

1999 DRAFTING REQUEST

Bill

Received: 12/07/1999

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Gary Drzewiecki (608) 266-5670

By/Representing: Louis S

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: **Drunk Driving - penalties**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Drunk driving penalties for causing property damage of \$500 or more

Instructions:

Create new offense and use 2nd offense regular for penalties, etc.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	nelsorp1 12/10/1999	chanaman 12/14/1999	kfollet 12/14/1999	_____	lrb_docadmin 12/14/1999		
/1	nelsorp1 03/07/2000	jgeller 03/08/2000	jfrantze 03/08/2000	_____	lrb_docadmin 03/08/2000	lrb_docadminS&L 03/14/2000	

FE Sent For:

<END>

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1 3/4 jlg 7/6/8 Jb/hh
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Create new offense and use 2nd offense regular for penalties, etc.

Problem - how determine amount; perhaps have no # - let court decide penalty based on amt.

Drafting History:

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1?	nelsorp1	cm wt 1/01	10/1 12/14	10/1/km 12/14			

FE Sent For:

12/13

<END>



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4039/P1

RPN.....

cm #

D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

WFO -
Please fix
topic
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sheet

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1 AN ACT ...; relating to: causing property damage by operating a motor vehicle
2 while under the influence of an intoxicant or other drug.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

3 SECTION 1. 85.53 (1) (d) of the statutes is amended to read:
4 85.53 (1) (d) "Operating while intoxicated" means a violation of s. 346.63 (1) or
5 (2m) or a local ordinance in conformity therewith or of s. 346.63 (1m), (2) or (6), 940.09
6 (1) or 940.25.

History: 1997 a. 27.

7 SECTION 2. 342.12 (4) (a) of the statutes is amended to read:
8 342.12 (4) (a) The district attorney shall notify the department when he or she
9 files a criminal complaint against a person who has been arrested for violating s.
10 346.63 (1), (1m) or (2), 940.09 (1) or 940.25 and who has 2 or more prior convictions,

1 suspensions or revocations, as counted under s. 343.307 (1). Except as provided
2 under par. (c), the department may not issue a certificate of title transferring
3 ownership of any motor vehicle owned by the person upon receipt of a notice under
4 this subsection until the court assigned to hear the criminal complaint issues an
5 order permitting the department to issue a certificate of title.

6 History: 1973 c. 116 s. 6; 1977 c. 29 s. 1654 (7) (a); 1991 a. 39, 277; 1993 a. 317, 490; 1997 a. 199, 237.

SECTION 3. 342.12 (4) (c) 1. (intro.) of the statutes is amended to read:

7 342.12 (4) (c) 1. (intro.) The department shall issue a certificate of title
8 transferring ownership of a motor vehicle that was owned by a person who has
9 received a notice of intent to revoke the person's operating privilege under s. 343.305
10 (9) (a) or has been arrested for violating s. 346.63 (1), (1m) or (2), 940.09 (1) or 940.25
11 and who has 2 or more prior convictions, suspensions or revocations, as counted
12 under s. 343.307 (1), if all of the following conditions are met:

13 History: 1973 c. 116 s. 6; 1977 c. 29 s. 1654 (7) (a); 1991 a. 39, 277; 1993 a. 317, 490; 1997 a. 199, 237.

SECTION 4. 343.16 (5) (a) of the statutes is amended to read:

14 343.16 (5) (a) The secretary may require any applicant for a license or any
15 licensed operator to submit to a special examination by such persons or agencies as
16 the secretary may direct to determine incompetency, physical or mental disability,
17 disease or any other condition which might prevent such applicant or licensed person
18 from exercising reasonable and ordinary control over a motor vehicle. When the
19 department requires the applicant to submit to an examination, the applicant shall
20 pay the cost thereof. If the department receives an application for a renewal or
21 duplicate license after voluntary surrender under s. 343.265 or receives a report from
22 a physician or optometrist under s. 146.82 (3), or if the department has a report of
23 2 or more arrests within a one-year period for any combination of violations of s.
24 346.63 (1) or (5) or a local ordinance in conformity therewith or a law of a federally

1 recognized American Indian tribe or band in this state in conformity with s. 346.63
 2 (1) or (5), ~~or s. 346.63 (1m), 1985 stats.,~~ or s. 346.63 [✓](1m), (2) or (6) or 940.25, or s.
 3 940.09 where the offense involved the use of a vehicle, the department shall
 4 determine, by interview or otherwise, whether the operator should submit to an
 5 examination under this section. The examination may consist of an assessment. If
 6 the examination indicates that education or treatment for a disability, disease or
 7 condition concerning the use of alcohol, a controlled substance or a controlled
 8 substance analog is appropriate, the department may order a driver safety plan in
 9 accordance with s. 343.30 (1q). If there is noncompliance with assessment or the
 10 driver safety plan, the department shall suspend the person's operating privilege in
 11 the manner specified in s. 343.30 (1q) (d).

NOTE: NOTE: Par. (a) is amended 5-1-2000 or the date stated in the notice published by the secretary of transportation in the Wisconsin Administrative Register under s. 85.515, whichever is earlier, by 1997 Wis. Act 84 to read:NOTE:

12 (a) The secretary may require any applicant for a license or any licensed operator to submit to a special examination by such persons or agencies as the secretary
 13 may direct to determine incompetency, physical or mental disability, disease or any other condition which might prevent such applicant or licensed person from
 14 exercising reasonable and ordinary control over a motor vehicle. When the department requires the applicant to submit to an examination, the applicant shall pay
 15 the cost thereof. If the department receives an application for a renewal or duplicate license after voluntary surrender under s. 343.265 or receives a report from a
 16 physician or optometrist under s. 146.82 (3), or if the department has a report of 2 or more arrests within a one-year period for any combination of violations of s. 346.63
 17 (1) or (5) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1)
 18 or (5), or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the department shall determine, by
 19 interview or otherwise, whether the operator should submit to an examination under this section. The examination may consist of an assessment. If the examination
 20 indicates that education or treatment for a disability, disease or condition concerning the use of alcohol, a controlled substance or a controlled substance analog is
 21 appropriate, the department may order a driver safety plan in accordance with s. 343.30 (1q). If there is noncompliance with assessment or the driver safety plan, the
 22 department shall revoke the person's operating privilege in the manner specified in s. 343.30 (1q) (d).

History: 1971 c. 164 s. 83; 1973 c. 90, 176; 1975 c. 36, 199; 1977 c. 29 ss. 1456, 1654 (7) (a), (c); 1977 c. 273, 418; 1979 c. 34 ss. 1067m, 2102 (52) (a); 1979 c. 221, 345;
 1981 c. 20; 1983 a. 74, 243, 534, 538; 1985 a. 65, 337; 1987 a. 3, 40, 215; 1989 a. 31, 105, 359; 1991 a. 21, 32, 39, 316; 1993 a. 16, 19, 183, 399; 1995 a. 27 s. 9145 (1); 1995
 a. 113, 195, 448; 1997 a. 27, 84, 237.

23 **SECTION 5. 343.30 (1g) of the statutes is amended to read:**

24 **343.30 (1g)** A court may revoke a person's operating privilege upon the person's
 25 conviction for violating s. 343.44 (1) or a local ordinance in conformity therewith by
 26 operating a motor vehicle while operating privileges are suspended or revoked. A
 27 court shall revoke a person's operating privilege upon the person's conviction for
 28 violating s. 343.44 (1) or a local ordinance in conformity therewith by operating a
 29 motor vehicle while operating privileges are suspended or revoked if the suspension
 30 or revocation was for improperly refusing to take a test under s. 343.305, violating
 31 s. 346.63 (1) or (5) or a local ordinance in conformity therewith, or violating s. 346.63

1 (1m), (2) or (6), 940.09 (1) or 940.25. The revocation shall be for any period not
2 exceeding 6 months.

NOTE: NOTE: Sub. (1g) is renumbered to (1g) (a) and (b) and amended eff. 5-1-2000 or the date stated in the notice published by the secretary of transportation in the Wisconsin Administrative Register under s. 85.515, whichever is earlier, by 1997 Wis. Act 84 to read:NOTE:

3 (1g) (a) Except as provided in par. (b), a court may suspend a person's operating privilege for any period not exceeding 6 months upon the person's conviction for
4 violating s. 343.44 (1) (a), (b) or (d) or a local ordinance in conformity therewith.

