

1     **AN ACT** to repeal 23.33 (1) (am), (ar), (dm), (e), (f), (i), (ic), (je), (jm) and (js) and  
2     (4c) to (4z) , 23.33 (13) (c) to (e), 30.50 (1e), (1g), (1m), (3g), (3h), (3r), (4m), (9g),  
3     (9x) and (13m), 30.681 to 30.687, 350.01 (1g), (1i), (2), (2d), (3m), (9c), (10g) and  
4     (10r), 350.01 (21) and 350.101 to 350.108; to renumber and amend 350.99; to  
5     amend 23.33 (5) (d), 23.33 (9) (c), 23.33 (13) (a), 30.74 (1) (bn), 46.03 (18) (f),  
6     59.54 (14) (g), chapter 350 (title), 350.01 (intro.), 350.01 (16), 350.045, 350.055,  
7     350.11 (1), 350.115 (1) (a), 350.12 (3) (b) and (4) (a) 4., 350.12 (4) (b) 3., 350.17  
8     (1), 350.17 (3), 350.18 (2), 350.19, 885.235 (1m) and (4), 940.09 (1m) and (3),  
9     940.25 (1m) and (3) and 967.055 (2) (b); to repeal and recreate 23.33 (12) (b),  
10    23.33 (13) (b), 30.64 (3), 30.80 (6), 350.11 (3) and 350.17 (2); and to create  
11    subchapter I (title) of chapter 350 [precedes 350.01], subchapter II of chapter 350  
12    [precedes 350.50] and 350.76 of the statutes; relating to: the intoxicated operation  
13    of an all-terrain vehicle, motorboat or snowmobile.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This draft is recommended by the joint legislative council's special committee on recodification of operating while intoxicated and safety laws pertaining to motor vehicle, all-terrain vehicle, boat or snowmobile operation. The special committee was directed to study current statutes relating to operating a vehicle while under the influence of an intoxicant or drug and to reorganize, simplify, modernize and clarify these statutes and make minor substantive changes necessary to effect these goals. In addition, the special committee was directed to study, with respect to an all-terrain vehicle, a boat or a snowmobile, whether enforcement mechanisms need to be increased or created to ensure compliance with the law.

This draft consolidates statutory provisions regarding the intoxicated operation of all-terrain vehicles, motorboats and snowmobiles into one subchapter of the statutes. In general, a number of policies expressed in the motor vehicle code with respect to the issue of operating a motor vehicle while intoxicated are applied to the operation of all-terrain vehicles, motorboats and snowmobiles, which are collectively referred to as sport recreational vehicles. The special committee explicitly intends that, unless expressly noted, the draft makes no substantive changes in the statutory provisions treated by the draft. Substantive changes in the draft are identified in notes to the provisions substantively affected. The notes also describe the derivation of the provisions contained in newly created subchapter II of chapter 350.

1           **SECTION 1.** 23.33 (1) (am), (ar), (dm), (e), (f), (i), (ic), (je), (jm) and (js) and (4c) to (4z)  
2 of the statutes are repealed.

3           **SECTION 2.** 23.33 (5) (d) of the statutes is amended to read:

4           23.33 (5) (d) *Safety certification program established.* The department shall establish  
5 or supervise the establishment of a program of instruction on all-terrain vehicle laws,  
6 including the intoxicated operation of ~~an all-terrain~~ a sport recreational vehicle law as defined  
7 in s. 350.50 (12), regulations, safety and related subjects. The department shall establish by  
8 rule an instruction fee for this program. An instructor conducting the program of instruction  
9 under this paragraph shall collect the fee from each person who receives instruction. The  
10 department may determine the portion of this fee, which may not exceed 50%, that the  
11 instructor may retain to defray expenses incurred by the instructor in conducting the program.  
12 The instructor shall remit the remainder of the fee or, if nothing is retained, the entire fee to  
13 the department.

14           **SECTION 3.** 23.33 (9) (c) of the statutes is amended to read:

15           23.33 (9) (c) *Signs.* In addition to the projects listed in par. (b), the department may  
16 provide aid under this subsection to a town, village, city or county for up to 100% of the cost  
17 of placing signs developed under ~~sub. (4z)-(a)-2~~ s. 350.66 (1) (b).

1       **SECTION 4.** 23.33 (12) (b) of the statutes is repealed and recreated to read:

2       **23.33 (12) (b)** No operator of an all-terrain vehicle:

3           1. Shall fail or refuse to comply with any lawful order, signal or direction of a law  
4 enforcement officer.

5           2. Shall disobey the instructions of any official traffic sign or signal unless otherwise  
6 directed by a law enforcement officer.

7           3. After having received a visual or audible signal to stop his or her all-terrain vehicle  
8 from a law enforcement officer, or marked police vehicle, shall knowingly resist the law  
9 enforcement officer by failing to stop the all-terrain vehicle as promptly as safety reasonably  
10 permits.

11           4. After having received a visual or audible signal from a law enforcement officer, or  
12 marked police vehicle, shall knowingly flee or attempt to elude any law enforcement officer  
13 by willful or wanton disregard of such signal so as to interfere with or endanger the operation  
14 of the police vehicle, or the law enforcement officer or other vehicles or pedestrians, nor shall  
15 the operator increase the speed of the operator's all-terrain vehicle or extinguish the lights of  
16 the all-terrain vehicle in an attempt to elude or flee.

**NOTE:** Current law provides that no operator of an all-terrain vehicle, a boat or a snowmobile may refuse to stop after being requested or signaled to do so by a law enforcement officer. This SECTION and SECTION 6 specify that no operator of these vehicles may refuse to comply with orders or instructions of a law enforcement officer, resist a law enforcement by failing to stop or flee from a law enforcement officer. The penalties for these increasingly serious offenses range from a forfeiture not exceeding \$40 for the first offense and not exceeding \$100 for the second or subsequent conviction within a year to a fine of not less \$1,100 nor more than \$10,000 and imprisonment for not more than 7 years and 6 months. These provisions are taken directly from ss. 346.04 and 346.17, stats., relating to obedience to traffic officers, signs and signals and to fleeing from an officer. The provisions also are

repeated as necessary in this draft in SECTIONS 9, 12, 25 and 30 and in ss. 350.68 (2) and 350.74 (5) as created in this draft.

1 SECTION 5. 23.33 (13) (a) of the statutes is amended to read:

2 23.33 (13) (a) *Generally*. Except as provided in pars. (am) ~~to (e)~~ and (b), any person  
3 who violates this section shall forfeit not more than \$250.

4 SECTION 6. 23.33 (13) (b) of the statutes is repealed and recreated to read:

5 23.33 (13) (b) *Penalties for refusal to obey law enforcement officers, signs and signals*.

6 1. A person who violates sub. (12) (b) 1. or 2. may be required to forfeit not less than  
7 \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the  
8 second or subsequent conviction within a year.

9 2. A person who violates sub. (12) (b) 3. may be fined not more than \$10,000 or  
10 imprisoned not more than 9 months, or both.

11 3. a. Except as provided in subpars. b., c. or d., a person who violates sub. (12) (b) 4.  
12 shall be fined not less than \$600 nor more than \$10,000 and may be imprisoned for not more  
13 than 3 years.

14 b. If the violation results in bodily harm, as defined in s. 939.22 (4), to another, or causes  
15 damage to the property of another, as defined in s. 939.22 (28), the person shall be fined not  
16 less than \$1,000 nor more than \$10,000 and may be imprisoned for not more than 3 years.

17 c. If the violation results in great bodily harm, as defined in s. 939.22 (14), to another,  
18 the person shall be fined not less than \$1,100 nor more than \$10,000 and may be imprisoned  
19 for not more than 3 years.

20 d. If the violation results in the death of another, the person shall be fined not less than  
21 \$1,100 nor more than \$10,000 and may be imprisoned for not more than 7 years and 6 months.

**NOTE:** Current law provides that an operator of an all-terrain vehicle who refuses to stop after being requested or signaled to do so by a law

enforcement officer must forfeit not more than \$250. The violation and penalties are altered as described in SECTION 4 of the draft.

1 SECTION 7. 23.33 (13) (c) to (e) of the statutes are repealed.

2 SECTION 8. 30.50 (1e), (1g), (1m), (3g), (3h), (3r), (4m), (9g), (9x) and (13m) of the  
3 statutes are repealed.

4 SECTION 9. 30.64 (3) of the statutes is repealed and recreated to read:

5 30.64 (3) No operator of a boat:

6 (a) Shall fail or refuse to comply with any lawful order, signal or direction of a law  
7 enforcement officer.

8 (b) Shall disobey the instructions of any official traffic sign or signal unless otherwise  
9 directed by a law enforcement officer.

10 (c) After having received a visual or audible signal to stop his or her boat from a law  
11 enforcement officer, or marked police vehicle, shall knowingly resist the law enforcement  
12 officer by failing to stop the boat as promptly as safety reasonably permits.

13 (d) After having received a visual or audible signal from a law enforcement officer, or  
14 marked police vehicle, shall knowingly flee or attempt to elude any law enforcement officer  
15 by willful or wanton disregard of such signal so as to interfere with or endanger the operation  
16 of the police vehicle, or the law enforcement officer or other vehicles or individuals, nor shall  
17 the operator increase the speed of the operator's boat or extinguish the lights of the boat in an  
18 attempt to elude or flee.

NOTE: See the note to SECTION 4.

