconsin system.

Insert 3-5

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

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

Inserts 3-9a 103-9b

SECTION 4. 85.55 of the statutes is created to read:

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

SECTION 5. 110.10 of the statutes is created to read:

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

(1) The se1ection of persons to install, service and remove ignition interlock devices from motor vehicles.

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

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

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

SECTION 6. 125.07 (4) (bs) of the statutes is amended to read:

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

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

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

3. For a violation committed within 12 months of 2 previous violations, the person's onerating nrivileee shall be susnended under s. 343.30 (6) (b) 3. In addition, the nerson is subiect to either a forfeiture of not less than $500 nor more than $750, ~~revocation of the person's operating privilege under s. 343.30 (6) (b) 3.,~~ participation

in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

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

SECTION 7. 125.07 (4) (c) of the statutes is amended to read:

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

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

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

3. For a violation committed within 12 months of 2 previous violations, the person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In addition, the person is subject to either a forfeiture of not less than $300 nor more than $500,

~~revocation of the person's operating privilege under s. 343.30 (6) (b) 3.,~~ participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

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

SECTION 8. 125.07 (4) (e) 2. (intro.) of the statutes is amended to read:

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

Insert 6-16

SECTION 9. 303.065 (2m) of the statutes is created to read:

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

SECTION 10. 303.08 (1) (cg) of the statutes is created to read:

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

SECTION 11. 303.08 (1) (cm) of the statutes is created to read:

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

SECTION 12. 303.08 (10m) of the statutes is created to read:

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

SECTION 13. 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 (l), an alcohol concentration of 0.08 or more.

SECTION 14. 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 15. 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~~ co~~,~~ ~~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.

SECTION 16. 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:

SECTION 17. 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~~ The 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.~~ 1d. or 1a. that a motor vehicle owned by the person be equipped with an ignition interlock device. A person to whom a restriction under this subdivision applies violates that restriction if he or she requests or permits another to blow into an ignition 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.

SECTION 18. 343.30 (6) (b) of the statutes is amended to read:

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

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

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

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

SECTION 19. 343.305 (10m) of the statutes is renumbered 343.305 (10m) (b).

SECTION 20. 343.305 (10m) (a) of the statutes is created to read:

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

Insert 9-15

SECTION 21. 346.65 (6) (a) 1. of the statutes is renumbered 346.65 (6) (a) lg. and amended to read:

346.65 (6) (a) lg. 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.

SECTION 22. 346.65 (6) (a) 1d. of the statutes is created to read:

346.65 (6) (a) 1d. Except as provided in this subdivision, the court may order a law enforcement officer to equip with an ignition interlock device a 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) 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). The court shall not order a motor vehicle equipped with an ignition interlock device if that would result in undue hardship or extreme inconvenience or would endanger the health or safety of a person.

SECTION 23. 346.65 (6) (a) 2. of the statutes is repealed.

SECTION 24. 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 reauirement 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.

SECTION 25. 346.65 (6) (c) of the statutes is amended to read:

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

SECTION 26. 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 whose operating privilege was

WPO: leave double commas

ordered revoked under s. 343.305 (10) or 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) 1.,~~ that the person had 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1) ~~or, if the seizure is under par. (a) 2., 3 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1)~~. If the ~~,, (c) or (d)~~ 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.

SECTION 27. 346.655 (1) of the statutes is amended to read:

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

SECTION 28. 346.655 (2) (a) of the statutes is amended to read:

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

SECTION 29. 346.655 (2) (b) of the statutes is amended to read:

346.655 (2) (b) If the forfeiture is imposed by a municipal court, the court shall transmit the amount to the treasurer of the county, city, town or village, and that treasurer shall make payment of ~~37.6%~~ 38.5% of the amount to the state treasurer

as provided in s. 66.12 (1) (b). The treasurer of the city, town or village shall transmit the remaining ~~62.4%~~ 61.5% of the amount to the treasurer of the county

SECTION 30. 346.93 (2g) of the statutes is created to read:

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

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

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

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

SECTION 31. 346.95 (2) of the statutes is amended to read:

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

Insert 13-13

SECTION 32. 938.344 (2) (intro.) of the statutes is amended to read:

938.344 (2) (intro.) If a court finds a juvenile committed a violation under s. ~~25.07 (4) (b) or~~ 125.09 (2), or a local ordinance that strictly conforms to ~~one of those statutes~~ that statute, the court shall order one or any combination of the following penalties:

SECTION 33. 938.344 (2) (c) of the statutes is amended to read:

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

SECTION 34. 938.344 (2b) of the statutes is amended to read:

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

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

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

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

SECTION 35. 938.344 (2d) (c) of the statutes is amended to read:

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

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

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

SECTION 37. 940.09 (Id) (a) of the statutes is created to read:

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

Insert 15-7

SECTION 38. 940.25 (1d) of the statutes is renumbered 940.25 (1d) (b).

