

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 665**

March 29, 2000 – Offered by Representative OTT.

1 **AN ACT to amend** 343.30 (1q) (b) 3., 343.30 (1q) (b) 4., 343.305 (10) (b) 3., 343.305
2 (10) (b) 4., 343.305 (10m), 343.31 (3) (bm) 3., 343.31 (3) (bm) 4., 346.65 (2) (b),
3 346.65 (2) (c), (d) and (e), 346.65 (2j) (b), 346.65 (2j) (c), 346.65 (2w), 346.65 (6)
4 (a) 1., 346.65 (6) (a) 2., 346.65 (6) (a) 2m., 346.65 (6) (d), 940.09 (1d) and 940.25
5 (1d) of the statutes; **relating to:** counting of certain convictions in drunk
6 driving cases.

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

7 **SECTION 1.** 343.30 (1q) (b) 3. of the statutes is amended to read:
8 343.30 **(1q)** (b) 3. Except as provided in subd. 4m., if the number of convictions
9 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
10 convictions, suspensions and revocations counted under s. 343.307 (1) within a
11 10-year period, equals 2, the court shall revoke the person's operating privilege for
12 not less than one year nor more than 18 months. After the first 60 days of the

1 revocation period, the person is eligible for an occupational license under s. 343.10
2 if he or she has completed the assessment and is complying with the driver safety
3 plan ordered under par. (c).

4 **SECTION 2.** 343.30 (1q) (b) 4. of the statutes is amended to read:

5 343.30 **(1q)** (b) 4. 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 other
7 convictions, suspensions and revocations counted under s. 343.307 (1), equals 3 or
8 more, the court shall revoke the person's operating privilege for not less than 2 years
9 nor more than 3 years. After the first 90 days of the revocation period, the person
10 is eligible for an occupational license under s. 343.10 if he or she has completed the
11 assessment and is complying with the driver safety plan ordered under par. (c).

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

13 343.305 **(10)** (b) 3. Except as provided in subd. 4m., if the number of convictions
14 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
15 convictions, suspensions and revocations counted under s. 343.307 (2) within a
16 10-year period, equals 2, the court shall revoke the person's operating privilege for
17 2 years. After the first 90 days of the revocation period, the person is eligible for an
18 occupational license under s. 343.10 if he or she has completed the assessment and
19 is complying with the driver safety plan.

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

21 343.305 **(10)** (b) 4. Except as provided in subd. 4m., if the number of convictions
22 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
23 convictions, suspensions and revocations counted under s. 343.307 (2), equals 3 or
24 more, the court shall revoke the person's operating privilege for 3 years. After the
25 first 120 days of the revocation period, the person is eligible for an occupational

1 license under s. 343.10 if he or she has completed the assessment and is complying
2 with the driver safety plan.

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

4 **343.305 (10m)** REFUSALS; SEIZURE, IMMOBILIZATION OR IGNITION INTERLOCK OF A
5 MOTOR VEHICLE. If the person whose operating privilege is revoked under sub. (10)
6 has 2 or more prior convictions, suspensions or revocations, as counting convictions
7 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the other convictions,
8 suspensions and revocations counted under s. 343.307 (1), the procedure under s.
9 346.65 (6) shall be followed regarding the immobilization or seizure and forfeiture
10 of a motor vehicle owned by the person or the equipping of a motor vehicle owned by
11 the person with an ignition interlock device.

12 **SECTION 6.** 343.31 (3) (bm) 3. of the statutes is amended to read:

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

23 **SECTION 7.** 343.31 (3) (bm) 4. of the statutes is amended to read:

24 **343.31 (3) (bm) 4.** Except as provided in subd. 4m., if the number of convictions
25 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of

1 suspensions, revocations and other convictions counted under s. 343.307 (1), equals
2 3 or more, the department shall revoke the person's operating privilege for not less
3 than 2 years nor more than 3 years. If an Indian tribal court in this state revokes
4 the person's privilege to operate a motor vehicle on tribal lands for not less than 2
5 years nor more than 3 years for the conviction specified in par. (bm) (intro.), the
6 department shall impose the same period of revocation. After the first 90 days of the
7 revocation period, the person is eligible for an occupational license under s. 343.10.

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

9 346.65 (2) (b) Except as provided in par. (f), shall be fined not less than \$300
10 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months
11 if the ~~total~~ number of convictions under ss. 940.09 (1) and 940.25 in the person's
12 lifetime, plus the total number of suspensions, revocations and other convictions
13 counted under s. 343.307 (1) within a 10-year period, equals 2 ~~within a 10-year~~
14 ~~period~~. Suspensions, revocations or convictions arising out of the same incident or
15 occurrence shall be counted as one.