5 (b) A court shall revoke a person's operating privilege upon the person's conviction for violating s. 343.44 (1) (a), (b) or (d) or a local ordinance in conformity therewith
6 if the person has been convicted of 3 or more prior violations of s. 343.44 (1) (a), (b) or (d), or a local ordinance in conformity therewith, within the 5-year period
7 preceding the violation. The revocation shall be for a period of 6 months, unless the court orders a period of revocation of less than 6 months and places its reasons
8 for ordering the lesser period of revocation on the record.

History: 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979
c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26, 32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17, 285; 1987 a. 332 s. 64; 1989
a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 317; 1995 a. 27, 77, 269, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; s. 13.93 (2) (c).

9 SECTION 6. 343.30 (1q) (a) of the statutes is amended to read:

10 343.30 (1q) (a) If a person is convicted under s. 346.63 (1) or a local ordinance
11 in conformity therewith, the court shall proceed under this subsection. If a person
12 is convicted under s. 346.63 (1m) ^{or} (2) or 940.25, or s. 940.09 where the offense
13 involved the use of a vehicle, the court shall proceed under pars. (c) and (d). If a
14 person is referred by the department acting under s. 343.16 (5) (a), the department
15 shall proceed under pars. (c) and (d) without the order of the court.

History: 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979
c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26, 32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17, 285; 1987 a. 332 s. 64; 1989
a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 317; 1995 a. 27, 77, 269, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; s. 13.93 (2) (c).

16 SECTION 7. 343.303 of the statutes is amended to read:

17 343.303 Preliminary breath screening test. If a law enforcement officer
18 has probable cause to believe that the person is violating or has violated s. 346.63 (1)
19 or (2m) or a local ordinance in conformity therewith, or s. 346.63 (1m) ^{or} (2) or (6) or
20 940.25 or s. 940.09 where the offense involved the use of a vehicle, or if the officer
21 detects any presence of alcohol, a controlled substance, controlled substance analog
22 or other drug, or a combination thereof, on a person driving or operating or on duty
23 time with respect to a commercial motor vehicle or has reason to believe that the
24 person is violating or has violated s. 346.63 (7) or a local ordinance in conformity
25 therewith, the officer, prior to an arrest, may request the person to provide a sample
26 of his or her breath for a preliminary breath screening test using a device approved

1 by the department for this purpose. The result of this preliminary breath screening
2 test may be used by the law enforcement officer for the purpose of deciding whether
3 or not the person shall be arrested for a violation of s. 346.63 (1), (2m), (5) or (7) or
4 a local ordinance in conformity therewith, or s. 346.63 (1m), (2) or (6), 940.09 (1) or
5 940.25 and whether or not to require or request chemical tests as authorized under
6 s. 343.305 (3). The result of the preliminary breath screening test shall not be
7 admissible in any action or proceeding except to show probable cause for an arrest,
8 if the arrest is challenged, or to prove that a chemical test was properly required or
9 requested of a person under s. 343.305 (3). Following the screening test, additional
10 tests may be required or requested of the driver under s. 343.305 (3). The general
11 penalty provision under s. 939.61 (1) does not apply to a refusal to take a preliminary
12 breath screening test.

History: 1981 c. 20; 1985 a. 32 s. 3; 1985 a. 337; 1987 a. 3; 1989 a. 105; 1991 a. 277; 1995 a. 448.

13 **SECTION 8.** 343.305 (3) (a) of the statutes is amended to read:

14 343.305 (3) (a) Upon arrest of a person for violation of s. 346.63 (1), (2m) or (5)
15 or a local ordinance in conformity therewith, or for a violation of s. 346.63 (1m), (2)
16 or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, a law
17 enforcement officer may request the person to provide one or more samples of his or
18 her breath, blood or urine for the purpose specified under sub. (2). Compliance with
19 a request for one type of sample does not bar a subsequent request for a different type
20 of sample.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290.

21 **SECTION 9.** 343.305 (3) (b) of the statutes is amended to read:

22 343.305 (3) (b) A person who is unconscious or otherwise not capable of
23 withdrawing consent is presumed not to have withdrawn consent under this
24 subsection, and if a law enforcement officer has probable cause to believe that the

1 person has violated s. 346.63 (1), (2m) or (5) or a local ordinance in conformity
2 therewith, or s. 346.63 [✓](1m), (2) or (6) or 940.25, or s. 940.09 where the offense
3 involved the use of a vehicle, or detects any presence of alcohol, controlled substance,
4 controlled substance analog or other drug, or a combination thereof, on a person
5 driving or operating or on duty time with respect to a commercial motor vehicle or
6 has reason to believe the person has violated s. 346.63 (7), one or more samples
7 specified in par. (a) or (am) may be administered to the person.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290.

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

9 343.305 (5) (b) Blood may be withdrawn from the person arrested for violation
10 of s. 346.63 (1), [✓](1m), (2), (2m), (5) or (6) or 940.25, or s. 940.09 where the offense
11 involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1), (2m)
12 or (5), or as provided in sub. (3) (am) or (b) to determine the presence or quantity of
13 alcohol, a controlled substance, a controlled substance analog or any other drug, or
14 any combination of alcohol, controlled substance, controlled substance analog and
15 any other drug in the blood only by a physician, registered nurse, medical
16 technologist, physician assistant or person acting under the direction of a physician.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290.

17 **SECTION 11.** 343.305 (9) (a) 1. of the statutes is amended to read:

18 343.305 (9) (a) 1. That prior to a request under sub. (3) (a), the officer had placed
19 the person under arrest for a violation of s. 346.63 (1), (2m) or (5) or a local ordinance
20 in conformity therewith or s. 346.63 [✓](1m), (2) or (6), 940.09 (1) or 940.25.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290.

21 **SECTION 12.** 343.305 (9) (a) 5. a. of the statutes is amended to read:

22 343.305 (9) (a) 5. a. Whether the officer had probable cause to believe the
23 person was driving or operating a motor vehicle while under the influence of alcohol,

1 a controlled substance or a controlled substance analog or any combination of
 2 alcohol, a controlled substance and a controlled substance analog, under the
 3 influence of any other drug to a degree which renders the person incapable of safely
 4 driving, or under the combined influence of alcohol and any other drug to a degree
 5 which renders the person incapable of safely driving or having a prohibited alcohol
 6 concentration or, if the person was driving or operating a commercial motor vehicle,
 7 an alcohol concentration of 0.04 or more and whether the person was lawfully placed
 8 under arrest for violation of s. 346.63 (1), (2m) or (5) or a local ordinance in conformity
 9 therewith or s. 346.63 (1m), (2) or (6), 940.09 (1) or 940.25.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290.

10 SECTION 13. 343.307 (1) (c) of the statutes is amended to read:

11 343.307 (1) (c) Convictions for violations under s. 346.63 (1m) (2) or 940.25, or
 12 s. 940.09 where the offense involved the use of a vehicle.

History: 1977 c. 193; 1981 c. 20, 184; 1985 a. 80, 337; 1987 a. 3; 1989 a. 105, 271, 359; 1991 a. 39, 277; 1995 a. 448; 1997 a. 84.

13 SECTION 14. 343.307 (2) (c) of the statutes is amended to read:

14 343.307 (2) (c) Convictions for violations under s. 346.63 (1m), (2) or (6).

History: 1977 c. 193; 1981 c. 20, 184; 1985 a. 80, 337; 1987 a. 3; 1989 a. 105, 271, 359; 1991 a. 39, 277; 1995 a. 448; 1997 a. 84.

15 SECTION 15. 343.31 (1) (ag) of the statutes is created to read:

16 343.31 (1) (ag) Damage ~~of at least~~ ^{exceeding} \$500 to property by the operation of a vehicle
 17 while under the influence of an intoxicant, a controlled substance or a controlled
 18 substance analog, or any combination of an intoxicant, a controlled substance and
 19 a controlled substance analog, under the influence of any other drug to a degree
 20 ~~which~~ ^{that} renders him or her incapable of safely driving, or under the combined
 21 influence of an intoxicant and any other drug to a degree ~~which~~ ^{that} renders him or her

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1 incapable of safely driving or while the person has a prohibited alcohol concentration
2 and ~~which~~^{that} is criminal under s. 346.63 (1m).

