

2003 DRAFTING REQUEST

Bill

Received: **11/25/2002**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Schaeffer**

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Drunk Driving - alcohol level**

Extra Copies: **TNF, ARG**

Submit via email: **NO**

Pre Topic:

DOA:.....Schaeffer - BB0228,

Topic:

Prohibited blood alcohol concentration

Instructions:

See Attached

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>
/?	phurley 11/25/2002	kfollett 11/26/2002 kfollett 11/27/2002		_____			S&L
/1			pgreensl 11/27/2002	_____	mbarman 11/27/2002		S&L
/2	phurley 02/03/2003	kgilfoy 02/03/2003	chaskett 02/03/2003	_____	sbasford 02/04/2003		S&L
/3	phurley	kgilfoy	jfrantze	_____	sbasford		

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	02/04/2003	02/04/2003	02/04/2003	_____	02/04/2003		

FE Sent For:

<END>

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13/2/4/03
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/?	phurley 11/25/2002	kfollett 11/26/2002 kfollett 11/27/2002	<i>2 2/3</i> <i>CPH</i>	<i>PG/CPH</i> <u>2/3</u>			S&L
/1		<i>12-2/3/03</i> <i>Kmff</i>	pgreensl 11/27/2002		mbarman 11/27/2002		

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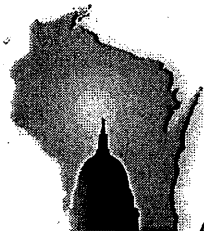
Prohibited blood alcohol concentration

Instructions:

See Attached

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FE Sent For:		11/15 gf	11/27	11/27 1			
		11/26	PS	<END>			
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**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

SCOTT McCALLUM
GOVERNOR
GEORGE LIGHTBOURN
SECRETARY

Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
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Date: November 19, 2002

To: Stephen R. Miller, Chief
Legislative Reference Bureau

From: Carole J. Schaeffer
Policy and Budget Analyst
ECR Team

Subject: **Biennial Budget Drafting Request**
Agency 395 – Department of Transportation (DOT)

B30228

Budget Office Request Title:

First and Second Offense .08 Prohibited Alcohol Concentration (AC) Law

Request Description:

Lower the prohibited alcohol concentration (AC) for first and second operating while intoxicated offenses from .10% to .08% in compliance with federally mandated .08 limit. Certify by July 15, 2003, that Wisconsin will have a conforming 1st offense .08 AC law in effect on or before September 30, 2003. Further information is provided in the attached information prepared by the department.

**Department of Transportation
2003-2005 Biennial Budget Request
STATUTORY MODIFICATIONS**

TOPIC: First and Second Offense .08 Prohibited Alcohol Concentration (AC) Law

DESCRIPTION OF CHANGE:

Lower the prohibited alcohol concentration (AC) for first and second OWI (Operating While Intoxicated) offense from .10% to .08% by amending s. 340.01(46m)(a) Wis. Stats.

JUSTIFICATION:

Current Wisconsin law sets 0.10% as the prohibited AC (or per se limit) on 1st and 2nd offense OWI. For 3rd offense, the limit is 0.08% and on 4th and subsequent OWI offenses, it is 0.02%. Lowering the 1st and 2nd offense OWI per se limit to 0.08 AC will bring greater consistency and clarity to Wisconsin OWI law, since 0.08% is already the limit for a 3rd offense OWI.

Federal law enacted in October 2001 mandates that sanctions be levied against states that do not have a 1st offense OWI per se limit of no more than 0.08 AC. Any state that does not meet that criterion will have 2% of their federal highway transportation aids withheld in FFY 04 (estimated at \$9,100,000 for Wisconsin). To avoid the FFY 04 withholding, Wisconsin must submit documentation by no later than July 15, 2003 certifying that they have (or will have) a conforming 1st offense 0.08 AC law in effect on or before September 30, 2003. Continued non-compliance will result in withholding of 4%, 6%, and up to a maximum of 8% in subsequent federal fiscal years.

Wisconsin is the only state in which a person convicted of a first OWI offense cannot be sentenced to any jail time. The National Highway Traffic Safety Administration has assured the Department of Transportation, in written correspondence, that it will not be necessary to "criminalize" 1st offense OWI (i.e. require a mandatory minimum jail sentence) in order to comply with the federal 0.08 AC mandate.