16 **SECTION 9.** 346.65 (2) (c), (d) and (e) of the statutes are amended to read:

17 346.65 (2) (c) Except as provided in par. (f), shall be fined not less than \$600
18 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one
19 year in the county jail if the ~~total~~ number of convictions under ss. 940.09 (1) and
20 940.25 in the person's lifetime, plus the total number of suspensions, revocations and
21 other convictions counted under s. 343.307 (1), equals 3, except that suspensions,
22 revocations or convictions arising out of the same incident or occurrence shall be
23 counted as one.

24 (d) Except as provided in par. (f), shall be fined not less than \$600 nor more than
25 \$2,000 and imprisoned for not less than 60 days nor more than one year in the county

1 jail if the ~~total~~ number of convictions under ss. 940.09 (1) and 940.25 in the person's
2 lifetime, plus the total number of suspensions, revocations and other convictions
3 counted under s. 343.307 (1), equals 4, except that suspensions, revocations or
4 convictions arising out of the same incident or occurrence shall be counted as one.

5 (e) Except as provided in par. (f), shall be fined not less than \$600 nor more than
6 \$2,000 and imprisoned for not less than 6 months nor more than 5 years if the ~~total~~
7 number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus
8 the total number of suspensions, revocations and other convictions counted under s.
9 343.307 (1), equals 5 or more, except that suspensions, revocations or convictions
10 arising out of the same incident or occurrence shall be counted as one.

11 **SECTION 10.** 346.65 (2j) (b) of the statutes is amended to read:

12 346.65 **(2j)** (b) Except as provided in par. (d), shall be fined not less than \$300
13 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months
14 if the ~~total~~ number of prior convictions under ss. 940.09 (1) and 940.25 in the person's
15 lifetime, plus the total number of other convictions, suspension and revocations
16 counted under s. 343.307 (2) within a 10-year period, equals 2 ~~within a 10-year~~
17 ~~period~~.

18 **SECTION 11.** 346.65 (2j) (c) of the statutes is amended to read:

19 346.65 **(2j)** (c) Except as provided in par. (d), shall be fined not less than \$600
20 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one
21 year in the county jail if the ~~total of prior~~ number of convictions under ss. 940.09 (1)
22 and 940.25 in the person's lifetime, plus the number of other convictions, suspensions
23 and revocations counted under s. 343.307 (2), equals 3 or more.

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

1 346.65 (2w) In determining the number of prior convictions for purposes of sub.
2 (2j), the court shall count convictions under ss. 940.09 (1) and 940.25 during the
3 person's lifetime, plus the total number of suspensions, revocations and other
4 convictions that would be counted under s. 343.307 (2). Revocations, suspensions
5 and convictions arising out of the same incident or occurrence shall be counted as
6 one. The time period shall be measured from the dates of the refusals or violations
7 which resulted in the revocation, suspension or convictions. If a person has a
8 suspension, revocation or conviction for any offense that is counted under s. 343.307
9 (2), that suspension, revocation or conviction shall count as a prior suspension,
10 revocation or conviction under this section.

11 **SECTION 13.** 346.65 (6) (a) 1. of the statutes is amended to read:

12 346.65 (6) (a) 1. Except as provided in this paragraph, the court may order a
13 law enforcement officer to seize a motor vehicle, or, if the motor vehicle is not ordered
14 seized, shall order a law enforcement officer to equip the motor vehicle with an
15 ignition interlock device or immobilize any motor vehicle owned by the person whose
16 operating privilege is revoked under s. 343.305 (10) or who committed a violation of
17 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),
18 (c) or (d) if the person whose operating privilege is revoked under s. 343.305 (10) or
19 who is convicted of the violation has 2 prior suspensions, revocations or convictions
20 that would be, counting convictions under ss. 940.09 (1) and 940.25 in the person's
21 lifetime, plus suspensions, revocations or other convictions counted under s. 343.307
22 (1). The court shall not order a motor vehicle equipped with an ignition interlock
23 device or immobilized if that would result in undue hardship or extreme
24 inconvenience or would endanger the health and safety of a person.