History: 1971 c. 219; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193, 447; 1979 c. 221; 1981 c. 20, 70; 1983 a. 192 s. 304; 1983 a. 459; 1985 a. 80, 82; 1985 a. 293 s. 3; 1987 a. 3, 399; 1989 a. 31, 105; 1991 a. 39, 277, 316; 1993 a. 317; 1995 a. 269, 425, 448; 1997 a. 84, 237, 258, 295.

3 SECTION 16. 343.31 (1) (f) of the statutes is amended to read:

4 343.31 (1) (f) Operating a motor vehicle while operating privileges are
5 suspended or revoked if the suspension or revocation was for improperly refusing to
6 take a test under s. 343.305, violating s. 346.63 (1) or (5) or a local ordinance in
7 conformity therewith, or violating s. 346.63 (1m), (2) or (6), 940.09 (1) or 940.25.

History: 1971 c. 219; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193, 447; 1979 c. 221; 1981 c. 20, 70; 1983 a. 192 s. 304; 1983 a. 459; 1985 a. 80, 82; 1985 a. 293 s. 3; 1987 a. 3, 399; 1989 a. 31, 105; 1991 a. 39, 277, 316; 1993 a. 317; 1995 a. 269, 425, 448; 1997 a. 84, 237, 258, 295.

8 SECTION 17. 343.31 (3) (dm) of the statutes is created to read:

9 343.31 (3) (dm) Any person convicted under s. 346.63 (1m) shall have his or her
10 operating privilege revoked for not less than one year nor more than 18 months. If
11 there was a minor passenger under 16 years of age in the motor vehicle at the time
12 of the violation that gave rise to the conviction under s. 346.63 (1m), the minimum
13 and maximum revocation periods are doubled.

14 SECTION 18. 343.31 (3) (g) of the statutes is amended to read:

15 343.31 (3) (g) Any person convicted for operating a motor vehicle while
16 operating privileges are suspended or revoked shall have his or her operating
17 privilege revoked for 6 months if the suspension or revocation was for improperly
18 refusing to take a test under s. 343.305, violating s. 346.63 (1) or (5) or a local
19 ordinance in conformity therewith, or violating s. 346.63 (1m), (2) or (6), 940.09 (1)
20 or 940.25.

NOTE: NOTE: Par. (g) is repealed eff. 5-1-2000 or the date stated in the notice published by the secretary of transportation in the Wisconsin Administrative Register under s. 85.515, whichever is earlier, by 1997 Wis. Act 84. NOTE:

History: 1971 c. 219; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193, 447; 1979 c. 221; 1981 c. 20, 70; 1983 a. 192 s. 304; 1983 a. 459; 1985 a. 80, 82; 1985 a. 293 s. 3; 1987 a. 3, 399; 1989 a. 31, 105; 1991 a. 39, 277, 316; 1993 a. 317; 1995 a. 269, 425, 448; 1997 a. 84, 237, 258, 295.

21 SECTION 19. 343.31 (3m) (b) of the statutes is amended to read:

1 343.31 (3m) (b) Any person who has his or her operating privilege revoked
2 under sub. (3) (dm) or (c) is eligible for an occupational license under s. 343.10 after
3 the first 60 days of the revocation period.

History: 1971 c. 219; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193, 447; 1979 c. 221; 1981 c. 20, 70; 1983 a. 192 s. 304; 1983 a. 459; 1985 a. 80, 82; 1985 a. 293 s. 3; 1987 a. 3, 399; 1989 a. 31, 105; 1991 a. 39, 277, 316; 1993 a. 317; 1995 a. 269, 425, 448; 1997 a. 84, 237, 258, 295.

4 **SECTION 20.** 343.315 (2) (a) 6. of the statutes is amended to read:

5 343.315 (2) (a) 6. Section 346.63 (1m), (2) or (6), 940.09 (1) or 940.25 or a law
6 of a federally recognized American Indian tribe or band in this state in conformity
7 with s. 346.63 (1m), (2) or (6), 940.09 (1) or 940.25, or the law of another jurisdiction
8 prohibiting causing or inflicting injury, great bodily harm or death through use of a
9 motor vehicle while intoxicated or under the influence of alcohol, a controlled
10 substance, a controlled substance analog or a combination thereof, or with an alcohol
11 concentration of 0.04 or more or with an excess or specified range of alcohol
12 concentration, or under the influence of any drug to a degree that renders the person
13 incapable of safely driving, as those or substantially similar terms are used in that
14 jurisdiction's laws.

History: 1989 a. 105; 1991 a. 39, 277; 1995 a. 113, 448; 1997 a. 84, 258.

15 **SECTION 21.** 343.44 (2g) (intro.) of the statutes is amended to read:

16 343.44 (2g) (intro.) Except as provided in sub. (2m), any person who violates
17 sub. (1) while his or her operating privilege is suspended or revoked for improperly
18 refusing to take a test under s. 343.305, violating s. 346.63 (1) or (5) or a local
19 ordinance in conformity therewith, or violating s. 346.63 (1m), (2) or (6), 940.09 (1)
20 or 940.25, is subject to the following penalties:

History: 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84.

21 **SECTION 22.** 343.44 (2p) (c) of the statutes is amended to read:

22 343.44 (2p) (c) Violating s. 346.63 (1m), (2) or (6), 940.09 (1) or 940.25.

History: 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84.

23 **SECTION 23.** 345.24 (1) of the statutes is amended to read:

1 345.24 (1) A person arrested under s. 346.63 (1) or (5) or an ordinance in
 2 conformity therewith or s. 346.63 [✓](1m), (2) or (6) or 940.25, or s. 940.09 where the
 3 offense involved the use of a vehicle, may not be released until 12 hours have elapsed
 4 from the time of his or her arrest or unless a chemical test administered under s.
 5 343.305 shows that the person has an alcohol concentration of less than 0.04, but the
 6 person may be released to his or her attorney, spouse, relative or other responsible
 7 adult at any time after arrest.

History: 1971 c. 278; 1977 c. 193; 1981 c. 20; 1985 a. 337; 1987 a. 3; 1989 a. 105; 1995 a. 436.

8 **SECTION 24.** 345.60 (3) of the statutes is amended to read:

9 345.60 (3) In addition to other penalties provided by law for violation of s.
 10 346.63 (1) or a local ordinance in conformity therewith, or s. 346.63 [✓](1m), (2) or
 11 940.25, or s. 940.09 where the offense involved the use of a vehicle, the convicted
 12 person may be required under s. 343.30 (1q) to attend, for a certain number of school
 13 days, a school under sub. (1).

History: 1971 c. 278 s. 45; Stats. 1971 s. 345.60; 1977 c. 29 s. 1654 (7) (c); 1977 c. 193; 1981 c. 20; 1985 a. 337; 1987 a. 3.

14 **SECTION 25.** 346.63 (1m) of the statutes is created to read:

15 346.63 [✓](1m) (a) No person may cause property damage in excess of \$500 by the
 16 operation of a motor vehicle while he or she meets any of the following conditions:

17 1. Is under the influence of an intoxicant, a controlled substance, a controlled
 18 substance analog or any combination of an intoxicant, a controlled substance and a
 19 controlled substance analog, under the influence of any other drug to a degree ~~which~~ ^{that}
 20 renders him or her incapable of safely driving, or under the combined influence of an
 21 intoxicant and any other drug to a degree ~~which~~ ^{that} renders him or her incapable of
 22 safely driving; or

23 2. Has a prohibited alcohol concentration.

1 (b) A person may be charged with and a prosecutor may proceed upon a
 2 complaint based upon a violation of ~~subd.~~^{par. (a)} 1. or 2. or both for acts arising out of the
 3 same incident or occurrence. If the person is charged with violating ~~both subds.~~^{par. (a)} 1. and
 4 2., the offenses shall be joined. If the person is found guilty of ~~both subds.~~^{par. (a)} 1. and 2.
 5 for acts arising out of the same incident or occurrence, there shall be a single
 6 conviction for purposes of sentencing and for purposes of counting convictions under
 7 ss. 343.30 (1q) and 343.305. ~~Subdivisions~~^{Paragraph (a)} 1. and 2. each require proof of a fact for
 8 conviction which the other does not require.