SECTION 39. 940.25 (1d) (a) of the statutes is created to read:

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

SECTION 40. 1997 Wisconsin Act 84, section 2 is repealed.

SECTION 41. 1997 Wisconsin Act 84, section 3 is repealed.

SECTION 42. 1997 Wisconsin Act 84, section 4 is repealed.

SECTION 43. 1997 Wisconsin Act 84, section 5 is repealed.

SECTION 44. 1997 Wisconsin Act 84, section 30 is repealed.

SECTION 45. 1997 Wisconsin Act 84, section 31 is repealed.

SECTION 46. 1997 Wisconsin Act 84, section 160 is repealed.

SECTION 47. 1997 Wisconsin Act 84, section 161 is repealed.

SECTION 48. 1997 Wisconsin Act 84, section 162 is repealed.

Insert 15-21

SECTION 49. Initial applicability.

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

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

(2) **INTOXICATED DRIVER PROGRAMS.** The treatment of sections 85.55, 340.01 (46m) (b) and (c), 342.12 (4) (a) and (c) 1. (intro.), 343.10 (5) (a) 3., 343.305 (10m) (a), 346.65 (6) (a) l., 1d., 2. and 2m., (c) and (d), 940.09 (Id) (a) and 940.25 (1d) (a) of the statutes and the renumbering of sections 343.305 (10m), 940.09 (1d) and 940.25 (Id) of the statutes first apply to violations committed or refusals occurring on the effective date of this subsection, but does not preclude the counting of other convictions, suspensions or revocations as prior convictions, suspensions or revocations for purposes of administrative action by the department of transportation, sentencing by a court, revocation or suspension of operating privileges or determining the prohibited alcohol concentration.

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

~~**SECTION 50. Effective date.**~~

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

Insert 16-20

(END)

1999 BILL

Insert 3-9a
6-16
13-13

1 AN ACT *to repeaZ800.03* (4); and *to amend* 66.12 (1) (b) and 165.83 (2) (e) of the
2 statutes; **relating to:** appearance before a municipal court.

Analysis by the Legislative Reference Bureau

Currently, a court appearance is required for any person who violates a local ordinance that prohibits a person from operating a motor vehicle while under the influence of an intoxicant or controlled substance or while having an alcohol concentration in his or her blood in excess of the statutory maximum (OWI). If a person fails to appear in court as required, under current law the court issues a warrant for the person's arrest. In cases involving violations of other ordinances, if a person fails to appear at the court hearing, the court, upon proof that the person received service of the notice to appear in court, enters a default judgment against the person. This bill removes the requirement that a person who violates a local OWI ordinance must appear in court, thus allowing the court to enter a default judgment against the person if the person has received adequate notice of the requirement to appear in court.

For further information see the *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:

---

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

insert 3-9a

66.12 (1) (b) Local ordinances, except as provided in this paragraph or ss. 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any or all violations under those ordinances, and may designate the manner in which the stipulation is to be made and fix the penalty to be paid. When a person charged with a violation for which stipulation of guilt or no contest is authorized makes a timely stipulation and pays the required penalty and pays the penalty assessment imposed by s. 165.87, the jail assessment imposed by s. 302.46 (l), the crime laboratories and drug law enforcement assessment imposed by s. 165.755 and any applicable domestic abuse assessment imposed by s. 973.055 (1) to the designated official, the person need not appear in court and no witness fees or other additional costs may be taxed unless the local ordinance so provides. ~~A court appearance is required for a violation of a local ordinanc~~A ~~in conformity with s. 346.63 (1).~~ The official receiving the penalties shall remit all moneys collected to the treasurer of the city, village, town sanitary district or public inland lake protection and rehabilitation district in whose behalf the sum was paid, except that all jail assessments shall be remitted to the county treasurer, within 20 days after its receipt by him or her; and in case of any failure in the payment, the treasurer may collect the payment of the officer by action, in the name of the office, and upon the official bond of the officer, with interest at the rate of 12% per year from the time when it should have been paid. In the case of the penalty assessment imposed by s. 165.87, the crime laboratories and drug law enforcement assessment imposed by s. 165.755, the driver improvement surcharge imposed by s. 346.655 (1) and any applicable domestic abuse assessment imposed by s. 973.055 (1), the treasurer of the city, village, town sanitary district or public inland lake protection and rehabilitation district shall remit to the state treasurer the sum required by law to be paid on the actions so entered during the preceding month on

Insert 3-9a

or before the first day of the next succeeding month. The governing body of the city, village, town sanitary district or public inland lake protection and rehabilitation district shall by ordinance designate the official to receive the penalties and the terms under which the official shall qualify..

end

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

Insert 6-16

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

SECTION 3. 800.03 (4) of the statutes is repealed.