19 SECTION 10. 30.681 to 30.687 of the statutes are repealed.

20 SECTION 11. 30.74 (1) (bn) of the statutes is amended to read:

21 30.74 (1) (bn) A certificate issued to a person under this subsection is valid for life  
22 unless revoked by a court under s. 30.80 (2m) or ~~(6) (e)~~ 350.74 (10) or 938.343 (5).

1           **SECTION 12.** 30.80 (6) of the statutes is repealed and recreated to read:

2           30.80 (6) (a) A person who violates s. 30.64 (3) (a) or (b) may be required to forfeit not  
3 less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100  
4 for the second or subsequent conviction within a year.

5           (b) A person who violates s. 30.64 (3) (c) may be fined not more than \$10,000 or  
6 imprisoned not more than 9 months, or both.

7           (c) 1. Except as provided in subds. 2., 3. or 4., a person who violates s. 30.64 (3) (d) shall  
8 be fined not less than \$600 nor more than \$10,000 and may be imprisoned for not more than  
9 3 years.

10           2. If the violation results in bodily harm, as defined in s. 939.22 (4), to another, or causes  
11 damage to the property of another, as defined in s. 939.22 (28), the person shall be fined not  
12 less than \$1,000 nor more than \$10,000 and may be imprisoned for not more than 3 years.

13           3. If the violation results in great bodily harm, as defined in s. 939.22 (14), to another,  
14 the person shall be fined not less than \$1,100 nor more than \$10,000 and may be imprisoned  
15 for not more than 3 years.

16           4. If the violation results in the death of another, the person shall be fined not less than  
17 \$1,100 nor more than \$10,000 and may be imprisoned for not more than 7 years and 6 months.

**NOTE:** Current law provides that an operator of a boat who refuses to stop after being requested or signaled to do so by a law enforcement officer must forfeit not more than \$50 for the first offense and must forfeit not more than \$100 upon conviction of the same offense a second or subsequent time within one year. The violation and penalties are altered as described in SECTION 4 of the draft. See also SECTION 9.

18           **SECTION 13.** 46.03 (18) (f) of the statutes is amended to read:

19           46.03 (18) (f) Notwithstanding par. (a), any person who submits to an assessment or  
20 driver safety plan under s. ~~23.33 (13) (e), 30.80 (6) (d)~~, 343.16 (5) (a), 343.30 (1q), 343.305

1 (10) or ~~350.11 (3) (d)~~ 350.74 (9) shall pay a reasonable fee therefor to the appropriate county  
2 department under s. 51.42 or traffic safety school under s. 345.60. A county may allow the  
3 person to pay the assessment fee in 1, 2, 3 or 4 equal instalments. The fee for the driver safety  
4 plan may be reduced or waived if the person is unable to pay the complete fee, but no fee for  
5 assessment or attendance at a traffic safety school under s. 345.60 may be reduced or waived.  
6 Nonpayment of the assessment fee is noncompliance with the court order that required  
7 completion of an assessment and driver safety plan. Upon a finding that the person has the  
8 ability to pay, nonpayment of the driver safety plan fee is noncompliance with the court order  
9 that required completion of an assessment and driver safety plan.

10 **SECTION 14.** 59.54 (14) (g) of the statutes is amended to read:

11 59.54 (14) (g) A county may establish extensions of the jail, which need not be at the  
12 county seat, to serve as places of temporary confinement. No person may be detained in such  
13 an extension for more than 24 consecutive hours, except that a court may order that a person  
14 subject to imprisonment under s. ~~23.33 (13) (b) 2. or 3. or (c)~~ or ~~350.11 (3) (a) 2. or 3. or (b)~~  
15 350.74 (1) (b) to (e) or (3) be imprisoned for more than 24 consecutive hours in such an  
16 extension. Jail extensions shall be subject to plans and specifications approval by the  
17 department of corrections and shall conform to other requirements imposed by law on jails,  
18 except that cells may be designed and used for multiple occupancy.

19 **SECTION 15.** Chapter 350 (title) of the statutes is amended to read:

20 **CHAPTER 350**

21 **SNOWMOBILES AND INTOXICATED OPERATION**

22 **OF SPORT RECREATIONAL VEHICLES**

23 **SECTION 16.** Subchapter I (title) of chapter 350 [precedes 350.01] of the statutes is  
24 created to read:





1 for work within the scope of their duties under this section. Each person satisfactorily  
2 completing this program shall receive a snowmobile safety certificate from the department.  
3 The department shall establish by rule an instruction fee for this program. An instructor  
4 conducting a program of instruction under this section shall collect the instruction fee from  
5 each person who receives instruction. The department may determine the portion of this fee,  
6 which may not exceed 50%, that the instructor may retain to defray expenses incurred by the  
7 instructor in conducting the program. The instructor shall remit the remainder of the fee or,  
8 if nothing is retained, the entire fee to the department. A person who is required to hold a valid  
9 snowmobile safety certificate may operate a snowmobile in this state if the person holds a valid  
10 snowmobile safety certificate issued by another state or province of the Dominion of Canada  
11 and if the course content of the program in such other state or province substantially meets that  
12 established by the department under this section.

13 **SECTION 23.** 350.101 to 350.108 of the statutes are repealed.

14 **SECTION 24.** 350.11 (1) of the statutes is amended to read:

15 350.11 (1) (a) Except as provided in par. (b) and subs. (2g), (2m) and (3), any person  
16 who violates any provision of this ~~chapter~~ subchapter shall forfeit not more than \$250.

17 (b) Except as provided in subs. (2g), (2m) and (3), any person who violates any  
18 provision of this ~~chapter~~ subchapter and who, within the last 3 years prior to the conviction  
19 for the current violation, was 2 or more times previously convicted for violating the same  
20 provision of this ~~chapter~~ subchapter shall forfeit not more than \$500.

21 **SECTION 25.** 350.11 (3) of the statutes is repealed and recreated to read:

22 350.11 (3) (a) A person who violates s. 350.17 (2) (a) or (b) may be required to forfeit  
23 not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than  
24 \$100 for the second or subsequent conviction within a year.

1 (b) A person who violates s. 350.17 (2) (c) may be fined not more than \$10,000 or  
2 imprisoned not more than 9 months, or both.

3 (c) 1. Except as provided in subs. 2., 3. or 4., a person who violates s. 350.17 (2) (d)  
4 shall be fined not less than \$600 nor more than \$10,000 and may be imprisoned for not more  
5 than 3 years.

6 2. If the violation results in bodily harm, as defined in s. 939.22 (4), to another, or causes  
7 damage to the property of another, as defined in s. 939.22 (28), the person shall be fined not  
8 less than \$1,000 nor more than \$10,000 and may be imprisoned for not more than 3 years.

9 3. If the violation results in great bodily harm, as defined in s. 939.22 (14), to another,  
10 the person shall be fined not less than \$1,100 nor more than \$10,000 and may be imprisoned  
11 for not more than 3 years.

12 4. If the violation results in the death of another, the person shall be fined not less than  
13 \$1,100 nor more than \$10,000 and may be imprisoned for not more than 7 years and 6 months.

**NOTE:** Current law provides that a snowmobile operator who refuses to stop after being requested or signaled to do so by a law enforcement officer must be fined not less than \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more than one year in the county jail. The violation and penalties are altered as described in SECTION 4 of the draft. See also SECTION 30.

14 **SECTION 26.** 350.115 (1) (a) of the statutes is amended to read:

15 350.115 (1) (a) If a court imposes a forfeiture for a violation of a provision of this ~~chapter~~  
16 subchapter where the payment of a registration fee is required, the court shall impose a  
17 snowmobile registration restitution payment equal to the amount of the fee that was required  
18 and should have been obtained.

19 **SECTION 27.** 350.12 (3) (b) and (4) (a) 4. of the statutes are amended to read:

1           350.12 (3) (b) Any person who is a resident of this state and the owner of a snowmobile  
2 which has a model year of 1966 or earlier may, upon application, register the snowmobile as  
3 an antique snowmobile. Upon payment of a fee of \$20, the applicant shall be furnished a  
4 registration certificate and decals of a distinctive design, in lieu of the design on the decals  
5 issued under par. (d). The design shall show that the snowmobile is an antique. The  
6 registration shall be valid without payment of any additional registration fee while the  
7 snowmobile is owned by the applicant. Unless inconsistent with this paragraph, the provisions  
8 of this ~~chapter~~ subchapter applicable to other snowmobiles shall apply to antique  
9 snowmobiles.

10           (4) (a) 4. An amount necessary to pay the cost of law enforcement aids to counties as  
11 appropriated under s. 20.370 (5) (es). On or before June 1, a county shall file with the  
12 department on forms prescribed by the department a detailed statement of the costs incurred  
13 by the county in the enforcement of this ~~chapter~~ subchapter during the preceding May 1 to  
14 April 30. The department shall audit the statements and determine the county's net costs for  
15 enforcement of this ~~chapter~~ subchapter. The department shall compute the state aids on the  
16 basis of 100% of these net costs and shall pay these aids on or before October 1. If the state  
17 aids payable to counties exceed the moneys available for such purpose, the department shall  
18 prorate the payments.