State of Wisconsin
2003 - 2004 LEGISLATURE

09/19/11
LRB-054371
PJH:kjf&jld:jf

Stans

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Do Not Gen

1 AN ACT ...; relating to: prohibited alcohol concentration.

Analysis by the Legislative Reference Bureau
TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Under current law, a person may not operate a motor vehicle if he or she has an alcohol concentration of 0.1 or more. If a person has two convictions relating to operating a motor vehicle with a prohibited alcohol concentration, he or she may not operate a motor vehicle if he or she has an alcohol concentration of 0.08 or more. If a person has three or more convictions relating to operating a motor vehicle with a prohibited alcohol concentration, he or she may not operate a motor vehicle if he or she has an alcohol concentration of 0.02 or more.

Also under current law, a person may not operate an all-terrain vehicle, a snowmobile, or a boat if he or she has an alcohol concentration of 0.1 or more.

This bill changes the prohibited alcohol concentration from 0.1 to 0.08 for a person with one or no prior convictions relating to operating a motor vehicle with a prohibited alcohol concentration and from 0.1 to 0.08 for a person operating an all-terrain vehicle, a snowmobile, or a boat.

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

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

1 **SECTION 1.** 23.33 (4c) (a) 2. of the statutes is amended to read:

2 23.33 (4c) (a) 2. 'Operating with alcohol concentrations at or above specified
3 levels.' No person may engage in the operation of an all-terrain vehicle while the
4 person has an alcohol concentration of ~~0.1~~ 0.08 or more.

5 **SECTION 2.** 23.33 (4c) (a) 3. of the statutes is amended to read:

6 23.33 (4c) (a) 3. 'Operating with alcohol concentrations at specified levels;
7 below age 19.' If a person has not attained the age of 19, the person may not engage
8 in the operation of an all-terrain vehicle while he or she has an alcohol concentration
9 of more than 0.0 but not more than ~~0.1~~ 0.08.

10 **SECTION 3.** 23.33 (4c) (b) 2. of the statutes is amended to read:

11 23.33 (4c) (b) 2. 'Causing injury with alcohol concentrations at or above
12 specified levels.' No person who has an alcohol concentration of ~~0.1~~ 0.08 or more may
13 cause injury to another person by the operation of an all-terrain vehicle.

14 **SECTION 4.** 23.33 (4c) (b) 4. of the statutes is amended to read:

15 23.33 (4c) (b) 4. 'Defenses.' In an action under this paragraph, the defendant
16 has a defense if he or she proves by a preponderance of the evidence that the injury
17 would have occurred even if he or she had been exercising due care and he or she had
18 not been under the influence of an intoxicant or did not have an alcohol concentration
19 of ~~0.1~~ 0.08 or more.

20 **SECTION 5.** 30.681 (1) (b) 1. of the statutes is amended to read:

21 30.681 (1) (b) 1. No person may engage in the operation of a motorboat while
22 the person has an alcohol concentration of ~~0.1~~ 0.08 or more. This subdivision does
23 not apply to commercial motorboats.

24 **SECTION 6.** 30.681 (1) (bn) of the statutes is amended to read:

1 30.681 (1) (bn) *Operating with alcohol concentrations at specified levels; below*
2 *legal drinking age.* A person who has not attained the legal drinking age, as defined
3 in s. 125.02 (8m), may not engage in the operation of a motorboat while he or she has
4 a blood alcohol concentration of more than 0.0 but less than ~~0.1~~ 0.08.

5 **SECTION 7.** 30.681 (2) (b) 1. of the statutes is amended to read:

6 30.681 (2) (b) 1. No person who has an alcohol concentration of ~~0.1~~ 0.08 or more
7 may cause injury to another person by the operation of a motorboat. This subdivision
8 does not apply to commercial motorboats.

9 **SECTION 8.** 30.681 (2) (d) 1. of the statutes is amended to read:

10 30.681 (2) (d) 1. In an action under this subsection for a violation of the
11 intoxicated boating law where the defendant was operating a motorboat that is not
12 a commercial motorboat, the defendant has a defense if he or she proves by a
13 preponderance of the evidence that the injury would have occurred even if he or she
14 had been exercising due care and he or she had not been under the influence of an
15 intoxicant or did not have an alcohol concentration of ~~0.1~~ 0.08 or more.

16 **SECTION 9.** 340.01 (46m) (a) of the statutes is amended to read:

17 340.01 (46m) (a) If the person has ~~one or no~~ 2 or fewer prior convictions,
18 suspensions, or revocations, as counted under s. 343.307 (1), an alcohol
19 concentration of ~~0.1~~ 0.08 or more.