Insert 13-13

SECTION 4. Effective date.

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

(END)

Insert 9-15

SECTION 1. 346.65 (2) (b) of the statutes is amended to read:

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

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).

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

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

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).

SECTION 3. 346.65 (2) (d) of the statutes is amended to read:

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

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).

SECTION 4. 346.65 (2) (e) of the statutes is amended to read:

Insert 9-15

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

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).

SECTION 5. 346.65 (2e) of the statutes is amended to read:

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

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).

SECTION 6. 346.65 (2) (g) 1. of the statutes is created to read:

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

~~346.65 (2)~~ (g) 2. If a person convicted had an alcohol concentration of 0.20 to 0.249, the applicable minimum and maximum fines under pars. (b) to (e) are tripled.

~~346.65 (2)~~ (g) 3. If a person convicted had an alcohol concentration of 0.2~~0~~ or ~~0.249~~ above, the applicable minimum and maximum fines under pars. (b) to (e) are quadrupled.

SECTION 7. 346.65 (2g) (a) of the statutes is amended to read:

WPO: sort out of order

Insert 9-15

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

(am) Notwithstanding s. 973.05 (3) (b), an order under nar. (a) or (ag) may only apply if agreed to by the organization or agency. The court shall ensure that the defendant is provided a written statement of the terms of the community service order and that the community service order is monitored. Any organization or agency acting in good faith to which a defendant is assigned pursuant to an order under this subsection has immunity from any civil liability in excess of $25,000 for acts or omissions by or impacting on the defendant. The issuance or possibility of the issuance of a community service order under this subsection does not entitle an indigent defendant who is subject to sub. (2) (a) to representation by counsel under ch. 977.

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).

SECTION 8. 346.65 (2g) (ag) of the statutes is created to read:

346.65 (2g) (ag) If the court determines that a person does not have the ability to pay a fine imposed under sub. (2) (b) to (g), the court shall require the defendant to perform community service work for a public agency or a nonprofit charitable organization in lieu of paying the fine imposed or, if the amount of the fine was

Insert 9-15

reduced under sub. (2e), in lieu of paying the remaining amount of the fine. Each hour of community service performed in compliance with an order under this paragraph shall reduce the amount of the fine owed by $10.

SECTION 9. 346.65 (2g) (b) of the statutes is amended to read:

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

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).

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

346.65 (2g) (c) If there was a minor passenger under 16 years of age in the motor vehicle or commercial motor vehicle at the time of the violation that gave rise to the conviction, the court may require a person ordered to perform community service work under par. (a) or (ag), or under s. 973.05 (3) (a) if that person's fine

resulted from violating s. 346.63 (2), (5) (a) or (6) (a), 940.09 (1) or 940.25, to participate in community service work that benefits children or that demonstrates the adverse effects on children of substance abuse or of operating a vehicle while under the influence of an intoxicant or other drug. The court may order the person to pay a reasonable fee, based on the person's ability to pay, to offset the cost of establishing, maintaining and monitoring the community service work ordered under this paragraph.

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 15-7

~~operating privilege as provided under s. 343.30 (6) (b) 2.~~ or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g). In addition to any penalty imposed under this paragraph, the court shall suspend the juvenile's operating privilege as provided in s. 343.30 (6) (b) 2.

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

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

938.344 **(2d)** (c) For a violation committed within 12 months of 2 or more previous violations, a forfeiture of $500, ~~revocation~~ susoension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 3. or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g).

SECTION 48. 940.09 (1d) of the statutes is renumbered 940.09 (1d) (b).

SECTION 49. 940.09 (1d) (a) of the statutes is created to read:

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

SECTION 50. 940.25 (lc) of the statutes is created to read:

Insert 15-7

940.25 (lc) If the person convicted under sub. (1) (a), (b), (c) or (d) had any previous suspensions, revocations or convictions that would be counted under s. 343.307 (1) and had an alcohol concentration of 0.15 to 0.199, the applicable

under sub. (1)(a),(b),(c) or (d)

maximum fine or imprisonment for the conviction is doubled. If the person convicted under sub. (1) (a), (b), (c) or (d) had any previous suspensions, revocations or convictions that would be counted under s. 343.307 (1) and 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 sub. (1) (a), (b), (c) or(d) had any previous suspensions, revocations or convictions that would be counted under s. 343.307 (1) and had an alcohol concentration of 0.25 or above, the applicable maximum fine or imprisonment for the conviction is quadrupled.

Insert 15-7 cont

SECTION 51. 940.25 (1d) of the statutes is renumbered 940.25 (Id) (b).