19           **SECTION 28.** 350.12 (4) (b) 3. of the statutes is amended to read:

20           350.12 (4) (b) 3. Not more than \$30,000 for a route signing program of aids to cities,  
21 villages, towns or counties of up to 100% of the cost of initial signing of snowmobile routes  
22 which connect authorized trails or which offer entrance to or exit from trails leading to such  
23 municipalities. Aid may be provided under this subdivision to cities, villages, towns and  
24 counties for up to 100% of the cost of placing signs developed under s. ~~350.108~~ 350.66 (1)

1 (b) which briefly explain the intoxicated ~~snowmobiling~~ operation of a sport recreational  
2 vehicle law along snowmobile routes. Applications and documentation shall be submitted to  
3 the department by April 15 of each year on forms prescribed by departmental rule.

4 **SECTION 29.** 350.17 (1) of the statutes is amended to read:

5 350.17 (1) Any officer of the state traffic patrol under s. 110.07 (1), inspector under s.  
6 110.07 (3), warden of the department under s. 23.10, county sheriff or municipal peace officer  
7 may enforce the provisions of this ~~chapter~~ subchapter.

8 **SECTION 30.** 350.17 (2) of the statutes is repealed and recreated to read:

9 350.17 (2) No operator of a snowmobile:

10 (a) Shall fail or refuse to comply with any lawful order, signal or direction of a law  
11 enforcement officer.

12 (b) Shall disobey the instructions of any official traffic sign or signal unless otherwise  
13 directed by a law enforcement officer.

14 (c) After having received a visual or audible signal to stop his or her snowmobile from  
15 a law enforcement officer, or marked police vehicle, shall knowingly resist the law  
16 enforcement officer by failing to stop the snowmobile as promptly as safety reasonably  
17 permits.

18 (d) After having received a visual or audible signal from a law enforcement officer, or  
19 marked police vehicle, shall knowingly flee or attempt to elude any law enforcement officer  
20 by willful or wanton disregard of such signal so as to interfere with or endanger the operation  
21 of the police vehicle, or the law enforcement officer or other vehicles or pedestrians, nor shall  
22 the operator increase the speed of the operator's snowmobile or extinguish the lights of the  
23 snowmobile in an attempt to elude or flee.

**NOTE:** See the note to SECTION 4.



1 (5) "Approved public treatment facility" has the meaning given in s. 51.45 (2) (c).

2 (6) "Boat" means every description of watercraft used or capable of being used as a  
3 means of transportation on water, except a seaplane on the water and a fishing raft.

4 (7) "Bodily harm" means physical pain or injury, illness or any impairment of physical  
5 condition.

6 (8) "Commercial motorboat" means a motorboat while it is being operated to transport  
7 property or passengers for hire or while it is being used by its operator or owner to earn a  
8 livelihood or to gain a profit or both.

9 (9) "Controlled substance" has the meaning given in s. 961.01 (4).

10 (10) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

11 (11) "Department" means the department of natural resources.

12 (12) "Drug" has the meaning given in s. 450.01 (10).

13 (13) "Highway" has the meaning given in s. 340.01 (22).

14 (14) "Intoxicant" means any of the following:

15 (a) Alcohol, a controlled substance, a controlled substance analog, any other drug or  
16 a vapor releasing substance.

17 (b) Any combination of alcohol, a controlled substance, a controlled substance analog,  
18 any other drug or a vapor releasing substance.

19 (15) "Intoxicated operation of a sport recreational vehicle law" means s. 350.52 or a  
20 local ordinance in conformity with that section or, if the operation of a sport recreational  
21 vehicle is involved, s. 940.09 or 940.25.

22 (16) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

23 (17) "Motorboat" means any boat equipped with propulsion machinery, whether or not  
24 the machinery is the principal source of propulsion.

1           (18) "Operate" means to exercise physical control over the speed or direction of a sport  
2 recreational vehicle or to physically manipulate or activate any of the controls of a sport  
3 recreational vehicle necessary to put it in motion.

4           (19) "Operation" means the exercise of physical control over the speed or direction of  
5 a sport recreational vehicle or the physical manipulation or activation of any of the controls  
6 of a sport recreational vehicle necessary to put it in motion. "Operation", with respect to a  
7 motorboat, does not include a sailboat operating under sail alone.

8           (20) "Operator" means a person who operates a sport recreational vehicle, who is  
9 responsible for the operation of a sport recreational vehicle or who is supervising the operation  
10 of a sport recreational vehicle.

11           (21) (a) "Prohibited alcohol concentration" means, with respect to convictions under  
12 laws listed in par. (b), one of the following:

13           1. If the person has one or no prior convictions within 10 years prior to the arrest for  
14 the current violation, an alcohol concentration of 0.1 or more.

15           2. If the person has 2 prior convictions within 10 years prior to the arrest for the current  
16 violation, an alcohol concentration of 0.08 or more.

17           3. If the person has 3 or more prior convictions within 10 years prior to the arrest for  
18 the current violation, an alcohol concentration of more than 0.02.

19           (b) The laws referred to in par. (a) are the intoxicated operation of an all-terrain vehicle  
20 law and refusal law as defined in s. 23.33 (1) (ic) and (jm), 1997 stats.; the intoxicated boating  
21 law and refusal law as defined in s. 30.50 (4m) and (9x), 1997 stats.; the intoxicated  
22 snowmobiling law and refusal law as defined in s. 350.01 (9c) and (10r), 1997 stats.; and the  
23 intoxicated operation of a sport recreational vehicle law.

1           (22) "Purpose of authorized analysis" means for the purpose of determining or  
2 obtaining evidence of the presence, quantity or concentration of any intoxicant in a person's  
3 blood, breath or urine.

4           (23) "Refusal law" means s. 350.58 (5) or a local ordinance in conformity with that  
5 section.

6           (24) "Sport recreational vehicle" means an all-terrain vehicle, a motorboat or a  
7 snowmobile.

8           (25) "Snowmobile" has the meaning given in s. 340.01 (58a).

9           (26) "Snowmobile trail" means a marked corridor on public property or on private lands  
10 subject to public easement or lease, designated for use by snowmobile operators by the  
11 governmental agency having jurisdiction, but excluding highways except those highways on  
12 which the roadway is not normally maintained for other vehicular traffic by the removal of  
13 snow.

14           (27) "Test facility" means a test facility or agency prepared to administer tests under  
15 s. 343.305 (2).

16           (28) "Under the influence of an intoxicant" means a condition in which a person's  
17 ability to operate a sport recreational vehicle, because of the consumption of an intoxicant, is  
18 impaired to the extent that the person is less able to exercise the clear judgment and steady hand  
19 necessary to handle and control a sport recreational vehicle.

20           (29) "Waters of this state" means any waters within the territorial limits of this state,  
21 including the Wisconsin portion of boundary waters.

**NOTE:** This section restates definitions from ss. 23.33 (1), 30.50 and 350.01, stats. For purposes of consolidated treatment, the term "sport recreational vehicle" is created to mean an all-terrain vehicle, a motorboat or a snowmobile. See, also, with respect to the definition of



the term "prohibited alcohol concentration", the note following s. 350.52.

Also, this section creates a definition for the term "under the influence of an intoxicant". The term is defined to mean a condition in which a person's ability to operate a sport recreational vehicle, because of the consumption of an intoxicant, is impaired to the extent that the person is less able to exercise the clear judgment and steady hand necessary to handle and control a sport recreational vehicle. This definition codifies language contained in Wisconsin criminal jury instructions, s. 2663, with respect to a person operating a motor vehicle while under the influence of an intoxicant. The new standard replaces the phrase "incapable of safe operation" that currently applies to all-terrain vehicles, motorboats and snowmobiles. In addition, the draft adds to the definition of the term "intoxicant" by including the term "a vapor releasing substance".

1           **350.52 Intoxicated operation of a sport recreational vehicle. (1) OPERATION. (a)**

2           *Operating while under the influence of an intoxicant.* No person may operate a sport  
3 recreational vehicle while under the influence of an intoxicant.

4           (b) *Operating with alcohol concentrations at or above specified levels.* 1. No person  
5 may operate a sport recreational vehicle while the person has a prohibited alcohol  
6 concentration. This subdivision does not apply to commercial motorboats.

7           2. No person may operate a commercial motorboat while the person has an alcohol  
8 concentration of 0.04 or more.

9           (c) *Operating with alcohol concentrations at specified levels; below age 21.* If a person  
10 has not attained the age of 21, the person may not operate a sport recreational vehicle while  
11 he or she has an alcohol concentration of more than 0.0 but not more than 0.1.

12           (d) *Related charges.* A person may be charged with and a prosecutor may proceed upon  
13 a complaint based upon a violation of par. (a) or (b) or both for acts arising out of the same  
14 incident or occurrence. If the person is charged with violating both pars. (a) and (b), the  
15 offenses shall be joined. If the person is found guilty of both pars. (a) and (b) for acts arising  
16 out of the same incident or occurrence, there shall be a single conviction for purposes of

1 sentencing and for purposes of counting convictions under s. 350.68 (1) (b) to (e). Paragraphs  
2 (a) and (b) each require proof of a fact for conviction which the other does not require.

3 (2) CAUSING BODILY HARM. (a) *Causing bodily harm while under the influence of an*  
4 *intoxicant.* No person while under the influence of an intoxicant may cause bodily harm to  
5 another person by the operation of a sport recreational vehicle.

6 (b) *Causing bodily harm with alcohol concentrations at or above specified levels.* 1.  
7 No person who has a prohibited alcohol concentration may cause bodily harm to another  
8 person by the operation of a sport recreational vehicle. This subdivision does not apply to  
9 commercial motorboats.

