

ENGROSSED 1999 ASSEMBLY BILL 221

May 27, 1999 – Printed by direction of SENATE CHIEF CLERK.

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

ENGROSSED ASSEMBLY BILL 221

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

Analysis by the Legislative Reference Bureau

Engrossment information:

The text of Engrossed 1999 Assembly Bill 221 consists of the following documents adopted in the assembly on May 19, 1999: Assembly Substitute Amendment 2, as affected by Assembly Amendment 1.

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

15 **SECTION 1.** 20.395 (5) (ek) of the statutes is created to read:
16 20.395 (5) (ek) *Safe-ride grant program; state funds.* From the general fund,
17 all moneys transferred from the appropriation account under s. 20.435 (6) (hx) for the
18 purpose of awarding grants under s. 85.55.

ENGROSSED ASSEMBLY BILL 221

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

2 20.435 **(6)** (hx) *Services related to drivers, receipts.* The amounts in the
3 schedule for services related to drivers. All moneys received by the state treasurer
4 from the driver improvement surcharge on court fines and forfeitures authorized
5 under s. 346.655 shall be credited to this appropriation. The secretary of
6 administration shall annually transfer to the appropriation account under s. 20.395
7 (5) (di) ~~31.29%~~ 30.12% of all moneys credited to this appropriation. The secretary of
8 administration shall annually transfer to the appropriation account under s. 20.395
9 (5) (ek) 3.76% of all moneys credited to this appropriation. The moneys remaining
10 may be transferred to sub. (7) (hy) and ss. 20.255 (1) (hm), 20.285 (1) (ia), 20.395 (5)
11 (ci) and 20.455 (5) (h) by the secretary of administration after consultation with the
12 secretaries of health and family services and transportation, the superintendent of
13 public instruction, the attorney general and the president of the university of
14 Wisconsin system.

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

16 51.30 **(4)** (b) 25. To the department of corrections or to a sheriff, to determine
17 if a person incarcerated is complying with the assessment or the driver safety plan
18 ordered under s. 343.30 (1q) (c).

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

20 85.53 **(3)** Grants under this section shall be paid from the appropriation under
21 s. 20.395 (5) (jr). The amount of a grant may not exceed 80% of the amount expended
22 by an eligible applicant for services related to the program. ~~The total amount of~~
23 ~~grants awarded under this section may not exceed \$500,000.~~

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

ENGROSSED ASSEMBLY BILL 221**SECTION 6**

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

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

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

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

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

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

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

23 **SECTION 8m.** 125.07 (4) (bs) (intro.), 2., 3. and 4. of the statutes are amended
24 to read:

ENGROSSED ASSEMBLY BILL 221

1 125.07 (4) (bs) (intro.) Any person violating par. (a) ~~is subject to the following~~
2 penalties shall be penalized as follows:

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

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

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

21 **SECTION 9m.** 125.07 (4) (c) (intro.), 2., 3. and 4. of the statutes are amended to
22 read:

23 125.07 (4) (c) (intro.) Any person violating par. (b) ~~is subject to the following~~
24 penalties shall be penalized as follows:

ENGROSSED ASSEMBLY BILL 221**SECTION 9m**

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

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

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

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

20 125.07 (4) (e) 2. (intro.) After ordering a penalty under par. (bs) or (c), the court,
21 with the agreement of the defendant, may enter an additional order staying the
22 execution of the penalty order and suspending or modifying the penalty imposed,
23 except that the court may not stay, suspend or modify the suspension of a person's
24 operating privilege required under par. (bs) or (c). The order under this subdivision
25 shall require the defendant to do any of the following:

ENGROSSED ASSEMBLY BILL 221

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

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

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

10 303.08 **(1)** (cg) Attendance at an assessment ordered by a court under s. 343.30
11 (1q) (c);

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

13 303.08 **(1)** (cm) Attendance at a treatment program required by a driver safety
14 plan under s. 343.30 (1q) (c);

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

16 303.08 **(10m)** The sheriff may not permit a prisoner who is imprisoned for a
17 violation of s. 346.63 (1), (2), (5) or (6) to leave the jail under sub. (1) if the prisoner
18 fails to obtain the assessment or to comply with the driver safety plan ordered under
19 s. 343.30 (1q) (c). This subsection does not apply if the prisoner does not have
20 sufficient funds to make any payments necessary to obtain the assessment or to
21 comply with the driver safety plan.

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

23 340.01 **(46m)** (b) If the person has 2 ~~or more~~ prior convictions, suspensions or
24 revocations, as counted under s. 343.307 (1), an alcohol concentration of 0.08 or more.