SECTION 52. 940.25 (1d) (a) of the statutes is created to read:

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

SECTION 53. 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. 973.15 (2) (a) against an offender convicted of the same crime or crimes, including imprisonment authorized by ss. 346.65 (2) (f) or (g), (2j) (d) or (3m), 939.62, 939.621, 939.63, 939.635, 939.64, 939.641, 939.645, 940.09 (1b), 940.25 (1b) and 961.48 and other penalty enhancement statutes, as applicable, subject to the credit provisions of s. 973.155. If the maximum term of imprisonment is life, the commitment period specified by the court may be life, subject to termination under sub. (5).

SECTION 54. 1997 Wisconsin Act 84, section 2 is repealed.

Inserts

ASSEMBLY AMENDMENT 5,

TO 1999 ASSEMBLY BILL 221

May 13, 1999 - Offered by Representatives LADWIG, STONE and FOTI.

At the locations indicated, amend the bill as follows:

1. Page 2, line 9: after "program;" insert "pretrial intoxicated driver intervention grants; requiring a report on incarceration alternatives;".

insert 2-9

2. Page 2, line 10: delete "an appropriation" and substitute "appropriations".

3. Page 4, line 1: before that line insert:

"**SECTION 1d.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

			1999-00	2000-01
20.395 Transportation, department of				
(5) MOTORVEHICLESERVICESANDENFORCEMENT				
(ja) Pretrial intoxicated driver intervention grants, state funds	GPR	A	265,000	464,700.

insert 2-11

4. Page 4, line 1: delete **"SECTION 1"** and substitute **"SECTION 1g"**.

5. Page 4, line 4: after that line insert:

"**SECTION 1m.** 20.395 (5) (ja) of the statutes is created to read:

20.395 (5) (ja) *Pretrial intoxicated driver intervention grants, state finds.* The amounts in the schedule for the purpose of awarding grants under s. 85.53.

SECTION 1p. 20.395 (5) (jr) of the statutes is repealed.

SECTION 1r. 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)~~ (ja). 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.~~".

6. Page 16, line 11: delete "forfeitures, fines or" and substitute "fines".

7. Page 16, line 12: delete "imprisonments under pars. (b) to (e)" and substitute "under pars. (b) to (e) and have his or her imprisonment increased by 60 days".

8. Page 16, line 14: delete "forfeitures, fines or imprisonments under pars. (b) to (e)" and substitute "fines under pars. (b) to (e) and have his or her imprisonment increased by 90 days".

9. Page 16, line 16: delete "forfeitures, fines or imprisonments under pars." and substitute "fines under pars. (b) to (e) and have his or her imprisonment increased by 120 days.".

10. Page 16, line 17: delete "(b) to (e).".

11. Page 23, line 1: on lines 1, 4 and 8, delete "or imprisonment".

12. Page 24, line 8: after that line insert:

and transportation

1 "SECTION 9m. Nonstatutory provisions.

jointly

Insert 16-21

2 (1) The department of corrections shall study and evaluate the desirability of
3 using treatment programs and other alternatives to incarceration as a way to reduce
4 the length of incarceration or the need for incarceration of persons convicted of a 2nd
5 or subsequent violation of operating a motor vehicle while under the influence of an
6 intoxicant, controlled substance or other drug. and evaluation. The departments shall consult with the counties regarding this study. No later than the first day of the 9th
7 month beginning after the effective date of this subsection, the department of
8 corrections shall jointly submit a report to the legislature in the manner provided under
9 section 13.172 (2) of the statutes that contains the conclusions of the department's
10 study and evaluation and any recommendations concerning implementation of its the
11 conclusions.".

12 **13.** Page 25, line 4: delete lines 4 to 6 and substitute:

13 "SECTION 64d. **Effective dates.** This act takes effect on the first day of the 4th
14 month beginning after publication, except as follows:

Insert 16-20

15 (1) The treatment of sections 20.395 (5) (ja) and (jr) and 85.53 (3) of the statutes
16 takes effect on the day after the general effective date of the 1999-2001 biennial
17 budget act."

18 **(END)**

5/18 noon

State of Wisconsin
1999 – 2000 LEGISLATURE

D- Note

LRBs0075/1
RPN/PEN/JEO:all:jf

ASSEMBLY SUBSTITUTE AMENDMENT,

TO 1999 ASSEMBLY BILL 221

regen

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

section 3, 1997 Wisconsin Act 84, section 4, 1997 Wisconsin Act 84, section 5, 1997 Wisconsin Act 84, section 30, 1997 Wisconsin Act 84, section 31, 1997 Wisconsin Act 84, section 160, 1997 Wisconsin Act 84, section 161 and 1997 Wisconsin Act 84, section 162; **relating** to: operating a motor vehicle while under the influence of an intoxicant or drugs, or both; 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; restrictions on prisoner release from jail or prison; creating a safe-ride grant program; creating an ignition interlock device program; pretrial intoxicated driver intervention grants; requiring a report on incarceration alternatives; certain alcohol beverage offenses committed by persons under the legal drinking age; appearance before a municipal court; granting rule-making authority; making appropriations; and providing penalties.