→ **INSERT 11-8**
 History: 1971 c. 40 s. 93; 1971 c. 219; 1977 c. 193; 1981 c. 20, 184; 1983 a. 74, 459, 521; 1985 a. 32, 337; 1987 a. 3, 27; 1989 a. 105, 275; 1991 a. 277; 1995 a. 436, 448; 1997 a. 27, 252.

9 **SECTION 26.** 346.63 (4) of the statutes is amended to read:

10 346.63 (4) If a person is convicted under sub. (1) or a local ordinance in
 11 conformity therewith, or sub. (1m) or (2), the court shall proceed under s. 343.30 (1q).

History: 1971 c. 40 s. 93; 1971 c. 219; 1977 c. 193; 1981 c. 20, 184; 1983 a. 74, 459, 521; 1985 a. 32, 337; 1987 a. 3, 27; 1989 a. 105, 275; 1991 a. 277; 1995 a. 436, 448; 1997 a. 27, 252.

12 **SECTION 27.** 346.635 of the statutes is amended to read:

13 **346.635 Report arrest or out-of-service order to department.**
 14 Whenever a law enforcement officer arrests a person for a violation of s. 346.63 (1),
 15 (5) or (7), or a local ordinance in conformity therewith, or s. 346.63 (1m), (2) or (6) or
 16 940.25, or s. 940.09 where the offense involved the use of a vehicle, the officer shall
 17 notify the department of the arrest and of issuance of an out-of-service order under
 18 s. 343.305 (7) (b) or (9) (am) as soon as practicable.

History: 1981 c. 20; 1989 a. 105.

19 **SECTION 28.** 346.65 (2g) (b) of the statutes is amended to read:

20 346.65 (2g) (b) The court may require a person ordered to perform community
 21 service work under par. (a), or under s. 973.05 (3) (a) if that person's fine resulted from
 22 violating s. 346.63 (1m) ^{(or} (2), 940.09 (1) or 940.25, to participate in community service
 23 work that demonstrates the adverse effects of substance abuse or of operating a

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

12 **SECTION 29. 346.65 (2g) (c) of the statutes is amended to read:**

13 346.65 (2g) (c) If there was a minor passenger under 16 years of age in the
14 motor vehicle or commercial motor vehicle at the time of the violation that gave rise
15 to the conviction, the court may require a person ordered to perform community
16 service work under par. (a), or under s. 973.05 (3) (a) if that person's fine resulted from
17 violating s. 346.63 (1m), (2), (5) (a) or (6) (a), 940.09 (1) or 940.25, to participate in
18 community service work that benefits children or that demonstrates the adverse
19 effects on children of substance abuse or of operating a vehicle while under the
20 influence of an intoxicant or other drug. The court may order the person to pay a
21 reasonable fee, based on the person's ability to pay, to offset the cost of establishing,
22 maintaining and monitoring the community service work ordered under this
23 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).

1 **SECTION 30.** 346.65 (2i) of the statutes is amended to read:

2 **346.65 (2i)** In addition to the authority of the court under sub. (2g) and s. 973.05
3 (3) (a), the court may order a defendant subject to sub. (2), or a defendant subject to
4 s. 973.05 (3) (a) who violated s. 346.63 (1m) ^{or} (2), 940.09 (1) or 940.25, to visit a site
5 that demonstrates the adverse effects of substance abuse or of operating a vehicle
6 while under the influence of an intoxicant or other drug, including an alcoholism
7 treatment facility approved under s. 51.45 or an emergency room of a general
8 hospital in lieu of part or all of any forfeiture imposed or in addition to any penalty
9 imposed. The court may order the defendant to pay a reasonable fee, based on the
10 person's ability to pay, to offset the costs of establishing, maintaining and monitoring
11 the visits ordered under this subsection. The court may order a visit to the site only
12 if agreed to by the person responsible for the site. If the opportunities available to
13 visit sites under this subsection are fewer than the number of defendants eligible for
14 a visit, the court shall, when making an order under this subsection, give preference
15 to defendants who were under 21 years of age at the time of the offense. The court
16 shall ensure that the visit is monitored. A visit to a site may be ordered for a specific
17 time and a specific day to allow the defendant to observe victims of vehicle accidents
18 involving intoxicated drivers. If it appears to the court that the defendant has not
19 complied with the court order to visit a site or to pay a reasonable fee, the court may
20 order the defendant to show cause why he or she should not be held in contempt of
21 court. Any organization or agency acting in good faith to which a defendant is
22 assigned pursuant to an order under this subsection has immunity from any civil
23 liability in excess of \$25,000 for acts or omissions by or impacting on the defendant.
24 The issuance or possibility of the issuance of an order under this subsection does not

1 entitle an indigent defendant who is subject to sub. (2) (a) to representation by
2 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).

3 SECTION 31. 346.65 (2m) (b) of the statutes is amended to read:

4 346.65 (2m) (b) The court shall consider a report submitted under s. 85.53 (2)
5 (d) when imposing a sentence under sub. (2), (2q), (3g) or (3m).

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).

6 SECTION 32. 346.65 (3g) of the statutes is created to read:

7 346.65 (3g) Any person violating s. 346.63 (1m) shall be fined not less than \$300
8 nor more than \$1,000 and may be imprisoned for not less than 5 days nor more than
9 6 months. If there was a minor passenger under 16 years of age in the motor vehicle
10 at the time of the violation that gave rise to the conviction under s. 346.63 (1m), the
11 applicable minimum and maximum fines or periods of imprisonment for the
12 conviction are doubled.

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).

13 SECTION 33. 346.655 (1) of the statutes is amended to read:

14 346.655 (1) On or after July 1, 1988, if a court imposes a fine or a forfeiture for
15 a violation of s. 346.63 (1) or (5), or a local ordinance in conformity therewith, or s.
16 346.63 (1m), (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a
17 vehicle, it shall impose a driver improvement surcharge in an amount of \$340 in
18 addition to the fine or forfeiture, penalty assessment, jail assessment and crime
19 laboratories and drug law enforcement assessment.

History: 1981 c. 20; 1981 c. 314; 1983 a. 27 s. 2202 (20); 1985 a. 25, 337; 1987 a. 3, 27, 399; 1989 a. 31, 105; 1991 a. 39; 1993 a. 16; 1995 a. 27, 201; 1997 a. 27.

20 SECTION 34. 949.03 (1) (b) of the statutes is amended to read:

21 949.03 (1) (b) The commission or the attempt to commit any crime specified in
22 s. 346.62 (4), 346.63 (1m), (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07,
23 940.08, 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23,

1 940.24, 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02,
2 943.03, 943.04, 943.10, 943.20, 943.23 (1g), (1m) or (1r), 943.32, 948.02, 948.025,
3 948.03, 948.04, 948.07, 948.095, 948.20, 948.30 or 948.51.

History: 1975 c. 224 s. 145za; 1975 c. 344; 1977 c. 173, 239; 1979 c. 118; 1983 a. 199, 356, 538; 1985 a. 275; 1985 a. 293 s. 3; 1985 a. 306 s. 5; 1987 a. 90, 332, 380, 399, 403; 1989 a. 105, 140, 359; 1993 a. 92, 227; 1995 a. 153, 374, 456; 1997 a. 35, 143, 258.

4 **SECTION 35.** 949.08 (2) (e) of the statutes is amended to read:

5 949.08 (2) (e) Is an adult passenger in the offender's vehicle and the crime
6 involved is specified in s. 346.63 (1m) ^{or} (2) or 940.25 and the passenger knew the
7 offender was under the influence of an intoxicant, a controlled substance, a
8 controlled substance analog or any combination of an intoxicant, controlled
9 substance and controlled substance analog, or had a prohibited alcohol
10 concentration, as defined in s. 340.01 (46m). This paragraph does not apply if the
11 victim is also a victim of a crime specified in s. 940.30, 940.305, 940.31 or 948.30.

History: 1975 c. 344, 421; 1979 c. 189; 1981 c. 20; 1983 a. 199; 1985 a. 242, 337; 1987 a. 27; 1987 a. 332 s. 64; 1989 a. 105, 140; 1991 a. 277; 1995 a. 404, 448.