25 **SECTION 14.** 346.65 (6) (a) 2. of the statutes is amended to read:

1 346.65 (6) (a) 2. The court shall order a law enforcement officer to seize a motor
2 vehicle owned by a person whose operating privilege is revoked under s. 343.305 (10)
3 or who commits a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a),
4 (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d) if the person whose operating privilege is
5 revoked under s. 343.305 (10) or who is convicted of the violation has 3 or more prior
6 suspensions, revocations or convictions ~~that would be~~, counting convictions under ss.
7 940.09 (1) and 940.25 in the person's lifetime, plus suspensions, revocations or other
8 convictions counted under s. 343.307 (1).

9 **SECTION 15.** 346.65 (6) (a) 2m. of the statutes is amended to read:

10 346.65 (6) (a) 2m. A person who owns a motor vehicle subject to seizure,
11 equipping with an ignition interlock device or immobilization under this paragraph
12 shall surrender to the clerk of circuit court the certificate of title issued under ch. 342
13 for every motor vehicle owned by the person. The person shall comply with this
14 subdivision within 5 working days after receiving notification of this requirement
15 from the district attorney. When a district attorney receives a copy of a notice of
16 intent to revoke the operating privilege under s. 343.305 (9) (a) of a person who has
17 2 or more convictions, suspensions or revocations, ~~as~~ counting convictions under ss.
18 940.09 (1) and 940.25 in the person's lifetime, plus suspensions, revocations or other
19 convictions counted under s. 343.307 (1), or when a district attorney notifies the
20 department of the filing of a criminal complaint against a person under s. 342.12 (4)
21 (a), the district attorney shall notify the person of the requirement to surrender all
22 certificates of title to the clerk of circuit court. The notification shall include the time
23 limits for that surrender, the penalty for failure to comply with the requirement and
24 the address of the clerk of circuit court. The clerk of circuit court shall promptly
25 return each certificate of title surrendered to the clerk of circuit court under this

1 subdivision after stamping the certificate of title with the notation “Per section
2 346.65 (6) of the Wisconsin statutes, ownership of this motor vehicle may not be
3 transferred without prior court approval”. Any person failing to surrender a
4 certificate of title as required under this subdivision shall forfeit not more than \$500.

5 **SECTION 16.** 346.65 (6) (d) of the statutes is amended to read:

6 346.65 **(6)** (d) At the hearing set under par. (c), the state has the burden of
7 proving to a reasonable certainty by the greater weight of the credible evidence that
8 the motor vehicle is a motor vehicle owned by a person who committed a violation of
9 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),
10 (b), (c) or (d) and, if the seizure is under par. (a) 1., that the person had 2 prior
11 convictions, suspensions or revocations, as counting convictions under ss. 940.09 (1)
12 and 940.25 in the person’s lifetime, plus suspensions, revocations or other
13 convictions counted under s. 343.307 (1) or, if the seizure is under par. (a) 2., 3 or more
14 prior convictions, suspensions or revocations, as counting convictions under ss.
15 940.09 (1) and 940.25 in the person’s lifetime, plus suspensions, revocations or other
16 convictions counted under s. 343.307 (1). If the ~~,, (c) or (d) ,, (c) or (d)~~ state fails to
17 meet the burden of proof required under this paragraph, the motor vehicle shall be
18 returned to the owner upon the payment of storage costs.

19 **SECTION 17.** 940.09 (1d) of the statutes is amended to read:

20 940.09 **(1d)** If the person who committed an offense under sub. (1) (a), (b), (c)
21 or (d) has 2 or more prior convictions, suspensions or revocations, as counting
22 convictions under ss. 940.09 (1) and 940.25 in the person’s lifetime, plus suspensions,
23 revocations or other convictions counted under s. 343.307 (1), the procedure under
24 s. 346.65 (6) may be followed regarding the immobilization or seizure and forfeiture

1 of a motor vehicle owned by the person who committed the offense or the equipping
2 of a motor vehicle owned by the person with an ignition interlock device.

3 **SECTION 18.** 940.25 (1d) of the statutes is amended to read:

4 940.25 **(1d)** If the person who committed the offense under sub. (1) (a), (b), (c)
5 or (d) has 2 or more prior convictions, suspensions or revocations, as counting
6 convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus suspensions,
7 revocations or other convictions counted under s. 343.307 (1), the procedure under
8 s. 346.65 (6) may be followed regarding the immobilization or seizure and forfeiture
9 of a motor vehicle owned by the person who committed the offense or the equipping
10 of a motor vehicle owned by the person with an ignition interlock device.

11 **SECTION 19. Initial applicability.**

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

16 (END)