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

ENGROSSED ASSEMBLY BILL 221**SECTION 17**

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

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

5 342.12 (~~4~~) (a) The district attorney shall notify the department when he or she
6 files a criminal complaint against a person who has been arrested for violating s.
7 346.63 (1) or (2), 940.09 (1) or 940.25 ~~and who has 2 or more prior convictions,~~
8 ~~suspensions or revocations, as counted under s. 343.307 (1).~~ Except as provided
9 under par. (c), the department may not issue a certificate of title transferring
10 ownership of any motor vehicle owned by the person upon receipt of a notice under
11 this subsection until the court assigned to hear the criminal complaint issues an
12 order permitting the department to issue a certificate of title.

13 **SECTION 19.** 342.12 (4) (c) 1. (intro.) of the statutes is amended to read:

14 342.12 (~~4~~) (c) 1. (intro.) The department shall issue a certificate of title
15 transferring ownership of a motor vehicle that was owned by a person who has
16 received a notice of intent to revoke the person's operating privilege under s. 343.305
17 (9) (a) or has been arrested for violating s. 346.63 (1) or (2), 940.09 (1) or 940.25 ~~and~~
18 ~~who has 2 or more prior convictions, suspensions or revocations, as counted under~~
19 ~~s. 343.307 (1),~~ if all of the following conditions are met:

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

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

ENGROSSED ASSEMBLY BILL 221

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

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

11 343.30 **(6)** (b) If a court imposes suspension ~~or revocation~~ of a person's operating
12 privilege under s. 125.07 (4) (bs) or (c) or 938.344 (2), (2b) or (2d), the suspension ~~or~~
13 ~~revocation~~ imposed shall be one of the following:

14 1. For a first violation, suspension for ~~30 to 90 days~~ not more than one year.

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

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

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

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

21 343.305 **(10m)** (a) If the person's operating privilege is revoked under sub. (10),
22 the procedure under s. 346.65 (6) shall be followed regarding the equipping of a motor
23 vehicle owned by the person with an ignition interlock device.

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

ENGROSSED ASSEMBLY BILL 221**SECTION 24**

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

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

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

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

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

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

22 346.65 (2) (e) Except as provided in ~~par.~~ pars. (f) and (g), shall be fined not less
23 than \$600 nor more than \$2,000 and imprisoned for not less than 6 months nor more
24 than 5 years if the total number of suspensions, revocations and convictions counted

ENGROSSED ASSEMBLY BILL 221

1 under s. 343.307 (1) equals 5 or more, except that suspensions, revocations or
2 convictions arising out of the same incident or occurrence shall be counted as one.

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

4 346.65 (2) (g) 1. If a person convicted had an alcohol concentration of 0.15 to
5 0.199, the applicable minimum and maximum fines under pars. (b) to (e) are doubled.

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

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

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

11 346.65 (2e) If the court determines that a person does not have the ability to
12 pay the costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), (d), (e) ~~or~~ (f)
13 or (g), the court may reduce the costs, fine and forfeiture imposed and order the
14 person to pay, toward the cost of the assessment and driver safety plan imposed
15 under s. 343.30 (1q) (c), the difference between the amount of the reduced costs and
16 fine or forfeiture and the amount of costs and fine or forfeiture imposed under sub.
17 (2) (a), (b), (c), (d), (e) ~~or~~ (f) or (g).

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

19 346.65 (2g) (a) In addition to the authority of the court under s. 973.05 (3) (a)
20 to provide that a defendant perform community service work for a public agency or
21 a nonprofit charitable organization in lieu of part or all of a fine imposed under sub.
22 (2) (b) to ~~(f)~~ (g) and except as provided in par. (ag), the court may provide that a
23 defendant perform community service work for a public agency or a nonprofit
24 charitable organization in lieu of part or all of a forfeiture under sub. (2) (a) or may
25 require a person who is subject to sub. (2) to perform community service work for a

ENGROSSED ASSEMBLY BILL 221**SECTION 30**

1 public agency or a nonprofit charitable organization in addition to the penalties
2 specified under sub. (2).

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

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

14 346.65 **(2g)** (ag) If the court determines that a person does not have the ability
15 to pay a fine imposed under sub. (2) (b) to (g), the court shall require the defendant
16 to perform community service work for a public agency or a nonprofit charitable
17 organization in lieu of paying the fine imposed or, if the amount of the fine was
18 reduced under sub. (2e), in lieu of paying the remaining amount of the fine. Each
19 hour of community service performed in compliance with an order under this
20 paragraph shall reduce the amount of the fine owed by an amount determined by the
21 court.