20 **SECTION 10.** 340.01 (46m) (b) of the statutes is repealed.

21 **SECTION 11.** 343.31 (1) (ar) of the statutes is amended to read:

22 343.31 (1) (ar) Injury by the operation of a commercial motor vehicle while the
23 person has an alcohol concentration of 0.04 or more but less than ~~0.1~~ 0.08 and which
24 is criminal under s. 346.63 (6).

25 **SECTION 12.** 346.63 (2m) of the statutes is amended to read:

1 **346.63 (2m)** If a person has not attained the legal drinking age, as defined in
2 s. 125.02 (8m), the person may not drive or operate a motor vehicle while he or she
3 has an alcohol concentration of more than 0.0 but not more than ~~0.1~~ 0.08. One
4 penalty for violation of this subsection is suspension of a person's operating privilege
5 under s. 343.30 (1p). The person is eligible for an occupational license under s. 343.10
6 at any time. If a person arrested for a violation of this subsection refuses to take a
7 test under s. 343.305, the refusal is a separate violation and the person is subject to
8 revocation of the person's operating privilege under s. 343.305 (10) (em).

9 **SECTION 13.** 346.63 (5) (a) of the statutes is amended to read:

10 **346.63 (5) (a)** No person may drive or operate a commercial motor vehicle while
11 the person has an alcohol concentration of 0.04 or more but less than ~~0.1~~ 0.08.

12 **SECTION 14.** 346.63 (6) (a) of the statutes is amended to read:

13 **346.63 (6) (a)** No person may cause injury to another person by the operation
14 of a commercial motor vehicle while the person has an alcohol concentration of 0.04
15 or more but less than ~~0.1~~ 0.08.

16 **SECTION 15.** 350.101 (1) (b) of the statutes is amended to read:

17 **350.101 (1) (b)** *Operating with alcohol concentrations at or above specified*
18 *levels.* No person may engage in the operation of a snowmobile while the person has
19 an alcohol concentration of ~~0.1~~ 0.08 or more.

20 **SECTION 16.** 350.101 (1) (c) of the statutes is amended to read:

21 **350.101 (1) (c)** *Operating with alcohol concentrations at specified levels; below*
22 *age 19.* If a person has not attained the age of 19, the person may not engage in the
23 operation of a snowmobile while he or she has an alcohol concentration of more than
24 0.0 but not more than ~~0.1~~ 0.08.

25 **SECTION 17.** 350.101 (2) (b) of the statutes is amended to read:

1 350.101 (2) (b) *Causing injury with alcohol concentrations at or above specified*
2 *levels.* No person who has an alcohol concentration of ~~0.1~~ 0.08 or more may cause
3 injury to another person by the operation of a snowmobile.

4 **SECTION 18.** 350.101 (2) (d) of the statutes is amended to read:

5 350.101 (2) (d) *Defenses.* In an action under this subsection, the defendant has
6 a defense if he or she proves by a preponderance of the evidence that the injury would
7 have occurred even if he or she had been exercising due care and he or she had not
8 been under the influence of an intoxicant or did not have an alcohol concentration
9 of ~~0.1~~ 0.08 or more.

10 **SECTION 19.** 885.235 (1g) (a) 1. of the statutes is renumbered 885.235 (1g) (a).

11 **SECTION 20.** 885.235 (1g) (a) 2. of the statutes is repealed.

12 **SECTION 21.** 885.235 (1g) (b) of the statutes is amended to read:

13 885.235 (1g) (b) Except with respect to the operation of a commercial motor
14 vehicle as provided in par. (d), the fact that the analysis shows that the person had
15 an alcohol concentration of more than 0.04 but less than ~~0.1~~ 0.08 is relevant evidence
16 on the issue of intoxication or an alcohol concentration of ~~0.1~~ 0.08 or more but is not
17 to be given any prima facie effect.

18 **SECTION 22.** 885.235 (1g) (bd) of the statutes is repealed.

19 **SECTION 23.** 885.235 (1g) (c) of the statutes is amended to read:

20 885.235 (1g) (c) The In cases involving persons who have 2 or fewer prior
21 convictions, suspensions, or revocations, as counted under s. 343.307 (1), the fact
22 that the analysis shows that the person had an alcohol concentration of ~~0.1~~ 0.08 or
23 more is prima facie evidence that he or she was under the influence of an intoxicant
24 and is prima facie evidence that he or she had an alcohol concentration of ~~0.1~~ 0.08
25 or more.