12 **SECTION 36.** 967.055 (2) (a) of the statutes is amended to read:

13 967.055 (2) (a) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss
14 or amend a charge under s. 346.63 (1) or (5) or a local ordinance in conformity
15 therewith, or s. 346.63 (1m) [✓], (2) or (6) or 940.25, or s. 940.09 where the offense
16 involved the use of a vehicle or an improper refusal under s. 343.305, the prosecutor
17 shall apply to the court. The application shall state the reasons for the proposed
18 amendment or dismissal. The court may approve the application only if the court
19 finds that the proposed amendment or dismissal is consistent with the public's
20 interest in deterring the operation of motor vehicles by persons who are under the
21 influence of an intoxicant, a controlled substance, a controlled substance analog or
22 any combination of an intoxicant, controlled substance and controlled substance
23 analog, under the influence of any other drug to a degree which renders him or her
24 incapable of safely driving, or under the combined influence of an intoxicant and any

1 other drug to a degree which renders him or her incapable of safely driving, or in
2 deterring the operation of commercial motor vehicles by persons with an alcohol
3 concentration of 0.04 or more. The court may not approve an application to amend
4 the vehicle classification from a commercial motor vehicle to a noncommercial motor
5 vehicle unless there is evidence in the record that the motor vehicle being operated
6 by the defendant at the time of his or her arrest was not a commercial motor vehicle.

7 History: 1981 c. 20, 184; 1983 a. 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 101; 1989 a. 105; 1991 a. 277; 1995 a. 113, 436, 448; 1997 a. 252.

7 **SECTION 37. 967.055 (3) (b) of the statutes is amended to read:**

8 967.055 (3) (b) A violation of s. 346.63 (1m), (2) or (6).

9 History: 1981 c. 20, 184; 1983 a. 459; 1985 a. 146 s. 8; 1985 a. 331, 337; 1987 a. 3, 101; 1989 a. 105; 1991 a. 277; 1995 a. 113, 436, 448; 1997 a. 252.

9 **SECTION 38. 971.17 (1) of the statutes is amended to read:**

10 971.17 (1) COMMITMENT PERIOD. When a defendant is found not guilty by reason
11 of mental disease or mental defect, the court shall commit the person to the
12 department of health and family services for a specified period not exceeding
13 two-thirds of the maximum term of imprisonment that could be imposed under s.
14 973.15 (2) (a) against an offender convicted of the same crime or crimes, including
15 imprisonment authorized by ss. 346.65 (2) (f), (2j) (d), (3g) or (3m), 939.62, 939.621,
16 939.63, 939.635, 939.64, 939.641, 939.645, 940.09 (1b), 940.25 (1b) and 961.48 and
17 other penalty enhancement statutes, as applicable, subject to the credit provisions
18 of s. 973.155. If the maximum term of imprisonment is life, the commitment period
19 specified by the court may be life, subject to termination under sub. (5).

20 HISTORY: 1975 c. 430; 1977 c. 333; 1977 c. 428 s. 113; 1983 a. 359, Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275.

20 **SECTION 39. Initial applicability.**

21 (1) This act first applies to violations committed on the effective date of this
22 subsection, but does not preclude the counting of other convictions, suspensions or

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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INSERT 7-10

1 SECTION 1. 343.305 (9) (d) of the statutes is amended to read:

2 343.305 (9) (d) At the close of the hearing, or within 5 days thereafter, the court
3 shall determine the issues under par. (a) 5. or (am) 5. If all issues are determined
4 adversely to the person, the court shall proceed under sub. (10). If one or more of the
5 issues is determined favorably to the person, the court shall order that no action be
6 taken on the operating privilege on account of the person's refusal to take the test in
7 question. This section does not preclude the prosecution of the person for violation
8 of s. 346.63 (1), (2m), (5) or (7) or a local ordinance in conformity therewith, or s.
9 346.63 (1m), (2) or (6), 940.09 (1) or 940.25.

History: 1987 a. 3, 27, 399, 1989 a. 7, 31, 56, 105, 359, 1991 a. 39, 251, 277, 1993 a. 16, 105, 315, 317, 491, 1995 a. 27 ss. 6-412conL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290.

(END INSERT)

Insert 11-8

~~Section #. 346.63 (2) (b) of the statutes is amended to read:~~

(c)

~~346.63 (2) (b)~~ In an action under this subsection, the defendant has a defense if he or she proves by a preponderance of the evidence that the ~~injury~~ ^{property damage} would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant, a controlled substance, a controlled substance analog or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or did not have a prohibited alcohol concentration described under par. (a) 2.

History: 1971 c. 40 s. 93; 1971 c. 219; 1977 c. 193; 1981 c. 20, 184; 1983 a. 74, 459, 521; 1985 a. 32, 337; 1987 a. 3, 27; 1989 a. 105, 275; 1991 a. 277; 1995 a. 436, 448; 1997 a. 27, 252.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4039/P1dn
RPN.....

cmr

I did include the requirement that the property damage exceed \$500, but that may be difficult for the law enforcement officer to determine at the time he or she issues a citation.

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

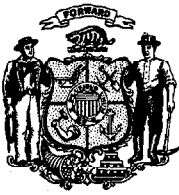
**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4039/P1dn
RPN:cmh:kjf

December 14, 1999

I did include the requirement that the property damage exceed \$500, but that may be difficult for the law enforcement officer to determine at the time he or she issues a citation.

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



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4039/1
RPN:cmh:kjf

+ jlg

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Reger

1 AN ACT to amend 85.53 (1) (d), 342.12 (4) (a), 342.12 (4) (c) 1. (intro.), 343.16 (5)
2 (a), 343.30 (1g), 343.30 (1q) (a), 343.303, 343.305 (3) (a), 343.305 (3) (b), 343.305
3 (5) (b), 343.305 (9) (a) 1., 343.305 (9) (a) 5. a., 343.305 (9) (d), 343.307 (1) (c),
4 343.307 (2) (c), 343.31 (1) (f), 343.31 (3) (g), 343.31 (3m) (b), 343.315 (2) (a) 6.,
5 343.44 (2g) (intro.), 343.44 (2p) (c), 345.24 (1), 345.60 (3), 346.63 (4), 346.635,
6 346.65 (2g) (b), 346.65 (2g) (c), 346.65 (2i), 346.65 (2m) (b), 346.655 (1), 949.03
7 (1) (b), 949.08 (2) (e), 967.055 (2) (a), 967.055 (3) (b) and 971.17 (1); and to create
8 343.31 (1) (ag), 343.31 (3) (dm), 346.63 (1m) and 346.65 (3g) of the statutes;
9 relating to: causing property damage by operating a motor vehicle while under
10 the influence of an intoxicant or other drug.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

Inger
AOL →

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

1 **SECTION 1.** 85.53 (1) (d) of the statutes is amended to read:

2 85.53 (1) (d) "Operating while intoxicated" means a violation of s. 346.63 (1) or
3 (2m) or a local ordinance in conformity therewith or of s. 346.63 (1m), (2) or (6), 940.09
4 (1) or 940.25.

5 **SECTION 2.** 342.12 (4) (a) of the statutes is amended to read:

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

14 **SECTION 3.** 342.12 (4) (c) 1. (intro.) of the statutes is amended to read:

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

21 **SECTION 4.** 343.16 (5) (a) of the statutes is amended to read:

22 343.16 (5) (a) The secretary may require any applicant for a license or any
23 licensed operator to submit to a special examination by such persons or agencies as
24 the secretary may direct to determine incompetency, physical or mental disability,
25 disease or any other condition which might prevent such applicant or licensed person

1 from exercising reasonable and ordinary control over a motor vehicle. When the
2 department requires the applicant to submit to an examination, the applicant shall
3 pay the cost thereof. If the department receives an application for a renewal or
4 duplicate license after voluntary surrender under s. 343.265 or receives a report from
5 a physician or optometrist under s. 146.82 (3), or if the department has a report of
6 2 or more arrests within a one-year period for any combination of violations of s.
7 346.63 (1) or (5) or a local ordinance in conformity therewith or a law of a federally
8 recognized American Indian tribe or band in this state in conformity with s. 346.63
9 (1) or (5), ~~or s. 346.63 (1m), 1985 stats.,~~ or s. 346.63 (1m), (2) or (6) or 940.25, or s.
10 940.09 where the offense involved the use of a vehicle, the department shall
11 determine, by interview or otherwise, whether the operator should submit to an
12 examination under this section. The examination may consist of an assessment. If
13 the examination indicates that education or treatment for a disability, disease or
14 condition concerning the use of alcohol, a controlled substance or a controlled
15 substance analog is appropriate, the department may order a driver safety plan in
16 accordance with s. 343.30 (1q). If there is noncompliance with assessment or the
17 driver safety plan, the department shall suspend the person's operating privilege in
18 the manner specified in s. 343.30 (1q) (d).