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

23 346.65 **(2g)** (b) The court may require a person ordered to perform community
24 service work under par. (a) or (ag), or under s. 973.05 (3) (a) if that person's fine
25 resulted from violating s. 346.63 (2), 940.09 (1) or 940.25, to participate in community

ENGROSSED ASSEMBLY BILL 221

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

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

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

ENGROSSED ASSEMBLY BILL 221**SECTION 34**

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

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

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

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

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

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

ENGROSSED ASSEMBLY BILL 221

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

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

21 346.65 (6) (c) The district attorney of the county where the motor vehicle was
22 seized, or of the county where the owner’s operating privilege was ordered revoked
23 under s. 343.305 (10) or where the owner committed the violation under s. 346.63 (1)
24 (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),
25 shall commence an action to forfeit the motor vehicle within 30 days after the motor

ENGROSSED ASSEMBLY BILL 221**SECTION 38**

1 vehicle is seized. The action shall name the owner of the motor vehicle and all
2 lienholders of record as parties. The forfeiture action shall be commenced by filing
3 a summons, complaint and affidavit of the law enforcement agency with the clerk of
4 circuit court. Upon service of an answer, the action shall be set for hearing within
5 60 days after the service of the answer. If no answer is served or no issue of law or
6 fact joined and the time for that service or joining of issues has expired, the court may
7 render a default judgment as provided in s. 806.02.

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

9 346.65 **(6)** (d) At the hearing set under par. (c), the state has the burden of
10 proving to a reasonable certainty by the greater weight of the credible evidence that
11 the motor vehicle is a motor vehicle owned by a person whose operating privilege was
12 ordered revoked under s. 343.305 (10) or who committed a violation of s. 346.63 (1)
13 (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)
14 and, ~~if the seizure is under par. (a) 1.,~~ that the person had 2 or more prior convictions,
15 suspensions or revocations, as counted under s. 343.307 (1) ~~or, if the seizure is under~~
16 ~~par. (a) 2., 3 or more prior convictions, suspensions or revocations, as counted under~~
17 ~~s. 343.307 (1).~~ If the, ~~(c) or (d), (c) or (d)~~ state fails to meet the burden of proof
18 required under this paragraph, the motor vehicle shall be returned to the owner upon
19 the payment of storage costs.

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

21 346.655 **(1)** ~~On or after July 1, 1988, if~~ If a court imposes a fine or a forfeiture
22 for a violation of s. 346.63 (1) or (5), or a local ordinance in conformity therewith, or
23 s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a
24 vehicle, it shall impose a driver improvement surcharge in an amount of \$340 \$345

ENGROSSED ASSEMBLY BILL 221

1 in addition to the fine or forfeiture, penalty assessment, jail assessment and crime
2 laboratories and drug law enforcement assessment.

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

4 346.655 (2) (a) Except as provided in par. (b), the clerk of court shall collect and
5 transmit the amount under sub. (1) to the county treasurer as provided in s. 59.40
6 (2) (m). The county treasurer shall then make payment of ~~37.6%~~ 38.5% of the amount
7 to the state treasurer as provided in s. 59.25 (3) (f) 2.

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

9 346.655 (2) (b) If the forfeiture is imposed by a municipal court, the court shall
10 transmit the amount to the treasurer of the county, city, town or village, and that
11 treasurer shall make payment of ~~37.6%~~ 38.5% of the amount to the state treasurer
12 as provided in s. 66.12 (1) (b). The treasurer of the city, town or village shall transmit
13 the remaining ~~62.4%~~ 61.5% of the amount to the treasurer of the county.

14 **SECTION 42m.** 346.93 (2f) of the statutes is created to read:

15 346.93 (2f) Except as provided in sub. (2g), any person violating this section
16 may have his or her operating privilege suspended under s. 343.30 (6) (b) 1.

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

18 346.93 (2g) Any person violating this section may be required to forfeit not less
19 than \$20 nor more than \$400 and shall have his or her operating privilege:

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

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

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

ENGROSSED ASSEMBLY BILL 221**SECTION 44**

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

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

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

5 938.344 (2) (intro.) If a court finds a juvenile committed a violation under s.
6 ~~125.07 (4) (b) or~~ 125.09 (2), or a local ordinance that strictly conforms to ~~one of these~~
7 statutes that statute, the court shall order one or any combination of the following
8 penalties:

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

10 938.344 (2) (c) For a violation committed within 12 months of 2 or more
11 previous violations, a forfeiture of not more than \$500, ~~revocation~~ suspension of the
12 juvenile's operating privilege as provided under s. 343.30 (6) (b) 3. or the juvenile's
13 participation in a supervised work program or other community service work under
14 s. 938.34 (5g).

15 **SECTION 48m.** 938.344 (2b) (intro.), (b) and (c) of the statutes are amended to
16 read:

17 938.344 (2b) (intro.) If a court finds a juvenile committed a violation under s.
18 125.07 (4) (a) or (b), or a local ordinance which strictly conforms to s. 125.07 (4) (a)
19 or (b), the court shall order one or any combination of the following penalties:

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

ENGROSSED ASSEMBLY BILL 221

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

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

8 938.344 **(2d)** (c) For a violation committed within 12 months of 2 or more
9 previous violations, a forfeiture of \$500, ~~revocation~~ suspension of the juvenile's
10 operating privilege as provided under s. 343.30 (6) (b) 3. or the juvenile's
11 participation in a supervised work program or other community service work under
12 s. 938.34 (5g).