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

SECTION 1. 20.005(3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

			1999–00	2000–01
20.395 Transportation, department of				
(5) MOTORVEHICLE SERVICESAND ENFORCEMENT				
(ja) Pretrial intoxicated driver intervention grants, state funds	GPR	A	265,000	464,700

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

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

SECTION 3. 20.395 (5) (ja) of the statutes is created to read:

20.395 (5)(ja) *Pretrial intoxicated driver intervention grants, state funds.* The amounts in the schedule for the purpose of awarding grants under s. 85.53.

SECTION 4. 20.395 (5) (jr) of the statutes is repealed.

SECTION 5. 20.435 (6) (hx) of the statutes is amended to read:

20.435 (6) *(hx) Services related to drivers, receipts.* The amounts in the schedule for services related to drivers. All moneys received by the state treasurer from the driver improvement surcharge on court fines and forfeitures authorized under s. 346.655 shall be credited to this appropriation. The secretary of administration shall annually transfer to the appropriation account under s. 20.395 (5) (di) ~~31.29%~~ 30.129 o 11 moneys credited to this appropriation. The secretary of administration shall annually transfer to the appropriation account under s. 20.395 (5) (ek) 3.76% of all moneys credited to this appropriation. The moneys remaining may be transferred to sub. (7) (hy) and ss. 20.255 (1) (hm), 20.285 (1) (ia), 20.395 (5) (ci) and 20.455 (5) (h) by the secretary of administration after consultation with the secretaries of health and family services and transportation, the superintendent of public instruction, the attorney general and the president of the university of Wisconsin system.

SECTION 6. 51.30 (4) (b) 25. of the statutes is created to read:

51.30 (4) (b) 25. To the department of corrections or to a sheriff, to determine if a person incarcerated is complying with the assessment o:r the driver safety plan ordered under s. 343.30 (lq) (c).

SECTION 7. 66.12 (1) (b) of the statu es is amended to read:

66.12 **(1)** (b) Local ordinances, exc pt as provided in this paragraph or ss. 345.20 to 345.53, may contain a provision for stfpulation of guilt or no contest of any or all violations under those ordinances, and may designate the manner in which the stipulation is to be made and fix the penalty to be paid. When a person charged with a violation for which stipulation of guilt or no contest is authorized makes a timely stipulation and pays the required penalty and pays the penalty assessment imposed by s. 165.87, the jail assessment imposed by s. 302.46 (1), the crime laboratories and drug law enforcement assessment imposed by s. 165.755 and any applicable domestic abuse assessment imposed by s. 973.055 (1) to the designated official, the person need not appear in court and no witness fees or other additional costs may be taxed unless the local ordinance so provides. ~~A court appearance is required for a violation of a local ordinance in conformity with s. 346.63 (1).~~ The official receiving the penalties shall remit all moneys collected to the treasurer of the city, village, town sanitary district or public inland lake protection and rehabilitation district in whose behalf the sum was paid, except that all jail assessments shall be remitted to the county treasurer, within 20 days after its receipt by him or her; and in case of any failure in the payment, the treasurer may collect the payment of the officer by action, in the name of the office, and upon the official bond of the officer, with interest at the rate of 12% per year from the time when it should have been paid. In the case of the penalty assessment imposed by s. 165.87, the crime laboratories and drug law enforcement assessment imposed by s. 165.755, the driver improvement surcharge

imposed by s. 346.655 (1) and any applicable domestic abuse assessment imposed by s. 973.055 (1), the treasurer of the city, village, town sanitary district or public inland lake protection and rehabilitation district shall remit to the state treasurer the sum required by law to be paid on the actions so entered during the preceding month on or before the first day of the next succeeding month. The governing body of the city, village, town sanitary district or public inland lake protection and rehabilitation district shall by ordinance designate the official to receive the penalties and the terms under which the official shall qualify.