10 2. No person who has an alcohol concentration of 0.04 or more may cause bodily harm  
11 to another person by the operation of a commercial motorboat.

12 (c) *Related charges.* A person may be charged with and a prosecutor may proceed upon  
13 a complaint based upon a violation of par. (a) or (b) or both for acts arising out of the same  
14 incident or occurrence. If the person is charged with violating both pars. (a) and (b) in the  
15 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty of both pars.  
16 (a) and (b) for acts arising out of the same incident or occurrence, there shall be a single  
17 conviction for purposes of sentencing and for purposes of counting convictions under s.  
18 350.68 (1) (b) to (e). Paragraphs (a) and (b) each require proof of a fact for conviction which  
19 the other does not require.

20 (d) *Defenses.* 1. Except as provided in subd. 2., in an action under this subsection, the  
21 defendant has a defense if he or she proves by a preponderance of the evidence that the bodily  
22 harm would have occurred even if he or she had been exercising due care and he or she had  
23 not been under the influence of an intoxicant or did not have a prohibited alcohol  
24 concentration.

1           2. In an action under this subsection for a violation of the intoxicated operation of a sport  
2 recreational vehicle law where the defendant was operating a commercial motorboat, the  
3 defendant has a defense if he or she proves by a preponderance of the evidence that the bodily  
4 harm would have occurred even if he or she had been exercising due care and he or she had  
5 not been under the influence of an intoxicant or did not have an alcohol concentration of 0.04  
6 or more.

**NOTE:** This SECTION restates ss. 23.33 (4c), 30.681 and 350.101, stats., with the following exceptions:

1. Under current law, a person under the age of 19 may not operate an all-terrain vehicle or a snowmobile if the person has alcohol in his or her system. Also, under current law, a person under the age of 21 may not operate a motorboat if the person has alcohol in his or her system. This bill draft uniformly provides that persons under the age of 21 must maintain absolute sobriety when operating any type of sport recreational vehicle.

2. Current law generally provides that a person may not operate a sport recreational vehicle, or cause injury to another by operation of a sport recreational vehicle, when the person has an alcohol concentration of 0.1 or more. This bill draft makes use of the definition of the term "prohibited alcohol concentration" as used in the motor vehicle code. Thus, in general, no person may operate a sport recreational vehicle, or cause injury to another person by operation of a sport recreational vehicle, with alcohol concentrations listed below:

a. If the person has one or no prior convictions within 10 years prior to the arrest for the current violation, an alcohol concentration of 0.1 or more.

b. If the person has 2 prior convictions within 10 years prior to the arrest for the current violation, an alcohol concentration of 0.08 or more.

c. If the person has 3 or more prior convictions within 10 years prior to the arrest for the current violation, an alcohol concentration of more than 0.02.

3. Instead of using the term "injury", this draft refers to "bodily harm". The term "bodily harm" is defined in s. 350.50 (7) to mean physical pain or injury, illness or any impairment of physical condition. The definition is adopted from s. 939.22 (4), stats.

1           **350.54 Preliminary breath screening test. (1) REQUIREMENT.** A person shall provide  
2 a sample of his or her breath for a preliminary breath screening test if a law enforcement officer  
3 has reasonable suspicion that the person is violating or has violated the intoxicated operation  
4 of a sport recreational vehicle law and if, prior to an arrest, the law enforcement officer  
5 requested the person to provide this sample.

6           **(2) USE OF TEST RESULTS.** A law enforcement officer may use the results of a preliminary  
7 breath screening test for the purpose of deciding whether or not to arrest a person for a  
8 violation of the intoxicated operation of a sport recreational vehicle law or for the purpose of  
9 deciding whether or not to request a chemical test under s. 350.60. Following the preliminary  
10 breath screening test, chemical tests may be required of the person under s. 350.60.

11           **(3) ADMISSIBILITY.** The result of a preliminary breath screening test is not admissible  
12 in any action or proceeding except to show probable cause for an arrest, if the arrest is  
13 challenged, the presence of an intoxicant in a person or to show that a chemical test was  
14 properly required of a person under s. 350.60.

15           **(4) REFUSAL.** There is no penalty for a violation of sub. (1). The general penalty  
16 provision under s. 939.61 does not apply to that violation.

**NOTE:** This section restates ss. 23.33 (4g), 30.682 and 350.102, stats., except that in sub. (1) a law enforcement officer may require a preliminary breath screening test if there is a reasonable suspicion, rather than probable cause to believe, that a violation has occurred. This change codifies the decision of the Wisconsin Supreme Court in *County of Jefferson v. Renz*, 231 Wis. 2d 293 (1999).

In addition, current law provides that a preliminary breath screening test is not admissible in any action or proceeding except to show probable cause for an arrest, if the arrest is challenged, or to prove that a chemical test was properly required or requested. This SECTION provides that the result of the preliminary breath screening test also may be used as evidence of the presence of an intoxicant in a person.

1           **350.56 Application of intoxicated operation of a sport recreational vehicle law. (1)**

2           **MOTORBOATS.** The intoxicated operation of a sport recreational vehicle law is applicable to  
3 the operation of a motorboat upon the waters of this state.

4           **(2) ALL-TERRAIN VEHICLES AND SNOWMOBILES.** Except as provided in this subsection,  
5 the intoxicated operation of a sport recreational vehicle law is applicable to the operation of  
6 an all-terrain vehicle and a snowmobile upon frozen water and upon all property, whether the  
7 property is publicly or privately owned and whether or not a fee is charged for the use of that  
8 property. The intoxicated operation of a sport recreational vehicle law does not apply to the  
9 operation of an all-terrain vehicle or a snowmobile on private land not designated as an  
10 all-terrain vehicle trail or a snowmobile trail unless an accident involving personal injury  
11 occurs as the result of the operation of an all-terrain vehicle or a snowmobile or the all-terrain  
12 vehicle or the snowmobile was operated on the private land without the consent of the owner  
13 of that land.

**NOTE:** Current law provides that the intoxicated operation of an all-terrain vehicle law is applicable upon all premises held out to the public for use of their all-terrain vehicles, whether the premises are publicly or privately owned and whether or not a fee is charged for use of the premises. The law also provides that the intoxicated snowmobiling law applies to all property, whether the property is publicly or privately owned and whether or not a fee is charged for the use of that property. However, the snowmobiling law does not apply to the operation of a snowmobile on private land not designated as a snowmobile trail unless an accident involving personal injury occurs *and* the snowmobile was operated on the private land without the owner's consent.

The draft makes the following changes:

1. The draft specifically incorporates the phrase "upon the waters of this state" from s. 30.683, stats., for the purpose of stating the place of application of the intoxicated operation of a sport recreational vehicle law to motorboats.

2. The provisions describing the applicability of the intoxicated operation of a sport recreational vehicle law are combined with respect to all-terrain vehicles and snowmobiles. The law will be applicable upon frozen water and upon all property, whether the property is publicly or privately owned and whether or not a fee is charged for the use of that property. The factual question of whether property is held out to the public for use of an all-terrain vehicle is eliminated. The law will not apply to the operation of an all-terrain vehicle or a snowmobile on private land not designated as an all-terrain vehicle trail or as a snowmobile trail unless an accident involving personal injury occurs as the result of the operation of the all-terrain vehicle or snowmobile *or* the all-terrain vehicle or the snowmobile was operated on the private land without the consent of the owner of that land.

1           **350.58 Implied consent.** A person who engages in the operation of a sport recreational  
2 vehicle in or on those areas enumerated in s. 350.56, is deemed to have given consent to  
3 provide one or more samples of his or her breath, blood or urine for the purpose of authorized  
4 analysis as required under s. 350.60. A person who engages in the operation of a sport  
5 recreational vehicle within this state is deemed to have given consent to submit to one or more  
6 chemical tests of his or her breath, blood or urine for the purpose of authorized analysis as  
7 required under s. 350.60.

NOTE: This section restates ss. 23.33 (4L), 30.683 and 350.103, stats.

8           **350.60 Chemical tests. (1) REQUIREMENT. (a) *Samples; submission to tests.*** A person  
9 shall provide one or more samples of his or her breath, blood or urine for the purpose of  
10 authorized analysis if he or she is arrested for a violation of the intoxicated operation of a sport  
11 recreational vehicle law and if he or she is requested to provide the sample by a law  
12 enforcement officer. A person shall submit to one or more chemical tests of his or her breath,  
13 blood or urine for the purpose of authorized analysis if he or she is arrested for a violation of  
14 the intoxicated operation of a sport recreational vehicle law and if he or she is requested to  
15 submit to the test by a law enforcement officer.

1           (b) *Information.* A law enforcement officer requesting a person to provide a sample  
2 or to submit to a chemical test under par. (a) shall inform the person of all of the following at  
3 the time of the request and prior to obtaining the sample or administering the test:

4           “You have either been arrested for an offense that involves driving or operating a sport  
5 recreational vehicle while under the influence of an intoxicant.

6           This law enforcement agency now wants to test one or more samples of your breath,  
7 blood or urine to determine the concentration of an intoxicant in your system. If any test shows  
8 more alcohol in your system than the law permits while operating, your operating privilege  
9 will be suspended. If you refuse to take any test that this agency requests, your operating  
10 privilege will be revoked and you will be subject to other penalties. The test results or the fact  
11 that you refused testing can be used against you in court. The law does not provide you with  
12 a right to contact an attorney before submitting to a chemical test.