1 **SECTION 24.** 885.235 (1g) (cd) of the statutes is repealed.

2 **SECTION 25.** 885.235 (1m) of the statutes is amended to read:

3 **885.235 (1m)** In any action under s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m)
4 or (7), or 350.101 (1) (c), evidence of the amount of alcohol in the person's blood at the
5 time in question, as shown by chemical analysis of a sample of the person's blood or
6 urine or evidence of the amount of alcohol in the person's breath, is admissible on the
7 issue of whether he or she had an alcohol concentration in the range specified in s.
8 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m), or 350.101 (1) (c) or an alcohol
9 concentration above 0.0 under s. 346.63 (7) if the sample was taken within 3 hours
10 after the event to be proved. The fact that the analysis shows that the person had
11 an alcohol concentration of more than 0.0 but not more than ~~0.1~~ 0.08 is prima facie
12 evidence that the person had an alcohol concentration in the range specified in s.
13 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m), or 350.101 (1) (c) or an alcohol
14 concentration above 0.0 under s. 346.63 (7).

15 **SECTION 26.** 940.09 (1) (bm) of the statutes is amended to read:

16 **940.09 (1) (bm)** Causes the death of another by the operation of a commercial
17 motor vehicle while the person has an alcohol concentration of 0.04 or more but less
18 than ~~0.1~~ 0.08.

19 **SECTION 27.** 940.09 (1) (e) of the statutes is amended to read:

20 **940.09 (1) (e)** Causes the death of an unborn child by the operation of a
21 commercial motor vehicle while the person has an alcohol concentration of 0.04 or
22 more but less than ~~0.1~~ 0.08.

23 **SECTION 28.** 940.09 (1g) (b) of the statutes is amended to read:

24 **940.09 (1g) (b)** Causes the death of another by the operation or handling of a
25 firearm or airgun while the person has an alcohol concentration of ~~0.1~~ 0.08 or more.

1 **SECTION 29.** 940.09 (1g) (d) of the statutes is amended to read:

2 940.09 (1g) (d) Causes the death of an unborn child by the operation or
3 handling of a firearm or airgun while the person has an alcohol concentration of ~~0.1~~
4 0.08 or more.

5 **SECTION 30.** 940.25 (1) (bm) of the statutes is amended to read:

6 940.25 (1) (bm) Causes great bodily harm to another human being by the
7 operation of a commercial motor vehicle while the person has an alcohol
8 concentration of 0.04 or more but less than ~~0.1~~ 0.08.

9 **SECTION 31.** 940.25 (1) (e) of the statutes is amended to read:

10 940.25 (1) (e) Causes great bodily harm to an unborn child by the operation of
11 a commercial motor vehicle while the person has an alcohol concentration of 0.04 or
12 more but less than ~~0.1~~ 0.08.

13 **SECTION 32.** 949.08 (2) (em) of the statutes is amended to read:

14 949.08 (2) (em) Is an adult passenger in the offender's commercial motor
15 vehicle and the crime involved is specified in s. 346.63 (6) or 940.25 and the passenger
16 knew the offender was under the influence of an intoxicant, a controlled substance,
17 a controlled substance analog or any combination of an intoxicant, controlled
18 substance and controlled substance analog, or had an alcohol concentration of 0.04
19 or more but less than ~~0.1~~ 0.08. This paragraph does not apply if the victim is also a
20 victim of a crime specified in s. 940.30, 940.305, 940.31, or 948.30.

21 **SECTION 33.** 967.055 (1) (b) of the statutes is amended to read:

22 967.055 (1) (b) The legislature intends to encourage the vigorous prosecution
23 of offenses concerning the operation of motorboats by persons under the influence of
24 an intoxicant, a controlled substance, a controlled substance analog or any
25 combination of an intoxicant, controlled substance and controlled substance analog

1 to a degree which renders him or her incapable of operating a motorboat safely, or
2 under the combined influence of an intoxicant and any other drug to a degree which
3 renders him or her incapable of operating a motorboat safely or having an alcohol
4 concentration of 0.1 0.08 or more.

5 **SECTION 9353. Initial applicability; transportation.**

6 (1) The treatment of sections ~~9353~~ of the statutes first applies to offenses
7 committed on the effective date of this subsection.

8 *****NOTE:** The section numbers will be completed in a later version of this draft.