SECTION 8. 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)~~ ~~(ja)~~ ← plain text plain 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.~~

SECTION 9. 85.55 of the statutes is created to read:

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

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

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

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

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

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

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

SECTION 11. 125.07 (4) (bs) of the statutes is amended to read:

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

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

2. For a violation committed within 12 months of a previous violation, the person's operating privilege shall be suspended under s. 343.30 (6) (b) 2. In addition, the person is subject to either a forfeiture of not less than $300 nor more than $500, ~~suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2.,~~

participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

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

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

SECTION 12. 125.07 (4) (c) of the statutes is amended to read:

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

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

2. For a violation committed within 12 months of a previous violation, the person's operating privilege shall be suspended under s. 343.30 (6) (b) 2. In addition, the person is subject to either a forfeiture of not less than $200 nor more than $300,

~~suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2.,~~ participation in a supervised work program or other community service work. under par. (cg) or any combination of these penalties.:

3. For a violation committed within12 months of 2 previous violations, the person's operating nrivileae shall besuspended under s. 343.30(6)(b)3. In addition, the person is subject to either a forfeiture /of not less than $300 nor more than $500, ~~revocation of the person's operating privilege under s. 343.30 (6) (b) 3.,~~ participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties.

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

SECTION 13. 125.07 (4) (e) 2. (intro.) of the statutes is amended to read:

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

SECTION 14. 165.83 (2) (e) of the statutes is amended to read:

165.83 (2) (e) Obtain and file a copy or detailed description of each arrest warrant issued in this state for the offenses under par. (a) ~~or s. 800.03 (4)~~ but not

served because the whereabouts of the person named on the warrant is unknown or because that person has left the state. All available identifying data shall be obtained with the copy of the warrant, including any information indicating that the person named on the warrant may be armed, dangerous or possessed of suicidal tendencies.

SECTION 15. 303.065 (2m) of the statutes is created to read:

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

SECTION 16. 303.08 (1) (cg) of the statutes is created to read:

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

SECTION 17. 303.08 (1) (cm) of the statutes is created to read:

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

SECTION 18. 303.08 (10m) of the statutes is created to read:

303.08 **(10m)** The sheriff may not permit a prisoner who is imprisoned for a violation of s. 346.63 (l), (2), (5) or (6) to leave the jail under sub. (1) if the prisoner fails to obtain the assessment or to comply with the driver safety plan ordered under s. 343.30 (lq) (c). This subsection does not apply if the prisoner does not have

sufficient funds to make any payments necessary to obtain the assessment or to comply with the driver safety plan.

SECTION 19. 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 20. 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 21. 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 fo hear the criminal complaint issues an order permitting the department to issue a certificate of tit le.

SECTION 22. 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:

SECTION 23. 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~~ The 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.~~ 1d. or 1g. that a motor vehicle owned by the person be equipped with an ignition interlock device. A person to whom a restriction under this subdivision applies violates that restriction if he or she requests or permits another to blow into an ignition 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.

SECTION 24. 343.30 (6) (b) of the statutes is amended to read:

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

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

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

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

1 **SECTION** 25. 343.305 (10m) of the statutes is renumbered 343.305 (10m) (b).

2 **SECTION** 26. 343.305 (10m) (a) of the statutes is created to read:

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

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

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

13 **SECTION** 28. 346.65 (2) (c) of the statutes is amended to read:

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

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

21 346.65 (2) (d) Except as provided in ~~par.~~ pars. (f) and (g), shall be fined not less
22 than $600 nor more than $2,000 and imprisoned for not less than 60 days nor more
23 than one year in the county jail if the total number of suspensions, revocations and
24 convictions counted under s. 343,307 (1) equals 4, except that suspensions,

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

SECTION 30. 346.65 (2) (e) of the statutes is amended to read:

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

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

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

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

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

SECTION 32. 346.65 (2e) of the statutes is amended to read:

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

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

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

(am) Notwithstanding s. 973.05 (3) (b), an order under par. (a) or (ag) may only apply if agreed to by the organization or agency. The court shall ensure that the defendant is provided a written statement of the terms of the community service order and that the community service order is monitored. Any organization or agency acting in good faith to which a defendant is assigned pursuant to an order under this subsection has immunity from any civil liability in excess of $25,000 for acts or omissions by or impacting on the defendant. The issuance or possibility of the issuance of a community service order under this subsection does not entitle an indigent defendant who is subject to sub. (2) (a) to representation by counsel under ch. 977.

SECTION 34. 346.65 (2g) (ag) of the statutes is created to read:

346.65 **(2g)** (ag) If the court determines that a person does not have the ability to pay a fine imposed under sub. (2) (b) to (g), the court shall require the defendant to perform community service work for a public agency or a nonprofit charitable organization in lieu of paying the fine imposed or, if the amount of the fine was reduced under sub. (2e), in lieu of paying the remaining amount of the fine. Each

hour of community service performed in compliance with an order under ~~this~~ paragraph shall reduce the amount of the fine owed by ~~$10~~ an amount determined by the court.