13           If you take all the requested tests, you may choose to take further tests. You may take  
14 the alternative test that this law enforcement agency provides free of charge. You also may  
15 have a test conducted by a qualified person of your choice at your expense. You, however,  
16 will have to make your own arrangements for that test.”

17           (c) *Unconscious person.* A person who is unconscious or otherwise not capable of  
18 withdrawing consent is presumed not to have withdrawn consent under this subsection, and  
19 if a law enforcement officer has probable cause to believe that the person violated the  
20 intoxicated operation of a sport recreational vehicle law, one or more chemical tests may be  
21 administered to the person without a request under par. (a) and without providing information  
22 under par. (b).

23           (2) **CHEMICAL TESTS.** (a) *Test facility.* Upon the request of a law enforcement officer,  
24 a test facility shall administer a chemical test of breath, blood or urine for the purpose of

1 authorized analysis. A test facility shall be prepared to administer 2 of the 3 chemical tests  
2 of breath, blood or urine for the purpose of authorized analysis. The department may enter  
3 into agreements for the cooperative use of test facilities.

4 (b) *Designated chemical test.* A test facility shall designate one chemical test of breath,  
5 blood or urine which it is prepared to administer first for the purpose of authorized analysis.

6 (c) *Additional chemical test.* A test facility shall specify one chemical test of breath,  
7 blood or urine, other than the test designated under par. (b), which it is prepared to administer  
8 for the purpose of authorized analysis as an additional chemical test.

9 (d) *Validity; procedure.* A chemical test of blood or urine conducted for the purpose  
10 of authorized analysis is valid as provided under s. 343.305 (6). The duties and responsibilities  
11 of the laboratory of hygiene, department of health and family services and department of  
12 transportation under s. 343.305 (6) apply to a chemical test of blood or urine conducted for  
13 the purpose of authorized analysis under this section. Blood may be withdrawn from a person  
14 arrested for a violation of the intoxicated operation of a sport recreational vehicle law only by  
15 a physician, registered nurse, medical technologist, physician assistant or person acting under  
16 the direction of a physician and the person who withdraws the blood, the employer of that  
17 person and any hospital where blood is withdrawn have immunity from civil or criminal  
18 liability as provided under s. 895.53

19 (e) *Report.* A test facility that administers a chemical test of breath, blood or urine for  
20 the purpose of authorized analysis under this section shall prepare a written report which shall  
21 include the findings of the chemical test, the identification of the law enforcement officer or  
22 the person who requested a chemical test and the identification of the person who provided  
23 the sample or submitted to the chemical test. The test facility shall transmit a copy of the report



1 to the law enforcement officer and the person who provided the sample or submitted to the  
2 chemical test.

3 (3) ADDITIONAL AND OPTIONAL CHEMICAL TESTS. (a) *Additional chemical test.* If a person  
4 is arrested for a violation of the intoxicated operation of a sport recreational vehicle law or is  
5 the operator of a sport recreational vehicle involved in an accident resulting in great bodily  
6 harm to or the death of someone and if the person is requested to provide a sample or to submit  
7 to a test under sub. (1) (a), the person may request the test facility to administer the additional  
8 chemical test specified under sub. (2) (c) or, at his or her own expense, reasonable opportunity  
9 to have any qualified person administer a chemical test of his or her breath, blood or urine for  
10 the purpose of authorized analysis.

11 (b) *Optional test.* If a person is arrested for a violation of the intoxicated operation of  
12 a sport recreational vehicle law and if the person is not requested to provide a sample or to  
13 submit to a test under sub. (1) (a), the person may request the test facility to administer a  
14 chemical test of his or her breath or, at his or her own expense, reasonable opportunity to have  
15 any qualified person administer a chemical test of his or her breath, blood or urine for the  
16 purpose of authorized analysis. If a test facility is unable to perform a chemical test of breath,  
17 the person may request the test facility to administer the designated chemical test under sub.  
18 (2) (b) or the additional chemical test under sub. (2) (c).

19 (c) *Compliance with request.* A test facility shall comply with a request under this  
20 subsection to administer any chemical test it is able to perform.

21 (d) *Inability to obtain chemical test.* The failure or inability of a person to obtain a  
22 chemical test at his or her own expense does not preclude the admission of evidence of the  
23 results of a chemical test required and administered under subs. (1) and (2).

1           (4) **ADMISSIBILITY; EFFECT OF TEST RESULTS; OTHER EVIDENCE.** The results of a chemical  
2 test required or administered under sub. (1), (2) or (3) are admissible in any civil or criminal  
3 action or proceeding arising out of the acts committed by a person alleged to have violated the  
4 intoxicated operation of a sport recreational vehicle law on the issue of whether the person was  
5 under the influence of an intoxicant or the issue of whether the person had alcohol  
6 concentrations at or above specified levels. Results of these chemical tests shall be given the  
7 effect required under s. 885.235. This section does not limit the right of a law enforcement  
8 officer to obtain evidence by any other lawful means.

9           (5) **REFUSAL.** No person may refuse a lawful request to provide one or more samples  
10 of his or her breath, blood or urine or to submit to one or more chemical tests under sub. (1).  
11 A person shall not be deemed to refuse to provide a sample or to submit to a chemical test if  
12 it is shown by a preponderance of the evidence that the refusal was due to a physical inability  
13 to provide the sample or to submit to the test due to a physical disability or disease unrelated  
14 to the use of an intoxicant. Issues in any action for which the penalties under s. 350.74 (1) may  
15 be imposed for a violation of sub. (1) or this subsection are limited to:

16           (a) Whether the law enforcement officer had probable cause to believe the person was  
17 violating or had violated the intoxicated operation of a sport recreational vehicle law.

18           (b) Whether the person was lawfully placed under arrest for violating the intoxicated  
19 operation of a sport recreational vehicle law.

20           (c) Whether the law enforcement officer requested the person to provide a sample or  
21 to submit to a chemical test and provided the information required under sub. (1) (b) or  
22 whether the request and information was unnecessary under sub. (1) (c).

23           (d) Whether the person refused to provide a sample or to submit to a chemical test.

1           **(6) ISSUES RAISED BY MOTION.** An issue raised under sub. (5) (a) or (b) shall be raised  
2 by the defendant as a motion before trial contesting the validity of the arrest in the same  
3 manner as motions in misdemeanor actions filed under s. 971.31.

**NOTE:** This section restates ss. 23.33 (4p), 30.684 and 350.104, stats.  
          Subsection (6) is added to clarify that issues surrounding the lawful  
          arrest of a person are matters to be determined by the court and not a  
          jury.

4           **350.62 Report arrest to department.** If a law enforcement officer arrests a person for  
5 a violation of the intoxicated operation of a sport recreational vehicle law or the refusal law,  
6 the law enforcement officer shall notify the department of the arrest as soon as practicable.

**NOTE:** This section restates ss. 23.33 (4t), 30.686 and 350.106, stats.

7           **350.64 Officer's action after arrest for operating a sport recreational vehicle while**  
8 **under influence of intoxicant.** A person arrested for a violation of s. 350.52 (1) (a) or (b)  
9 or a local ordinance in conformity with those paragraphs or s. 350.52 (2) (a) or (b) may not  
10 be released until 12 hours have elapsed from the time of his or her arrest or unless a chemical  
11 test administered under s. 350.60 (1) (a) shows that the person has an alcohol concentration  
12 of less than 0.02, but the person may be released to his or her attorney, spouse, relative or other  
13 responsible adult at any time after arrest.

**NOTE:** This section restates ss. 23.33 (4x), 30.687 and 350.107, stats.,  
          except that the alcohol concentration level that will authorize immediate  
          release after arrest is reduced from the current level of 0.05 or less to less  
          than 0.02.

14           **350.66 Public education program.** (1) The department shall promulgate rules to  
15 provide for a public education program to:

16           (a) Inform sport recreational vehicle operators of the prohibitions and penalties  
17 included in the intoxicated operation of a sport recreational vehicle law. The snowmobile  
18 recreational council may assist the department in developing the public education program.

1 (b) Provide for the development of signs briefly explaining the intoxicated operation  
2 of a sport recreational vehicle law.

3 (2) The department shall develop and issue an educational pamphlet on the intoxicated  
4 operation of a sport recreational vehicle law to be distributed to persons issued registration  
5 certificates or cards under s. 23.33 (2) or (2g), 30.52 (5) (b), 350.12 or 350.122.

NOTE: This section restates ss. 23.33 (4z) and 350.108, stats. A similar provision is not found in ch. 30, stats., relating to motorboats; however, s. 30.74 (1), stats., requires the department of natural resources (DNR) to create comprehensive courses on boating safety and operation. The bill draft additionally requires DNR to distribute to a motorboat registrant an educational pamphlet on the intoxicated operation of a sport recreational vehicle law.

6 **350.68 Enforcement.** (1) A law enforcement officer may enforce the provisions of  
7 this subchapter.

8 (2) No operator of a sport recreational vehicle:

9 (a) Shall fail or refuse to comply with any unlawful order, signal or direction of a law  
10 enforcement officer.

11 (b) Shall disobey the instructions of any official traffic sign or signal unless otherwise  
12 directed by a law enforcement officer.

13 (c) After having received a visual or audible signal to stop his or her sport recreational  
14 vehicle from a law enforcement officer, or marked police vehicle, shall knowingly resist the  
15 law enforcement officer by failing to stop the sport recreational vehicle as promptly as safety  
16 reasonably permits.