8 **SECTION 9453. Effective dates; transportation.**

9 (1) The treatment of sections ~~9453~~ of the statutes ^{and SECTION 9353} takes effect on ^{of this act} ~~January~~

10 ~~7, 2004~~ September 30,
2003

11 *****NOTE:** The section numbers will be completed in a later version of this draft.

(END)

Insert A

auto
ref A
(1)

Insert A.

23.33 (4c)(a) 2. and 3. (b) 2. and 4., 30.681 (1)(b) 1. and
 (b) 1. and (2)(b) 1. and (d) 1., 340.01 (4bm)(a) (b),
 343.31 (1)(ar), 346.63 (2m), (5)(a), (6)(a),
 350.101 (1)(b) (c) (2)(b) (d), 885.235
 (1g)(a) 1. 2., (b), (bd), (c), and (cd) (1m),
 940.09 (1)(bm) (e) (1g)(b) (d), 940.25
 (1)(bm) (e), 949.08 (2)(em), ^{and} 967.055
 (1)(b)

~~Insert B. same as insert B except~~
~~delete~~ end insert

Hurley, Peggy

From: Grinde, Kirsten
Sent: Monday, February 03, 2003 2:51 PM
To: Hurley, Peggy
Subject: LRB 0919/1

Peggy,

Please make the following change(s) to LRB 0919/1:

Remove the changes to the blood alcohol concentration level for recreational (off-road) vehicles -- snowmobiles, ATVs and motorboats.

The federal government does not require drivers of these vehicles to comply with the 0.08 BAC requirement, so the state will not lose funding if they are left at 0.1 BAC. Let me know if you have any questions.

Thanks,

Kirsten

2
mr
King

DOA:.....Schaeffer – BB0228, Prohibited blood alcohol concentration
FOR 2003-05 BUDGET – NOT READY FOR INTRODUCTION

D-note

1 AN ACT ^{Don't GEN. CAT.} relating to: prohibited alcohol concentration.

Analysis by the Legislative Reference Bureau
TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Under current law, a person may not operate a motor vehicle if he or she has an alcohol concentration of 0.1 or more. If a person has two convictions relating to operating a motor vehicle with a prohibited alcohol concentration, he or she may not operate a motor vehicle if he or she has an alcohol concentration of 0.08 or more. If a person has three or more convictions relating to operating a motor vehicle with a prohibited alcohol concentration, he or she may not operate a motor vehicle if he or she has an alcohol concentration of 0.02 or more.

~~Also under current law, a person may not operate an all-terrain vehicle, a snowmobile, or a boat if he or she has an alcohol concentration of 0.1 or more.~~

This bill changes the prohibited alcohol concentration from 0.1 to 0.08 for a person with one or no prior convictions relating to operating a motor vehicle with a prohibited alcohol concentration ~~and from 0.1 to 0.08 for a person operating an all-terrain vehicle, a snowmobile, or a boat.~~

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

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

1 **SECTION 1.** 23.33 (4c) (a) 2. of the statutes is amended to read:

2 ~~23.33 (4c) (a) 2. 'Operating with alcohol concentrations at or above specified~~
3 levels.' No person may engage in the operation of an all-terrain vehicle while the
4 person has an alcohol concentration of ~~0.1~~ 0.08 or more.

5 **SECTION 2.** 23.33 (4c) (a) 3. of the statutes is amended to read:

6 ~~23.33 (4c) (a) 3. 'Operating with alcohol concentrations at specified levels;~~
7 below age 19.' If a person has not attained the age of 19, the person may not engage
8 in the operation of an all-terrain vehicle while he or she has an alcohol concentration
9 of more than 0.0 but not more than ~~0.1~~ 0.08. ✓

10 **SECTION 3.** 23.33 (4c) (b) 2. of the statutes is amended to read:

11 ~~23.33 (4c) (b) 2. 'Causing injury with alcohol concentrations at or above~~
12 specified levels.' No person who has an alcohol concentration of ~~0.1~~ 0.08 or more may
13 cause injury to another person by the operation of an all-terrain vehicle.

14 **SECTION 4.** 23.33 (4c) (b) 4. of the statutes is amended to read:

15 ~~23.33 (4c) (b) 4. 'Defenses.'~~ In an action under this paragraph, the defendant
16 has a defense if he or she proves by a preponderance of the evidence that the injury
17 would have occurred even if he or she had been exercising due care and he or she had
18 not been under the influence of an intoxicant or did not have an alcohol concentration
19 of ~~0.1~~ 0.08 or more.