19 **SECTION 5.** 343.30 (1g) of the statutes is amended to read:

20 343.30 (1g) A court may revoke a person's operating privilege upon the person's
21 conviction for violating s. 343.44 (1) or a local ordinance in conformity therewith by
22 operating a motor vehicle while operating privileges are suspended or revoked. A
23 court shall revoke a person's operating privilege upon the person's conviction for
24 violating s. 343.44 (1) or a local ordinance in conformity therewith by operating a
25 motor vehicle while operating privileges are suspended or revoked if the suspension

1 or revocation was for improperly refusing to take a test under s. 343.305, violating
2 s. 346.63 (1) or (5) or a local ordinance in conformity therewith, or violating s. 346.63
3 (1m), (2) or (6), 940.09 (1) or 940.25. The revocation shall be for any period not
4 exceeding 6 months.

5 **SECTION 6.** 343.30 (1q) (a) of the statutes is amended to read:

6 343.30 (1q) (a) If a person is convicted under s. 346.63 (1) or a local ordinance
7 in conformity therewith, the court shall proceed under this subsection. If a person
8 is convicted under s. 346.63 (1m) or (2) or 940.25, or s. 940.09 where the offense
9 involved the use of a vehicle, the court shall proceed under pars. (c) and (d). If a
10 person is referred by the department acting under s. 343.16 (5) (a), the department
11 shall proceed under pars. (c) and (d) without the order of the court.

12 **SECTION 7.** 343.303 of the statutes is amended to read:

13 **343.303 Preliminary breath screening test.** If a law enforcement officer
14 has probable cause to believe that the person is violating or has violated s. 346.63 (1)
15 or (2m) or a local ordinance in conformity therewith, or s. 346.63 (1m), (2) or (6) or
16 940.25 or s. 940.09 where the offense involved the use of a vehicle, or if the officer
17 detects any presence of alcohol, a controlled substance, controlled substance analog
18 or other drug, or a combination thereof, on a person driving or operating or on duty
19 time with respect to a commercial motor vehicle or has reason to believe that the
20 person is violating or has violated s. 346.63 (7) or a local ordinance in conformity
21 therewith, the officer, prior to an arrest, may request the person to provide a sample
22 of his or her breath for a preliminary breath screening test using a device approved
23 by the department for this purpose. The result of this preliminary breath screening
24 test may be used by the law enforcement officer for the purpose of deciding whether
25 or not the person shall be arrested for a violation of s. 346.63 (1), (2m), (5) or (7) or

1 a local ordinance in conformity therewith, or s. 346.63 (1m), (2) or (6), 940.09 (1) or
2 940.25 and whether or not to require or request chemical tests as authorized under
3 s. 343.305 (3). The result of the preliminary breath screening test shall not be
4 admissible in any action or proceeding except to show probable cause for an arrest,
5 if the arrest is challenged, or to prove that a chemical test was properly required or
6 requested of a person under s. 343.305 (3). Following the screening test, additional
7 tests may be required or requested of the driver under s. 343.305 (3). The general
8 penalty provision under s. 939.61 (1) does not apply to a refusal to take a preliminary
9 breath screening test.

10 **SECTION 8.** 343.305 (3) (a) of the statutes is amended to read:

11 343.305 (3) (a) Upon arrest of a person for violation of s. 346.63 (1), (2m) or (5)
12 or a local ordinance in conformity therewith, or for a violation of s. 346.63 (1m), (2)
13 or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, a law
14 enforcement officer may request the person to provide one or more samples of his or
15 her breath, blood or urine for the purpose specified under sub. (2). Compliance with
16 a request for one type of sample does not bar a subsequent request for a different type
17 of sample.

18 **SECTION 9.** 343.305 (3) (b) of the statutes is amended to read:

19 343.305 (3) (b) A person who is unconscious or otherwise not capable of
20 withdrawing consent is presumed not to have withdrawn consent under this
21 subsection, and if a law enforcement officer has probable cause to believe that the
22 person has violated s. 346.63 (1), (2m) or (5) or a local ordinance in conformity
23 therewith, or s. 346.63 (1m), (2) or (6) or 940.25, or s. 940.09 where the offense
24 involved the use of a vehicle, or detects any presence of alcohol, controlled substance,
25 controlled substance analog or other drug, or a combination thereof, on a person

1 driving or operating or on duty time with respect to a commercial motor vehicle or
2 has reason to believe the person has violated s. 346.63 (7), one or more samples
3 specified in par. (a) or (am) may be administered to the person.

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

5 343.305 (5) (b) Blood may be withdrawn from the person arrested for violation
6 of s. 346.63 (1), (1m), (2), (2m), (5) or (6) or 940.25, or s. 940.09 where the offense
7 involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1), (2m)
8 or (5), or as provided in sub. (3) (am) or (b) to determine the presence or quantity of
9 alcohol, a controlled substance, a controlled substance analog or any other drug, or
10 any combination of alcohol, controlled substance, controlled substance analog and
11 any other drug in the blood only by a physician, registered nurse, medical
12 technologist, physician assistant or person acting under the direction of a physician.

13 **SECTION 11.** 343.305 (9) (a) 1. of the statutes is amended to read:

14 343.305 (9) (a) 1. That prior to a request under sub. (3) (a), the officer had placed
15 the person under arrest for a violation of s. 346.63 (1), (2m) or (5) or a local ordinance
16 in conformity therewith or s. 346.63 (1m), (2) or (6), 940.09 (1) or 940.25.

17 **SECTION 12.** 343.305 (9) (a) 5. a. of the statutes is amended to read:

18 343.305 (9) (a) 5. a. Whether the officer had probable cause to believe the
19 person was driving or operating a motor vehicle while under the influence of alcohol,
20 a controlled substance or a controlled substance analog or any combination of
21 alcohol, a controlled substance and a controlled substance analog, under the
22 influence of any other drug to a degree which renders the person incapable of safely
23 driving, or under the combined influence of alcohol and any other drug to a degree
24 which renders the person incapable of safely driving or having a prohibited alcohol
25 concentration or, if the person was driving or operating a commercial motor vehicle,

1 an alcohol concentration of 0.04 or more and whether the person was lawfully placed
2 under arrest for violation of s. 346.63 (1), (2m) or (5) or a local ordinance in conformity
3 therewith or s. 346.63 (1m), (2) or (6), 940.09 (1) or 940.25.

4 **SECTION 13.** 343.305 (9) (d) of the statutes is amended to read:

5 343.305 (9) (d) At the close of the hearing, or within 5 days thereafter, the court
6 shall determine the issues under par. (a) 5. or (am) 5. If all issues are determined
7 adversely to the person, the court shall proceed under sub. (10). If one or more of the
8 issues is determined favorably to the person, the court shall order that no action be
9 taken on the operating privilege on account of the person's refusal to take the test in
10 question. This section does not preclude the prosecution of the person for violation
11 of s. 346.63 (1), (2m), (5) or (7) or a local ordinance in conformity therewith, or s.
12 346.63 (1m), (2) or (6), 940.09 (1) or 940.25.

13 **SECTION 14.** 343.307 (1) (c) of the statutes is amended to read:

14 343.307 (1) (c) Convictions for violations under s. 346.63 (1m) or (2) or 940.25,
15 or s. 940.09 where the offense involved the use of a vehicle.

16 **SECTION 15.** 343.307 (2) (c) of the statutes is amended to read:

17 343.307 (2) (c) Convictions for violations under s. 346.63 (1m), (2) or (6).