17 (d) After having received a visual or audible signal from a law enforcement officer, or  
18 marked police vehicle, shall knowingly flee or attempt to elude any law enforcement officer  
19 by willful or wanton disregard of such signal so as to interfere with or endanger the operation  
20 of the police vehicle, or the law enforcement officer or other vehicles or individuals, nor shall

1 the operator increase the speed of the operator's sport recreational vehicle or extinguish the  
2 lights of the sport recreational vehicle in an attempt to elude or flee.

3 (3) Notwithstanding subs. (1) and (2), no law enforcement officer may stop a  
4 snowmobile operator for a violation of a statutory provision under this chapter or a rule  
5 promulgated or an ordinance adopted under this subchapter unless the law enforcement officer  
6 has reasonable cause to believe the operator has committed the violation.

NOTE: This section is derived from ss. 23.33 (12), 30.64 (3) and 350.17, stats., except that the provision explicitly provides that a law enforcement officer may enforce the provisions of subch. II of ch. 350, stats. The current list of individuals who may enforce the law is included in the defined term "law enforcement officer" in s. 350.50 (14). See, also, the note to SECTION 4 and see s. 350.74 (4) with respect to the issue of refusing to stop after being requested or signaled to do so by a law enforcement officer.

7 **350.70 Liability of landowners.** Section 895.52 applies to this subchapter.

NOTE: This section restates ss. 23.33 (10) and 350.19, stats.

8 **350.72 Local ordinances.** A county, town, city or village may enact an ordinance, for  
9 which a forfeiture is imposed, in strict conformity with this subchapter.

NOTE: This section restates portions of ss. 23.33 (11) (am), 30.77 (2) and 350.18 (2), stats.

10 **350.74 Penalties.** (1) PENALTIES RELATED TO PROHIBITED OPERATION OF A SPORT  
11 RECREATIONAL VEHICLE; INTOXICANTS; REFUSAL. (a) Except as provided under pars. (b) to (f),  
12 a person who violates s. 350.52 (1) (a) or (b) or the refusal law shall forfeit not less than \$150  
13 nor more than \$300 and shall have his or her privilege to operate a sport recreational vehicle  
14 revoked for one year.

15 (b) Except as provided in par. (f), a person who violates s. 350.52 (1) (a) or (b) and who,  
16 within 10 years prior to the arrest for the current violation, was convicted previously under  
17 the intoxicated operation of a sport recreational vehicle law or the refusal law shall be fined

1 not less than \$300 nor more than \$1,100 and shall be imprisoned not less than 5 days nor more  
2 than 6 months and shall have his or her privilege to operate a sport recreational vehicle revoked  
3 for 2 years.

4 (c) Except as provided in pars. (f) and (g), a person who violates s. 350.52 (1) (a) or (b)  
5 and who, within 10 years prior to the arrest for the current violation, was convicted 2 times  
6 previously under the intoxicated operation of a sport recreational vehicle law or the refusal  
7 law shall be fined not less than \$600 nor more than \$2,000 and shall be imprisoned not less  
8 than 30 days nor more than one year in the county jail and shall have his or her privilege to  
9 operate a sport recreational vehicle revoked for 3 years.

10 (d) Except as provided in pars. (f) and (g), a person who violates s. 350.52 (1) (a) or (b)  
11 and who, within 10 years prior to the arrest for the current violation, was convicted 3 times  
12 previously under the intoxicated operation of a sport recreational vehicle law or the refusal  
13 law shall be fined not less than \$600 nor more than \$2,000 and shall be imprisoned for not less  
14 than 60 days nor more than one year in the county jail and shall have his or her privilege to  
15 operate a sport recreational vehicle revoked for 4 years.

16 (e) Except as provided in pars. (f) and (g), a person who violates s. 350.52 (1) (a) or (b)  
17 and who, within 10 years prior to the arrest for the current violation, was convicted 4 or more  
18 times previously under the intoxicated operation of a sport recreational vehicle law or the  
19 refusal law shall be fined not less than \$600 nor more than \$2,000 and shall be imprisoned for  
20 not less than 6 months nor more than 7 years and 6 months and shall have his or her privilege  
21 to operate a sport recreational vehicle revoked for 5 years.

22 (f) If there was a minor passenger under 16 years of age in or on the vehicle at the time  
23 of the violation that gave rise to the conviction under s. 350.52 (1) (a) or (b), the applicable  
24 minimum and maximum forfeitures, fines or imprisonment under par. (a), (b), (c), (d) or (e)

1 for the conviction are doubled. An offense under s. 350.52 (1) (a) or (b) that subjects a person  
2 to a penalty under par. (c), (d) or (e) when there is a minor passenger under 16 years of age  
3 in the sport recreational vehicle is a felony and the place of imprisonment shall be determined  
4 under s. 973.02.

5 (g) 1. If a person convicted under s. 350.52 (1) (a) or (b) had an alcohol concentration  
6 of 0.17 to 0.199, the applicable minimum and maximum fines under pars. (c) to (e) are  
7 doubled.

8 2. If a person convicted under s. 350.52 (1) (a) or (b) had an alcohol concentration of  
9 0.20 to 0.249, the applicable minimum and maximum fines under pars. (c) to (e) are tripled.

10 3. If a person convicted under s. 350.52 (1) (a) or (b) had an alcohol concentration of  
11 0.25 or above, the applicable minimum and maximum fines under pars. (c) to (e) are  
12 quadrupled.

13 4. The increased fines provided in this paragraph may not be applied if a person  
14 convicted under s. 350.52 (1) (a) is subject to par. (f).

15 (h) A person who violates s. 350.52 (1) (c) or a local ordinance in conformity with s.  
16 350.52 (1) (c) shall forfeit not more than \$50.

17 (2) OPERATION DURING REVOCATION. No person whose operating privilege has been  
18 revoked under sub. (1) (a) to (f) may operate a sport recreational vehicle during the period of  
19 revocation. Any person who violates this paragraph shall be fined not more than \$2,500 and  
20 imprisoned for not more than one year in the county jail.

21 (3) CAUSING BODILY HARM OR PROPERTY DAMAGE; INTOXICANTS. A person who violates  
22 s. 350.52 (2) by causing bodily harm shall be fined not less than \$300 nor more than \$2,000  
23 and may be imprisoned not less than 30 days nor more than one year in the county jail.

1           (4) PROPERTY DAMAGE. When sentencing a person convicted for a violation of s. 350.52  
2 (1) or (2), a court may order the payment of restitution, using the applicable procedures under  
3 s. 800.093 or 973.20 for property damage caused by the person in the incident that resulted  
4 in the conviction.

5           (5) PENALTIES FOR REFUSAL TO OBEY LAW ENFORCEMENT OFFICERS, SIGNS AND SIGNALS.

6 (a) A person who violates s. 350.68 (2) (a) or (b) may be required to forfeit not less than \$20  
7 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the second  
8 or subsequent conviction within a year.

9 (b) A person who violates s. 350.68 (2) (c) may be fined not more than \$10,000 or  
10 imprisoned not more than 9 months, or both.

11 (c) 1. Except as provided in subds. 2., 3. or 4., a person who violates s. 350.68 (3) (d)  
12 shall be fined not less than \$600 nor more than \$10,000 and may be imprisoned for not more  
13 than 3 years.

14 2. If the violation results in bodily harm, as defined in s. 939.22 (4), to another, or causes  
15 damage to the property of another, as defined in s. 939.22 (28), the person shall be fined not  
16 less than \$1,000 nor more than \$10,000 and may be imprisoned for not more than 3 years.

17 3. If the violation results in great bodily harm, as defined in s. 939.22 (14), to another,  
18 the person shall be fined not less than \$1,100 nor more than \$10,000 and may be imprisoned  
19 for not more than 3 years.

20 4. If the violation results in the death of another, the person shall be fined not less than  
21 \$1,100 nor more than \$10,000 and may be imprisoned for not more than 7 years and 6 months.

22 (6) SENTENCE OF DETENTION. The legislature intends that courts use the sentencing  
23 option under s. 973.03 (4) whenever appropriate for persons subject to par. (a) 2. or 3. or (b).  
24 The use of this option can result in significant cost savings for the state and local governments.



1           (7) CALCULATION OF PREVIOUS CONVICTIONS. In determining the number of previous  
2 convictions under sub. (1) (b) to (e), convictions arising out of the same incident or occurrence  
3 shall be counted as one previous conviction.

4           (8) REPORTING CONVICTIONS TO THE DEPARTMENT. Whenever a person is convicted of a  
5 violation of the intoxicated operation of a sport recreational vehicle law, the clerk of the court  
6 in which the conviction occurred, or the justice, judge or magistrate of a court not having a  
7 clerk, shall forward to the department the record of such conviction. The record of conviction  
8 shall state whether the offender was involved in an accident at the time of the offense.

9           (9) ALCOHOL, CONTROLLED SUBSTANCES OR CONTROLLED SUBSTANCE ANALOGS;  
10 ASSESSMENT. In addition to any other penalty or order, a person who violates s. 350.52 (1) or  
11 (2) or 350.60 (5) or who violates s. 940.09 or 940.25 if the violation involves the operation  
12 of a sport recreational vehicle, shall be ordered by the court to submit to and comply with an  
13 assessment by an approved public treatment facility for an examination of the person's use of  
14 alcohol, controlled substances or controlled substance analogs. The assessment order shall  
15 comply with s. 343.30 (1q) (c) 1. a. to c. Intentional failure to comply with an assessment  
16 ordered under this paragraph constitutes contempt of court, punishable under ch. 785.