SECTION 35. 346.65 (2g) (b) of the statutes is amended to read:

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

SECTION 36. 346.65 (2g) (c) of the statutes is amended to read:

346.65 **(2g)** (c) If there was a minor passenger under 16 years of age in the motor vehicle or commercial motor vehicle at the time of the violation that gave rise to the conviction, the court may require a person ordered to perform community service work under par. (a) or (ag), or under s. 973.05 (3) (a) if that person's fine resulted from violating s. 346.63 (2), (5) (a) or (6) (a), 940.09 (1) or 940.25, to participate in community service work that benefits children or that demonstrates

the adverse effects on children of substance abuse or of operating a vehicle while under the influence of an intoxicant or other drug. The court may order the *person to pay a reasonable fee, based on the person's ability to pay, to offset the cost of establishing, maintaining and monitoring the community service work ordered under this paragraph.

SECTION 37. 346.65 (6) (a) 1. of the statutes is renumbered 346.65 (6) (a) lg. and amended to read:

346.65 (6) (a) lg. 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 irnmobilized if that would result in undue hardship or extreme inconvenience or would endanger the health and safety of a person.

SECTION 38. 346.65 (6) (a) 1d. of the statutes is created to read:

346.65 (6) (a) ld. Except as provided in this subdivision, the court may order a law enforcement officer to equip with an ignition interlock device a 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 (l),(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)/ The court shall not order a motor vehicle

equipped with an ignition interlock device if that would result in undue hardship or extreme inconvenience or would endanger the health or safety of a person.

SECTION 39. 346.65 (6) (a) 2. of the statutes is repealed.

SECTION 40. 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 oftitle 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.

SECTION 41. 346.65 (6) (c) of the statutes is amended to read:

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

SECTION 42. 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 whose operating: privilege was ordered revoked under s. 343.305 (10) or 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) 1.,~~ that the person had 2 or more prior convictions, suspensions or revocations, as counted under s., 343.307 (1)~~or, if the seizure is under par. (a) 2., 3 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1)~~. If the~~,, (c) or (d),, (c) or (d)~~ 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.

SECTION 43. 346.655 (1) of the statutes is amended to read:

346.655 (1) ~~On or after July 1, 1988, i~~If a court imposes a fine or a forfeiture for a violation of s. 346.63 (1) or (5), or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall impose a driver improvement surcharge in an amount of $34-0 $345 in addition to the fine or forfeiture, penalty assessment, jail assessment and crime, laboratories and drug law enforcement assessment.

SECTION 44. 346.655 (2) (a) of the statutes is amended to read:

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

SECTION 45. 346.655 (2) (b) of the statutes is amended to read:

346.655 (2) (b) If the forfeiture is imposed by a municipal court, the court shall transmit the amount to the treasurer of the county, city, town or village, and that treasurer shall make payment of 9138.5% of the amount to the state treasurer as provided in s. 66.12 (1) (b). The treasurer of the city, town or village shall transmit the remaining ~~62.4%~~ 61.5% of the amount to the treasurer of the county.

SECTION 46. 346.93 (2g) of the statutes is created to read:

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

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

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

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

SECTION 47. 346.95 (2) of the statutes is amended to read:

346.95 (2) Any person violating s. 347.89 (1)~~, 346.93~~ or 346.94 (2), (4) or (7) may be required to forfeit not less than $20 nor more than $400.

SECTION 48. 800.03 (4) of the statutes is repealed.

SECTION 49. 938.344 (2) (intro.) of the statutes is amended to read:

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

SECTION 50. 938.344 (2) (c) of the statutes is amended to read:

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

SECTION 51. 938.344 (2b) of the statutes is amended to read:

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

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

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

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

SECTION 52. 938.344 (2d) (c) of the statutes is amended to read:

938.344 **(2d)** (c) For a violation committed within 12 months of 2 or more previous violations, a forfeiture of $500, ~~revocation~~ suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 3. or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g).

SECTION 53. 940.09 (1d) of the statutes is renumbered 940.09 (1d) (b).

SECTION 54. 940.09 (1d) (a) of the statutes is created to read:

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

SECTION 55. 940.25 (lc) of the statutes is created to read:

940.25 **(1c)** If the person convicted under sub. (1) (a), (b), (c) or (d) had any previous suspensions, revocations or convictions that would be counted under s. 343.307 (1) and had an alcohol concentration of 0.15 to 0.199, the applicable maximum fine for the conviction under sub. (1) (a), (b), (c) or (d) is doubled. If the person convicted under sub. (1) (a), (b), (c) or (d) had any previous suspensions, revocations or convictions that would be counted under s. 343.307 (1) and had an alcohol concentration of 0.20 to 0.249, the applicable maximum fine for the conviction under sub. (1) (a), (b), (c) or(d) is tripled. If the person convicted under sub. (1) (a), (b), (c) or(d) had any previous suspensions; revocations or convictions that would be counted under s. 343.307 (1) and had an alcohol concentration of 0.25 or above, the applicable maximum fine for the conviction under sub. (1) (a), (b), (c) or (d) is quadrupled.