18 **SECTION 16.** 343.31 (1) (ag) of the statutes is created to read:

19 343.31 (1) (ag) Damages ~~exceeding \$500~~ ^{exceeding \$500} to property by the operation of a vehicle
20 while under the influence of an intoxicant, a controlled substance or a controlled
21 substance analog, or any combination of an intoxicant, a controlled substance and
22 a controlled substance analog, under the influence of any other drug to a degree that
23 renders him or her incapable of safely driving, or under the combined influence of an
24 intoxicant and any other drug to a degree that renders him or her incapable of safely

1 driving or while the person has a prohibited alcohol concentration and that is
2 criminal under s. 346.63 (1m).

3 **SECTION 17.** 343.31 (1) (f) of the statutes is amended to read:

4 343.31 (1) (f) Operating a motor vehicle while operating privileges are
5 suspended or revoked if the suspension or revocation was for improperly refusing to
6 take a test under s. 343.305, violating s. 346.63 (1) or (5) or a local ordinance in
7 conformity therewith, or violating s. 346.63 (1m), (2) or (6), 940.09 (1) or 940.25.

8 **SECTION 18.** 343.31 (3) (dm) of the statutes is created to read:

9 343.31 (3) (dm) Any person convicted under s. 346.63 (1m) shall have his or her
10 operating privilege revoked for not less than one year nor more than 18 months. If
11 there was a minor passenger under 16 years of age in the motor vehicle at the time
12 of the violation that gave rise to the conviction under s. 346.63 (1m), the minimum
13 and maximum revocation periods are doubled.

14 **SECTION 19.** 343.31 (3) (g) of the statutes is amended to read:

15 343.31 (3) (g) Any person convicted for operating a motor vehicle while
16 operating privileges are suspended or revoked shall have his or her operating
17 privilege revoked for 6 months if the suspension or revocation was for improperly
18 refusing to take a test under s. 343.305, violating s. 346.63 (1) or (5) or a local
19 ordinance in conformity therewith, or violating s. 346.63 (1m), (2) or (6), 940.09 (1)
20 or 940.25.

21 **SECTION 20.** 343.31 (3m) (b) of the statutes is amended to read:

22 343.31 (3m) (b) Any person who has his or her operating privilege revoked
23 under sub. (3) (dm) or (e) is eligible for an occupational license under s. 343.10 after
24 the first 60 days of the revocation period.

25 **SECTION 21.** 343.315 (2) (a) 6. of the statutes is amended to read:

1 343.315 (2) (a) 6. Section 346.63 (1m), (2) or (6), 940.09 (1) or 940.25 or a law
2 of a federally recognized American Indian tribe or band in this state in conformity
3 with s. 346.63 (1m), (2) or (6), 940.09 (1) or 940.25, or the law of another jurisdiction
4 prohibiting causing or inflicting injury, great bodily harm or death through use of a
5 motor vehicle while intoxicated or under the influence of alcohol, a controlled
6 substance, a controlled substance analog or a combination thereof, or with an alcohol
7 concentration of 0.04 or more or with an excess or specified range of alcohol
8 concentration, or under the influence of any drug to a degree that renders the person
9 incapable of safely driving, as those or substantially similar terms are used in that
10 jurisdiction's laws.

11 **SECTION 22.** 343.44 (2g) (intro.) of the statutes is amended to read:

12 343.44 (2g) (intro.) Except as provided in sub. (2m), any person who violates
13 sub. (1) while his or her operating privilege is suspended or revoked for improperly
14 refusing to take a test under s. 343.305, violating s. 346.63 (1) or (5) or a local
15 ordinance in conformity therewith, or violating s. 346.63 (1m), (2) or (6), 940.09 (1)
16 or 940.25, is subject to the following penalties:

17 **SECTION 23.** 343.44 (2p) (c) of the statutes is amended to read:

18 343.44 (2p) (c) Violating s. 346.63 (1m), (2) or (6), 940.09 (1) or 940.25.

19 **SECTION 24.** 345.24 (1) of the statutes is amended to read:

20 345.24 (1) A person arrested under s. 346.63 (1) or (5) or an ordinance in
21 conformity therewith or s. 346.63 (1m), (2) or (6) or 940.25, or s. 940.09 where the
22 offense involved the use of a vehicle, may not be released until 12 hours have elapsed
23 from the time of his or her arrest or unless a chemical test administered under s.
24 343.305 shows that the person has an alcohol concentration of less than 0.04, but the

1 person may be released to his or her attorney, spouse, relative or other responsible
2 adult at any time after arrest.

3 **SECTION 25.** 345.60 (3) of the statutes is amended to read:

4 345.60 (3) In addition to other penalties provided by law for violation of s.
5 346.63 (1) or a local ordinance in conformity therewith, or s. 346.63 (1m), (2) or
6 940.25, or s. 940.09 where the offense involved the use of a vehicle, the convicted
7 person may be required under s. 343.30 (1q) to attend, for a certain number of school
8 days, a school under sub. (1).

9 **SECTION 26.** 346.63 (1m) of the statutes is created to read:

10 (10) 346.63 (1m) (a) No person may cause property damage ~~in excess of \$500~~ by the
11 operation of a motor vehicle while he or she meets any of the following conditions:

12 1. Is under the influence of an intoxicant, a controlled substance, a controlled
13 substance analog or any combination of an intoxicant, a controlled substance and a
14 controlled substance analog, under the influence of any other drug to a degree that
15 renders him or her incapable of safely driving, or under the combined influence of an
16 intoxicant and any other drug to a degree that renders him or her incapable of safely
17 driving; or

18 2. Has a prohibited alcohol concentration.

19 (b) A person may be charged with and a prosecutor may proceed upon a
20 complaint based upon a violation of par. (a) 1. or 2. or both for acts arising out of the
21 same incident or occurrence. If the person is charged with violating par. (a) 1. and
22 2., the offenses shall be joined. If the person is found guilty of par. (a) 1. and 2. for
23 acts arising out of the same incident or occurrence, there shall be a single conviction
24 for purposes of sentencing and for purposes of counting convictions under ss. 343.30

1 (1q) and 343.305. Paragraph (a) 1. and 2. each require proof of a fact for conviction
2 which the other does not require.

3 (c) In an action under this subsection, the defendant has a defense if he or she
4 proves by a preponderance of the evidence that the property damage would have
5 occurred even if he or she had been exercising due care and he or she had not been
6 under the influence of an intoxicant, a controlled substance, a controlled substance
7 analog or a combination thereof, under the influence of any other drug to a degree
8 which renders him or her incapable of safely driving, or under the combined
9 influence of an intoxicant and any other drug to a degree which renders him or her
10 incapable of safely driving or did not have a prohibited alcohol concentration
11 described under par. (a) 2.

12 **SECTION 27.** 346.63 (4) of the statutes is amended to read:

13 346.63 (4) If a person is convicted under sub. (1) or a local ordinance in
14 conformity therewith, or sub. (1m) or (2), the court shall proceed under s. 343.30 (1q).

15 **SECTION 28.** 346.635 of the statutes is amended to read:

16 **346.635 Report arrest or out-of-service order to department.**

17 Whenever a law enforcement officer arrests a person for a violation of s. 346.63 (1),
18 (5) or (7), or a local ordinance in conformity therewith, or s. 346.63 (1m) or (2) or (6)
19 or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the officer shall
20 notify the department of the arrest and of issuance of an out-of-service order under
21 s. 343.305 (7) (b) or (9) (am) as soon as practicable.

22 **SECTION 29.** 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 under s. 973.05 (3) (a) if that person's fine resulted from
25 violating s. 346.63 (1m) or (2), 940.09 (1) or 940.25, to participate in community

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) apply to any community service work ordered under this
12 paragraph.

13 **SECTION 30.** 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 under s. 973.05 (3) (a) if that person's fine resulted from
18 violating s. 346.63 (1m), (2), (5) (a) or (6) (a), 940.09 (1) or 940.25, to participate in
19 community service work that benefits children or that demonstrates the adverse
20 effects on children of substance abuse or of operating a vehicle while under the
21 influence of an intoxicant or other drug. The court may order the person to pay a
22 reasonable fee, based on the person's ability to pay, to offset the cost of establishing,
23 maintaining and monitoring the community service work ordered under this
24 paragraph.