17           (10) CERTIFICATE OF SATISFACTORY COMPLETION OF SAFETY COURSE. In addition to any  
18 other penalty or order, a person who violates s. 350.52 (1) or (2) or 350.60 (5) or who violates  
19 s. 940.09 or 940.25, and the violation involves the operation of a motorboat, shall be ordered  
20 by the court to obtain a certificate of satisfactory completion of a safety course under s. 30.74  
21 (1). If the person has a valid certificate at the time that the court imposes sentence, the court  
22 shall permanently revoke the certificate and order the person to obtain a certificate of  
23 satisfactory completion of a safety course under s. 30.74 (1).

1           **(11) RESTORATION OR REPLACEMENT OF SIGNS AND STANDARDS.** In addition to any other  
2 penalty, a court may order a defendant to restore or replace any uniform all-terrain vehicle or  
3 snowmobile route or trail sign or standard that the defendant removed, damaged, defaced,  
4 moved or obstructed.

**NOTE:** This section, in most respects, restates ss. 23.33 (13) (b) to (f), 30.80 (6) and 350.11 (3) and (4), stats. The following differences between the draft and current law are noted:

1. Under current law, a conviction for the intoxicated use of one vehicle is not counted as a prior conviction when considering the application of repeat offender penalties to a person convicted of the intoxicated use of a different type of vehicle. The bill draft consolidates the statutory intoxicated use provisions for all-terrain vehicles, motorboats and snowmobiles and, therefore, a conviction for the intoxicated use of one vehicle will count as a prior conviction when repeat offender penalties are applied to a person convicted of the intoxicated use of another type of vehicle.

2. The definition of the term "intoxicated operation of an all-terrain vehicle law" includes a local ordinance in conformity with the provisions prohibiting intoxicated operation and the causing of injury while under the influence of an intoxicant. The definitions of the similar terms relating to motorboats and snowmobiles do not include a local ordinance in conformity with the prohibition against causing injury. The bill draft follows the format of the current statutory definition of "intoxicated operation of an all-terrain vehicle law" by including a local ordinance in conformity with the prohibitions against both intoxicated operation and the causing of injury. Under proposed s. 350.72, a county, town, city or village may enact an ordinance, for which a forfeiture may be imposed, in strict conformity with subch. II of ch. 350. The effect of this definitional format is that if a person is found guilty of causing injury by intoxicated use under a local ordinance, that conviction will count as a repeat offense for purposes of determining the penalty imposed on a repeat offender.

3. Under current law, a person who illegally operates an all-terrain vehicle or snowmobile while intoxicated, contrary to statutory provisions, will be subject to a range of penalties. The intoxicated boating law provides that a similar range of penalties will be applicable to a person who violates either the statutory provisions regarding intoxicated operation or a local ordinance in conformity with statutory

provisions. The bill draft applies the all-terrain vehicle and snowmobile provisions to all sport recreational vehicles.

4. Under current law, a first offense while operating an all-terrain vehicle or a motorboat will result in a forfeiture of not less than \$150 nor more than \$300. However, current law provides that a first offense involving the intoxicated operation of a snowmobile will result in a forfeiture of not less than \$400 nor more than \$550. The bill draft applies the former penalty to all sport recreational vehicles, consistent with provisions applicable to motor vehicles under s. 346.65 (2) (a), stats. In addition, the draft incorporates provisions from 1999 senate bill 485 providing that a violator will have his or her operating privilege revoked for a period of one to 5 years depending on the repeater status of the violator. Operation during revocation will result in a fine of not more than \$2,500 and imprisonment for not more than one year. Along with this change, current law is amended to provide that a violation of the refusal law will result in the application of a civil penalty, but not the application of a criminal penalty.

5. Under current law, with respect to all-terrain vehicles and snowmobiles, a second offense within 5 years and third or subsequent offenses within 5 years will result in additional penalties. However, the intoxicated boating law adds 2 additional categories of increased penalties for a person who has been convicted 4 times within 5 years or 5 or more times within 5 years. The bill draft applies the intoxicated boating law provisions to all sport recreational vehicles and increases the maximum period of imprisonment to a period of 7 years and 6 months in accordance with similar provisions in 1997 Wisconsin Act 283. In addition, the 5-year look-back period in current law is increased to 10 years for the purpose of reviewing prior convictions. However, the increased look-back period will be phased in so that convictions occurring prior to January 1, 1997 will not be counted. See SECTION 26 of the bill draft relating to the initial applicability of the provisions of the bill.

6. This bill draft authorizes a court to use statutory restitution procedures to impose a restitution requirement upon a person who causes property damage due to the intoxicated operation of a sport recreational vehicle. Section 973.20, stats., currently may be used for this purpose with respect to ss. 940.09 and 940.25 regarding homicide or injury by intoxicated use of a vehicle.

7. The bill draft incorporates statutory provisions applicable to the operation of a motor vehicle under s. 346.65 (1) (f) and (g), stats., to the operation of sport recreational vehicles. First, if a minor passenger under 16 years of age is in or on a vehicle at the time of a violation, the

applicable minimum and maximum forfeitures, fines or imprisonment for the convictions are doubled. Second, the applicable minimum and maximum fines will be doubled, tripled or quadrupled if the operator of the sport recreational vehicle had an alcohol concentration of 0.17 to 0.199, 0.20 to 0.249, or 0.25 or above, respectively. This bill draft clarifies that the increased fines for increasing alcohol concentration may not be applied if the penalty relating to a minor passenger under the age of 16 years is applicable to the offense.

8. See the note to SECTION 4 of the draft for a description of the penalties applicable to an operator of a sport recreational vehicle who refuses to obey law enforcement officers, signs and signals.

9. Under current law, a conviction relating to the use of an all-terrain vehicle or a snowmobile must be reported to DNR. The bill draft applies this requirement to a conviction relating to the use of a motorboat.

1       **SECTION 35.** 350.76 of the statutes is created to read:

2       **350.76 Operator improvement surcharge.** (1) If a court imposes a fine or a forfeiture  
3 for a violation of the intoxicated operation of a sport recreational vehicle law, it shall impose  
4 an operator improvement surcharge in an amount of \$345 in addition to the fine or forfeiture,  
5 penalty assessment, jail assessment and crime laboratories and drug law enforcement  
6 assessment.

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

11       (b) If the forfeiture is imposed by a municipal court, the court shall transmit the amount  
12 to the treasurer of the county, city, town or village, and that treasurer shall make payment of  
13 38.5% of the amount to the state treasurer as provided in s. 66.0114 (1) (b). The treasurer of  
14 the city, town or village shall transmit the remaining 61.5% of the amount to the treasurer of  
15 the county.

1           (3) All moneys collected from the operator improvement surcharge that are transmitted  
2 to the county treasurer under sub. (2) (a) or (b), except the amounts that the county treasurer  
3 is required to transmit to the state treasurer under sub. (2) (a) or (b), shall be retained by the  
4 county treasurer and disbursed to the county department under s. 51.42 for services under s.  
5 51.42 for drivers referred through assessment.

6           (4) If a court imposes an operator improvement surcharge under sub. (1) and the person  
7 fails to pay the surcharge within 60 days after the date by which the court ordered the surcharge  
8 to be paid, the court may suspend the person's operating privilege until the person pays the  
9 surcharge, except that the suspension period may not exceed 2 years.

NOTE: Current law provides that an operator of a motor vehicle who violates various operating while intoxicated statutory provisions must pay a driver improvement surcharge in an amount of \$345 in addition to the fine or forfeiture, penalty assessment, jail assessment and crime laboratories and drug law enforcement assessment. This SECTION applies the surcharge provisions found in s. 346.655, stats., to a person who violates the intoxicated operation of a sport recreational vehicle law.

10           SECTION 36. 350.99 of the statutes is renumbered 350.21 and 350.21 (1), as  
11 renumbered, is amended to read:

12           **350.21 (1)** Whoever is concerned in the commission of a violation of this ~~chapter~~  
13 subchapter for which a forfeiture is imposed is a principal and may be charged with and  
14 convicted of the violation although he or she did not directly commit it and although the person  
15 who directly committed it has not been convicted of the violation.

16           SECTION 37. 885.235 (1m) and (4) of the statutes are amended to read:

17           885.235 (1m) In any action under s. ~~23.33 (4e) (a) 3., 30.681 (1) (bn), 346.63 (2m) or~~  
18 (7) or ~~350.101 (1) (e)~~ 350.52 (1) (c), evidence of the amount of alcohol in the person's blood  
19 at the time in question, as shown by chemical analysis of a sample of the person's blood or  
20 urine or evidence of the amount of alcohol in the person's breath, is admissible on the issue

1 of whether he or she had an alcohol concentration in the range specified in s. ~~23.33 (4e) (a)~~  
2 ~~3., 30.681 (1) (bn),~~ 346.63 (2m) or ~~350.101 (1) (e)~~ 350.52 (1) (c) or an alcohol concentration  
3 above 0.0 under s. 346.63 (7) if the sample was taken within 3 hours after the event to be  
4 proved. The fact that the analysis shows that the person had an alcohol concentration of more  
5 than 0.0 but not more than 0.1 is prima facie evidence that the person had an alcohol  
6 concentration in the range specified in s. ~~23.33 (4e) (a) 3., 30.681 (1) (bn),~~ 346.63 (2m) or  
7 ~~350.101 (1) (e)~~ 350.52 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7).