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

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

15 940.09 **(1d)** (a) If a person commits an offense under sub. (1) (a), (b), (c) or (d),
16 the procedure under s. 346.65 (6) may be followed regarding the equipping of a motor
17 vehicle owned by the person with an ignition interlock device.

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

19 940.25 **(1c)** If the person convicted under sub. (1) (a), (b), (c) or (d) had any
20 previous suspensions, revocations or convictions that would be counted under s.
21 343.307 (1) and had an alcohol concentration of 0.15 to 0.199, the applicable
22 maximum fine for the conviction under sub. (1) (a), (b), (c) or (d) is doubled. If the
23 person convicted under sub. (1) (a), (b), (c) or (d) had any previous suspensions,
24 revocations or convictions that would be counted under s. 343.307 (1) and had an
25 alcohol concentration of 0.20 to 0.249, the applicable maximum fine for the conviction

ENGROSSED ASSEMBLY BILL 221**SECTION 52**

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

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

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

8 940.25 **(1d)** (a) If a person commits an offense under sub. (1) (a), (b), (c) or (d),
9 the procedure under s. 346.65 may be followed regarding the equipping of a motor
10 vehicle owned by the person with an ignition interlock device.

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

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

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

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

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

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

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

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

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

20 **SECTION 64. Nonstatutory provisions.**

21 (1) The departments of corrections and transportation shall jointly study and
22 evaluate the desirability of using treatment programs and other alternatives to
23 incarceration as a way to reduce the length of incarceration or the need for
24 incarceration of persons convicted of a 2nd or subsequent violation of operating a
25 motor vehicle while under the influence on an intoxicant, controlled substance or

ENGROSSED ASSEMBLY BILL 221

1 other drug. The departments shall consult with the counties regarding this study
2 and evaluation. No later than the first day of the 9th month beginning after the
3 effective date of this subsection, the departments shall jointly submit a report to the
4 legislature in the manner provided under section 13.172 (2) of the statutes that
5 contains the conclusions of the departments' study and evaluation and any
6 recommendations concerning implementation of the conclusions.

SECTION 65. Initial applicability.

7
8 (1) MANDATORY OPERATING PRIVILEGE SUSPENSIONS. The treatment of sections
9 125.07 (4) (bs), (c) and (e) 2. (intro.), 343.30 (6) (b), 346.93 (2g), 346.95 (2) and 938.344
10 (2) (intro.) and (c), (2b) and (2d) (c) of the statutes first applies to violations committed
11 on the effective date of this subsection, but does not preclude the counting of other
12 violations as prior violations for sentencing a person or for suspending or revoking
13 a person's operating privilege.

14 (2) INTOXICATED DRIVER PROGRAMS. The treatment of sections 85.55, 340.01
15 (46m) (b) and (c), 342.12 (4) (a) and (c) 1. (intro.), 343.10 (5) (a) 3., 343.305 (10m) (a),
16 346.65 (6) (a) 1., 1d., 2. and 2m., (c) and (d), 940.09 (1d) (a) and 940.25 (1d) (a) of the
17 statutes and the renumbering of sections 343.305 (10m), 940.09 (1d) and 940.25 (1d)
18 of the statutes first apply to violations committed or refusals occurring on the
19 effective date of this subsection, but does not preclude the counting of other
20 convictions, suspensions or revocations as prior convictions, suspensions or
21 revocations for purposes of administrative action by the department of
22 transportation, sentencing by a court, revocation or suspension of operating
23 privileges or determining the prohibited alcohol concentration.

24 (3) INTOXICATED DRIVER IMPROVEMENT SURCHARGE. The treatment of sections
25 20.395 (5) (ek), 20.435 (6) (hx) and 346.655 (1) and (2) (a) and (b) of the statutes first

ENGROSSED ASSEMBLY BILL 221**SECTION 65**

1 applies to intoxicated driver improvement surcharges imposed for violations
2 committed on the effective date of this subsection.

3 **SECTION 66. Appropriation changes.**

4 (1) PRETRIAL INTOXICATED DRIVER INTERVENTION GRANTS. In the schedule under
5 section 20.005 (3) of the statutes for the appropriation to the department of
6 transportation under section 20.395 (5) (jr) of the statutes, as affected by the acts of
7 1999, the dollar amount is increased by \$115,000 for fiscal year 1999–00 and the
8 dollar amount is increased by \$314,700 for fiscal year 2000–01 to provide additional
9 funding for grants under the pretrial intoxicated driver intervention grant program.

10 **SECTION 67. Effective date.**

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

13 (END)