25 **SECTION 31.** 346.65 (2i) of the statutes is amended to read:

1 346.65 (2i) In addition to the authority of the court under sub. (2g) and s. 973.05
2 (3) (a), the court may order a defendant subject to sub. (2), or a defendant subject to
3 s. 973.05 (3) (a) who violated s. 346.63 (1m) or (2), 940.09 (1) or 940.25, to visit a site
4 that demonstrates the adverse effects of substance abuse or of operating a vehicle
5 while under the influence of an intoxicant or other drug, including an alcoholism
6 treatment facility approved under s. 51.45 or an emergency room of a general
7 hospital in lieu of part or all of any forfeiture imposed or in addition to any penalty
8 imposed. The court may order the defendant to pay a reasonable fee, based on the
9 person's ability to pay, to offset the costs of establishing, maintaining and monitoring
10 the visits ordered under this subsection. The court may order a visit to the site only
11 if agreed to by the person responsible for the site. If the opportunities available to
12 visit sites under this subsection are fewer than the number of defendants eligible for
13 a visit, the court shall, when making an order under this subsection, give preference
14 to defendants who were under 21 years of age at the time of the offense. The court
15 shall ensure that the visit is monitored. A visit to a site may be ordered for a specific
16 time and a specific day to allow the defendant to observe victims of vehicle accidents
17 involving intoxicated drivers. If it appears to the court that the defendant has not
18 complied with the court order to visit a site or to pay a reasonable fee, the court may
19 order the defendant to show cause why he or she should not be held in contempt of
20 court. Any organization or agency acting in good faith to which a defendant is
21 assigned pursuant to an order under this subsection has immunity from any civil
22 liability in excess of \$25,000 for acts or omissions by or impacting on the defendant.
23 The issuance or possibility of the issuance of an order under this subsection does not
24 entitle an indigent defendant who is subject to sub. (2) (a) to representation by
25 counsel under ch. 977.

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

2 346.65 (2m) (b) The court shall consider a report submitted under s. 85.53 (2)
3 (d) when imposing a sentence under sub. (2), (2q), (3g) or (3m).

4 **SECTION 33.** 346.65 (3g) of the statutes is created to read:

5 346.65 (3g) Any person violating s. 346.63 (1m) shall be fined not less than \$300
6 nor more than \$1,000 and may be imprisoned for not less than 5 days nor more than
7 6 months. If there was a minor passenger under 16 years of age in the motor vehicle
8 at the time of the violation that gave rise to the conviction under s. 346.63 (1m), the
9 applicable minimum and maximum fines or periods of imprisonment for the
10 conviction are doubled.

11 **SECTION 34.** 346.655 (1) of the statutes is amended to read:

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

18 **SECTION 35.** 949.03 (1) (b) of the statutes is amended to read:

19 949.03 (1) (b) The commission or the attempt to commit any crime specified in
20 s. 346.62 (4), 346.63 (1m), (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07,
21 940.08, 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23,
22 940.24, 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02,
23 943.03, 943.04, 943.10, 943.20, 943.23 (1g), (1m) or (1r), 943.32, 948.02, 948.025,
24 948.03, 948.04, 948.07, 948.095, 948.20, 948.30 or 948.51.

25 **SECTION 36.** 949.08 (2) (e) of the statutes is amended to read:

1 949.08 (2) (e) Is an adult passenger in the offender's vehicle and the crime
2 involved is specified in s. 346.63 (1m) or (2) or 940.25 and the passenger knew the
3 offender was under the influence of an intoxicant, a controlled substance, a
4 controlled substance analog or any combination of an intoxicant, controlled
5 substance and controlled substance analog, or had a prohibited alcohol
6 concentration, as defined in s. 340.01 (46m). This paragraph does not apply if the
7 victim is also a victim of a crime specified in s. 940.30, 940.305, 940.31 or 948.30.

8 **SECTION 37.** 967.055 (2) (a) of the statutes is amended to read:

9 967.055 (2) (a) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss
10 or amend a charge under s. 346.63 (1) or (5) or a local ordinance in conformity
11 therewith, or s. 346.63 (1m), (2) or (6) or 940.25, or s. 940.09 where the offense
12 involved the use of a vehicle or an improper refusal under s. 343.305, the prosecutor
13 shall apply to the court. The application shall state the reasons for the proposed
14 amendment or dismissal. The court may approve the application only if the court
15 finds that the proposed amendment or dismissal is consistent with the public's
16 interest in deterring the operation of motor vehicles by persons who are under the
17 influence of an intoxicant, a controlled substance, a controlled substance analog or
18 any combination of an intoxicant, controlled substance and controlled substance
19 analog, under the influence of any other drug to a degree which renders him or her
20 incapable of safely driving, or under the combined influence of an intoxicant and any
21 other drug to a degree which renders him or her incapable of safely driving, or in
22 deterring the operation of commercial motor vehicles by persons with an alcohol
23 concentration of 0.04 or more. The court may not approve an application to amend
24 the vehicle classification from a commercial motor vehicle to a noncommercial motor

1 vehicle unless there is evidence in the record that the motor vehicle being operated
2 by the defendant at the time of his or her arrest was not a commercial motor vehicle.

3 **SECTION 38.** 967.055 (3) (b) of the statutes is amended to read:

4 967.055 (3) (b) A violation of s. 346.63 (1m), (2) or (6).

5 **SECTION 39.** 971.17 (1) of the statutes is amended to read:

6 971.17 (1) COMMITMENT PERIOD. When a defendant is found not guilty by reason
7 of mental disease or mental defect, the court shall commit the person to the
8 department of health and family services for a specified period not exceeding
9 two-thirds of the maximum term of imprisonment that could be imposed under s.
10 973.15 (2) (a) against an offender convicted of the same crime or crimes, including
11 imprisonment authorized by ss. 346.65 (2) (f), (2j) (d), (3g) or (3m), 939.62, 939.621,
12 939.63, 939.635, 939.64, 939.641, 939.645, 940.09 (1b), 940.25 (1b) and 961.48 and
13 other penalty enhancement statutes, as applicable, subject to the credit provisions
14 of s. 973.155. If the maximum term of imprisonment is life, the commitment period
15 specified by the court may be life, subject to termination under sub. (5).

16 **SECTION 40. Initial applicability.**

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

21 **SECTION 41. Effective date.**

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

24 (END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4039/lins
RPN:cmh:kjf

insert anl:

the following

In addition to the absolute sobriety offense applicable to young drivers and the lower blood alcohol concentration limit applicable to commercial motor vehicle drivers, there are currently four kinds of offenses related to operating a motor vehicle or commercial motor vehicle while under the influence of an intoxicant (OWI): 1) regular OWI; 2) OWI causing injury; 3) OWI causing great bodily harm; and 4) OWI causing death. A person commits an OWI offense when the person operates a motor vehicle while having a prohibited alcohol concentration in his or her blood or while under the influence of an intoxicant, a controlled substance, a controlled substance analog, any other drug or of a combination of any of those, to a degree which renders him or her incapable of safely driving. The penalties for these offenses increase with the severity of the offense and with the number of previous OWI offenses the person has committed within certain time frames. In addition to these offenses, a person is subject to the loss of his or her operating privilege (driver's license) if he or she refuses to take a test to determine his or her blood alcohol concentration. that

they This bill creates additional offenses for operating of a motor vehicle while under influence of an intoxicant or while having a prohibited alcohol concentration and that results in damage to property. These offenses are counted as other OWI offenses when determining the applicable penalties. The penalties for these offense are identical to the penalties for second-offense regular OWI offenses.

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

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 03/08/2000

To: Senator Drzewiecki

Relating to LRB drafting number: LRB-4039

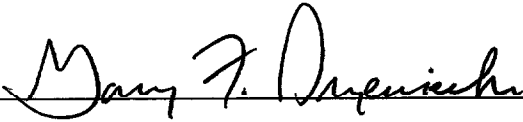
Topic

Drunk driving penalties for causing property damage of ~~\$500 or more~~

Subject(s)

Drunk Driving - penalties

1. JACKET the draft for introduction



in the Senate or the Assembly (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. REDRAFT. See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain FISCAL ESTIMATE NOW, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

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