

1999 ASSEMBLY BILL 665

January 19, 2000 – Introduced by Representatives OTT, STONE, BRANDEMUEHL, AINSWORTH, HUNDERTMARK, HUTCHISON, KESTELL, KLUSMAN, KREIBICH, LADWIG, MONTGOMERY, SPILLNER and VRAKAS, cosponsored by Senators DRZEWIECKI, DARLING and ROSENZWEIG. Referred to Committee on Highway Safety.

1 **AN ACT to amend** 343.30 (1q) (b) 3., 343.305 (10) (b) 3., 343.31 (3) (bm) 3., 346.65
 2 (2) (b) and 346.65 (2j) (b) of the statutes; **relating to:** counting of certain
 3 convictions in drunk driving cases.

Analysis by the Legislative Reference Bureau

Under current law, when sentencing a person for the operation of a motor vehicle while under the influence of an intoxicant (OWI), the court is required to count the number of prior OWI offenses that the person has committed within certain time periods. Prior OWI offenses that the court must count include driving while under the influence of an intoxicant, driving while the person has a prohibited alcohol concentration, causing injury, great bodily harm or death while driving while under the influence of an intoxicant or while having a prohibited alcohol concentration and improperly refusing to submit to a test to determine the alcohol concentration in the person's blood.

Currently, if a person is convicted of driving while under the influence of an intoxicant or while the person has a prohibited alcohol concentration or of driving a commercial motor vehicle while having a blood alcohol concentration of 0.04 to 0.1 and the person has one prior OWI conviction within the previous ten-year period, the court revokes the person's operating privilege for not less than one year nor more than 18 months, fines the person not less than \$300 nor more than \$1,000 and imprisons the person for not less than five days nor more than six months. Under this bill, in addition to counting OWI offenses committed within the previous ten-year period, if the person has, at any time in his or her life, caused great bodily

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harm or death while driving while under the influence of an intoxicant or while having a prohibited alcohol concentration, that offense is counted as a prior OWI offense and the penalties listed above apply.

Currently, if a court determines that a person improperly refused to submit to a test to determine the alcohol concentration in the person's blood and the person has one prior OWI conviction within the previous ten-year period, the court revokes the person's operating privilege for two years. Under this bill, in addition to counting OWI offenses committed within the previous ten-year period, if the person has, at any time in his or her life, caused great bodily harm or death while driving while under the influence of an intoxicant or while having a prohibited alcohol concentration, that offense is counted as a prior OWI offense and the court is required to revoke the person's operating privilege for two years.

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

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

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

2 343.30 **(1q)** (b) 3. Except as provided in subd. 4m., if the number of convictions
3 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
4 convictions, suspensions and revocations counted under s. 343.307 (1) within a
5 10-year period, equals 2, the court shall revoke the person's operating privilege for
6 not less than one year nor more than 18 months. After the first 60 days of the
7 revocation period, the person is eligible for an occupational license under s. 343.10
8 if he or she has completed the assessment and is complying with the driver safety
9 plan ordered under par. (c).

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

11 343.305 **(10)** (b) 3. Except as provided in subd. 4m., if the number of convictions
12 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
13 convictions, suspensions and revocations counted under s. 343.307 (2) within a
14 10-year period, equals 2, the court shall revoke the person's operating privilege for

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1 2 years. After the first 90 days of the revocation period, the person is eligible for an
2 occupational license under s. 343.10 if he or she has completed the assessment and
3 is complying with the driver safety plan.

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

5 343.31 **(3)** (bm) 3. Except as provided in subd. 4m., if the number of convictions
6 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
7 suspensions, revocations and other convictions counted under s. 343.307 (1) within
8 a 10-year period, equals 2, the department shall revoke the person's operating
9 privilege for not less than one year nor more than 18 months. If an Indian tribal court
10 in this state revokes the person's privilege to operate a motor vehicle on tribal lands
11 for not less than one year nor more than 18 months for the conviction specified in par.
12 (bm) (intro.), the department shall impose the same period of revocation. After the
13 first 60 days of the revocation period, the person is eligible for an occupational license
14 under s. 343.10.

15 **SECTION 4.** 346.65 (2) (b) of the statutes is amended to read:

16 346.65 **(2)** (b) Except as provided in par. (f), shall be fined not less than \$300
17 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months
18 if the total number of prior convictions under ss. 940.09 (1) and 940.25 in the person's
19 lifetime, plus the total number of prior suspensions, revocations and other
20 convictions counted under s. 343.307 (1) within a 10-year period, equals 2 within a
21 10-year period. Suspensions, revocations or convictions arising out of the same
22 incident or occurrence shall be counted as one.

23 **SECTION 5.** 346.65 (2j) (b) of the statutes is amended to read:

24 346.65 **(2j)** (b) Except as provided in par. (d), shall be fined not less than \$300
25 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months

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1 if the ~~total~~ number of prior convictions under ss. 940.09 (1) and 940.25 in the person's
2 lifetime, plus the total number of prior other convictions, suspension and revocations
3 counted under s. 343.307 (2) within a 10-year period, equals 2 ~~within a 10-year~~
4 ~~period.~~

5 **SECTION 6. Initial applicability.**

6 (1) This act first applies to offenses committed on the effective date of this
7 subsection, but does not preclude the counting of other convictions, suspensions or
8 revocations as prior convictions, suspensions or revocations for purposes of
9 administrative action by the department of transportation or sentencing by a court.

10 (END)