SECTION 56. 940.25 (Id) of the statutes is renumbered 940.25 (Id) (b).

SECTION 57. 940.25 (1d) (a) of the statutes is created to read:

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

SECTION 58. 1997 Wisconsin Act 84, section 2 is repealed.

SECTION 59. 1997 Wisconsin Act 84, section 3 is repealed.

SECTION 60. 1997 Wisconsin Act 84, section 4 is repealed.

SECTION 61. 1997 Wisconsin Act 84, section 5 is repealed.

SECTION 62. 1997 Wisconsin Act 84, section 30 is repealed.

SECTION 63. 1997 Wisconsin Act 84, section 31 is repealed.

SECTION 64. 1997 Wisconsin Act 84, section 160 is repealed.

SECTION 65. 1997 Wisconsin Act 84, section 161 is repealed.

1 SECTION 66. 1997 Wisconsin Act 84, section 162 is repealed.

2 **SECTION 67. Nonstatutory provisions.**

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

14 **SECTION 68. Initial applicability.**

15 (1) MANDATORY OPERATING PRIVILEGE SUSPENSIONS. The treatment of sections
16 125.07 (4) (bs), (c) and (e) 2. (intro.), 343.30 (6) (b), 346.93 (2g), 346.95 (2) and 938.344
17 (2) (intro.) and (c), (2b) and (2d) (c) of the statutes first applies to violations committed
18 on the effective date of this subsection, but does not preclude the counting of other
19 violations as prior violations for sentencing a person or for suspending or revoking
20 a person's operating privilege.

21 (2) INTOXICATED DRIVER PROGRAMS. The treatment of sections 85.55, 340.01
22 (46m) (b) and (c), 342.12 (4) (a) and (c) 1. (intro.), 343.10 (5) (a) 3., 343.305 (10m) (a),
23 346.65 (6) (a) l., Id., 2. and 2m., (c) and (d), 940.09 (Id) (a) and 940.25 (Id) (a) of the
24 statutes and the renumbering of sections 343.305 (10m), 940.09 (1d) and 940.25 (1d)
25 of the statutes first apply to violations committed or refusals occurring on the

effective date of this subsection, but does not preclude the counting of other convictions, suspensions or revocations as prior convictions, suspensions or revocations for purposes of administrative action by the department of transportation, sentencing by a court, revocation or suspension of operating privileges or determining the prohibited alcohol concentration.

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

Insert 24-9

SECTION 69. Effective dates. This act takes effect on the first day of the 4th month beginning after publication, except as follows:

(1) The treatment of sections 20.395 (5) (ja) and (jr) and 85.53 (3) of the statutes takes effect on the day after the general effective date of the 1999–2001 biennial budget act.

plain

(END)

insert 24-9:

keep

SECTION 1. Appropriation changes.

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

(end ins)

DRAFTER'S NOTE
FROMTHE
LEGISLATIVE REFERENCE BUREAU

LRBs0075/2dn
RPN/PEN/JEO:all:jf

this

To provide the increase in the program for pretrial intoxicated driver intervention grants equal to the increased amount proposed by the joint committee on finance, I had to increase the appropriation in bill above the amount in the governor's budget bill. See the appropriation change at the back of the bill. If the joint committee on finance's proposal becomes law, this bill will have to be revised to remove this appropriation increase. If this bill becomes law before the budget bill is enacted, the budget bill will need to be amended to take into account this increase. Because the budget bill does repeal and recreate the dollar schedule in chapter 20 of the statutes, the budget bill could repeal the appropriation account for the pretrial intoxicated driver intervention grants and make this increase in that repealed appropriation meaningless. In summary, this appropriation increase will have to be followed carefully during the budget process to ensure that your intent is followed.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0075/2dn
RPN/PEN/JEO:all:kjf

May 18, 1999

To provide the increase in the program for pretrial intoxicated driver intervention grants equal to the increased amount proposed by the joint committee on finance, I had to increase the appropriation in this bill above the amount in the governor's budget bill. See the appropriation change at the back of the bill. If the joint committee on finance's proposal becomes law, this bill will have to be revised to remove this appropriation increase. If this bill becomes law before the budget bill is enacted, the budget bill will need to be amended to take into account this increase. Because the budget bill does repeal and recreate the dollar schedule in chapter 20 of the statutes, the budget bill could repeal the appropriation account for the pretrial intoxicated driver intervention grants and make this increase in that repealed appropriation meaningless. In summary, this appropriation increase will have to be followed carefully during the budget process to ensure that your intent is followed.

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