8 (4) The provisions of this section relating to the admissibility of chemical tests for  
9 alcohol concentration or intoxication shall not be construed as limiting the introduction of any  
10 other competent evidence bearing on the question of whether or not a person was under the  
11 influence of an intoxicant, had a specified alcohol concentration or had an alcohol  
12 concentration in the range specified in s. ~~23.33 (4e) (a) 3., 30.681 (1) (bn),~~ 346.63 (2m) or  
13 ~~350.101 (1) (e)~~ 350.52 (1) (c).

14 **SECTION 38.** 940.09 (1m) and (3) of the statutes are amended to read:

15 940.09 (1m) A person may be charged with and a prosecutor may proceed upon an  
16 information based upon a violation of sub. (1) (a) or (b) or both, sub. (1) (a) or (bm) or both,  
17 sub. (1) (c) or (d) or both, sub. (1) (c) or (e) or both, sub. (1g) (a) or (b) or both or sub. (1g)  
18 (c) or (d) or both for acts arising out of the same incident or occurrence. If the person is charged  
19 with violating both sub. (1) (a) and (b), both sub. (1) (a) and (bm), both sub. (1) (c) and (d),  
20 both sub. (1) (c) and (e), both sub. (1g) (a) and (b) or both sub. (1g) (c) and (d) in the  
21 information, the crimes shall be joined under s. 971.12. If the person is found guilty of both  
22 sub. (1) (a) and (b), both sub. (1) (a) and (bm), both sub. (1) (c) and (d), both sub. (1) (c) and  
23 (e), both sub. (1g) (a) and (b) or both sub. (1g) (c) and (d) for acts arising out of the same  
24 incident or occurrence, there shall be a single conviction for purposes of sentencing and for

1 purposes of counting convictions under s. ~~23.33 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. and~~  
2 ~~3., under s. 343.307 (1) or under s. 350.11 (3) (a) 2. and 3~~ 350.74 (1) (b) to (e). Subsection  
3 (1) (a), (b), (bm), (c), (d) and (e), and sub. (1g) (a), (b), (c) and (d), each require proof of a fact  
4 for conviction which the other does not require.

5 (3) An officer who makes an arrest for a violation of this section shall make a report  
6 as required under s. ~~23.33 (4t), 30.686, 346.635 or 350.106~~ 350.62.

7 **SECTION 39.** 940.25 (1m) and (3) of the statutes are amended to read:

8 940.25 (1m) A person may be charged with and a prosecutor may proceed upon an  
9 information based upon a violation of sub. (1) (a) or (b) or both, sub. (1) (a) or (bm) or both,  
10 sub. (1) (c) or (d) or both or sub. (1) (c) or (e) or both for acts arising out of the same incident  
11 or occurrence. If the person is charged with violating both sub. (1) (a) and (b), both sub. (1)  
12 (a) and (bm), both sub. (1) (c) and (d) or both sub. (1) (c) and (e) in the information, the crimes  
13 shall be joined under s. 971.12. If the person is found guilty of both sub. (1) (a) and (b), both  
14 sub. (1) (a) and (bm), both sub. (1) (c) and (d) or both sub. (1) (c) and (e) for acts arising out  
15 of the same incident or occurrence, there shall be a single conviction for purposes of  
16 sentencing and for purposes of counting convictions under s. ~~23.33 (13) (b) 2. and 3., under~~  
17 ~~s. 30.80 (6) (a) 2. or 3., under ss. 343.30 (1q) and 343.305 or under s. 350.11 (3) (a) 2. and 3~~  
18 350.74 (1) (b) to (e). Subsection (1) (a), (b), (bm), (c), (d) and (e) each require proof of a fact  
19 for conviction which the other does not require.

20 (3) An officer who makes an arrest for a violation of this section shall make a report  
21 as required under s. ~~23.33 (4t), 30.686, 346.635 or 350.106~~ 350.62.

22 **SECTION 40.** 967.055 (2) (b) of the statutes is amended to read:

23 967.055 (2) (b) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss or amend  
24 a charge regarding motorboat operation under s. ~~30.681 (1)~~ 350.52 (1) or a local ordinance in

1 conformity therewith, a charge under s. ~~30.681 (2)~~ 350.52 (2), a charge under s. ~~30.684 (5)~~  
2 350.60 (5) or a local ordinance in conformity therewith or a charge under s. 940.09 or 940.25  
3 if the offense involved the use of a motorboat, except a sailboat operating under sail alone, the  
4 prosecutor shall apply to the court. The application shall state the reasons for the proposed  
5 amendment or dismissal. The court may approve the application only if the court finds that  
6 the proposed amendment or dismissal is consistent with the public's interest in deterring the  
7 operation of motorboats by persons who are under the influence of an intoxicant, a controlled  
8 substance, a controlled substance analog or any combination of an intoxicant, controlled  
9 substance and controlled substance analog, under the influence of any other drug to a degree  
10 which renders him or her incapable of operating a motorboat safely, or under the combined  
11 influence of an intoxicant and any other drug to a degree which renders him or her incapable  
12 of operating a motorboat safely.

13 **SECTION 41. Initial applicability.**

14 (1) This act first applies to offenses committed on January 1, 2002, but does not preclude  
15 the counting of prior convictions when sentencing a person except that it does preclude the  
16 counting of prior convictions that occurred before January 1, 1997.

17 **SECTION 42. Effective date.** This act takes effect on January 1, 2002.

18 (END)



**Fast, Timothy**

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**From:** Sklansky, Ron  
**Sent:** Tuesday, May 29, 2001 9:46 AM  
**To:** Fast, Timothy  
**Subject:** OWI

Tim-

I was just looking at an Assembly Bill and ran across a provision in the statutes that includes a cross reference in need of amendment in one of the OWI bills approved by the Legislative Council. In WLC 0011/4, s. 938.343 (9), Stats., should be amended to add a reference to ch. 350 or to subch. II of ch. 350. I can't remember if you or Peggy have this draft so I'm just sending this to you.

How about the Cubs? I've never seen them lose so many and then follow up with so many wins. What's going on?

Ron

Fast, Timothy

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**From:** Sklansky, Ron  
**Sent:** Wednesday, November 07, 2001 10:27 AM  
**To:** Fast, Timothy  
**Subject:** sport recreational vehicles

Tim:

As I recall our discussion about LRB 2892/P1, I was supposed to look over the notes to the draft and get back to you. Here are my comments:

1. Perhaps you or the editors could search the notes for the word "draft" and substitute "bill."
2. After the inserts are folded into the draft, the references in the notes to other numbered SECTIONS of the bill will be easy to correct. If you don't want to do this, I can do it when I get a P/2 or a /1.
3. References to commercial motorboats should be included in the notes:
  - a. On p. 2, 2nd paragraph, 2nd sentence, ",except for commercial motorboats," should be inserted after "which."
  - b. On p. 17, 1st paragraph, after the 2nd sentence, insert "The term does not include a commercial motorboat which is given separate, but similar, treatment in this bill."
  - c. On p. 20, at the end of the 1st numbered paragraph, insert "or commercial motorboat."
  - d. On p. 22, at the end of the 1st numbered paragraph, insert "and the place of application of the intoxicated operation of a commercial motorboat law."
  - e. On p. 35, in the 1st numbered paragraph, after "motorboats" insert ", commercial motorboats,".
  - f. On p. 35 insert "and commercial motorboats" at the end of paragraph 3; after "vehicles," in the 3rd sentence of paragraph 4; after "vehicles" in the third sentence of paragraph 5.
  - g. On p. 35, in the 6th numbered paragraph, at the end of the 1st sentence insert "or of a commercial motorboat."
  - h. On p. 36, in the 7th numbered paragraph, at the end of the 1st sentence

insert "and to commercial motorboats."

i. On p. 36 insert "or a commercial motorboat" after "vehicle" in the 3rd sentence of paragraph 7; after "vehicle" in paragraph 8; and at the end of paragraph 9.

As usual, I think I caught everything, but maybe I didn't. At any rate, it's a start. It seems were ready, with these corrections, for a /1. Thanks for all your help.

Ron

## Fast, Timothy

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**From:** Fast, Timothy  
**Sent:** Wednesday, November 14, 2001 8:24 PM  
**To:** Sklansky, Ron  
**Subject:** OWI recreational vehicle draft

Ron,

The draft is in editing. I've asked for it next Tuesday AM. I made a copy for you of what I put into editing. You should get it tomorrow morning. It'll help a lot in seeing the changes. Ignore the serial comma changes! Several items to keep in mind.

1. The draft doesn't amend s. 30.77 or 349.03 (1) (intro.) or (a). Note that locals can enact ordinances re boating and snowmobiles if "not contrary to or inconsistent" with state law. If you do nothing, s. 30.77 won't apply to the new subchapter but s. 349.03 will.
2. Proposed s. 350.68 (3) only applies to snowmobile operators. Is that how you want it?
3. Are penalties in proposed s. 350.74 (5) (c) 2. and 3. what you want? I think you said yes, but I'm not sure.
4. I changed any references in your notes from "draft" to "bill" per your 11/7 e-mail to me. I ran out of steam re items #2 and 3. We'll have to do this on a later version.

Keep the faith. I'll do likewise. Have a Happy Thanksgiving.

Peace and out, Tim