20 **SECTION 5.** 30.681 (1) (b) 1. of the statutes is amended to read:

21 ~~30.681 (1) (b) 1.~~ No person may engage in the operation of a motorboat while
22 the person has an alcohol concentration of ~~0.1~~ 0.08 or more. This subdivision does
23 not apply to commercial motorboats.

24 **SECTION 6.** 30.681 (1) (bn) of the statutes is amended to read:

1 30.681 (1) (bn) *Operating with alcohol concentrations at specified levels; below*
2 *legal drinking age.* A person who has not attained the legal drinking age, as defined
3 in s. 125.02 (8m), may not engage in the operation of a motorboat while he or she has
4 a blood alcohol concentration of more than 0.0 but less than ~~0.1~~ 0.08.

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6 30.681 (2) (b) 1. No person who has an alcohol concentration of ~~0.1~~ 0.08 or more
7 may cause injury to another person by the operation of a motorboat. This subdivision
8 does not apply to commercial motorboats.

9 **SECTION 8.** 30.681 (2) (d) 1. of the statutes is amended to read:

10 30.681 (2) (d) 1. In an action under this subsection for a violation of the
11 intoxicated boating law where the defendant was operating a motorboat that is not
12 a commercial motorboat, the defendant has a defense if he or she proves by a
13 preponderance of the evidence that the injury would have occurred even if he or she
14 had been exercising due care and he or she had not been under the influence of an
15 intoxicant or did not have an alcohol concentration of ~~0.1~~ 0.08 or more.

16 **SECTION 9.** 340.01 (46m) (a) of the statutes is amended to read:

17 340.01 (46m) (a) If the person has ~~one or no~~ 2 or fewer prior convictions,
18 suspensions, or revocations, as counted under s. 343.307 (1), an alcohol
19 concentration of ~~0.1~~ 0.08 or more.

20 **SECTION 10.** 340.01 (46m) (b) of the statutes is repealed.

21 **SECTION 11.** 343.31 (1) (ar) of the statutes is amended to read:

22 343.31 (1) (ar) Injury by the operation of a commercial motor vehicle while the
23 person has an alcohol concentration of 0.04 or more but less than ~~0.1~~ 0.08 and which
24 is criminal under s. 346.63 (6).

25 **SECTION 12.** 346.63 (2m) of the statutes is amended to read:

1 346.63 (2m) If a person has not attained the legal drinking age, as defined in
2 s. 125.02 (8m), the person may not drive or operate a motor vehicle while he or she
3 has an alcohol concentration of more than 0.0 but not more than ~~0.1~~ 0.08. One
4 penalty for violation of this subsection is suspension of a person's operating privilege
5 under s. 343.30 (1p). The person is eligible for an occupational license under s. 343.10
6 at any time. If a person arrested for a violation of this subsection refuses to take a
7 test under s. 343.305, the refusal is a separate violation and the person is subject to
8 revocation of the person's operating privilege under s. 343.305 (10) (em).

9 **SECTION 13.** 346.63 (5) (a) of the statutes is amended to read:

10 346.63 (5) (a) No person may drive or operate a commercial motor vehicle while
11 the person has an alcohol concentration of 0.04 or more but less than ~~0.1~~ 0.08.

12 **SECTION 14.** 346.63 (6) (a) of the statutes is amended to read:

13 346.63 (6) (a) No person may cause injury to another person by the operation
14 of a commercial motor vehicle while the person has an alcohol concentration of 0.04
15 or more but less than ~~0.1~~ 0.08.

16 **SECTION 15.** 350.101 (1) (b) of the statutes is amended to read:

17 ~~350.101 (1) (b) *Operating with alcohol concentrations at or above specified*~~
18 ~~*levels.* No person may engage in the operation of a snowmobile while the person has~~
19 ~~an alcohol concentration of ~~0.1~~ 0.08 or more.~~

20 **SECTION 16.** 350.101 (1) (c) of the statutes is amended to read:

21 ~~350.101 (1) (c) *Operating with alcohol concentrations at specified levels; below*~~
22 ~~*age 19.* If a person has not attained the age of 19, the person may not engage in the~~
23 ~~operation of a snowmobile while he or she has an alcohol concentration of more than~~
24 ~~0.0 but not more than ~~0.1~~ 0.08.~~

25 **SECTION 17.** 350.101 (2) (b) of the statutes is amended to read:

1 350.101 (2) (b) *Causing injury with alcohol concentrations at or above specified*
2 *levels.* No person who has an alcohol concentration of ~~0.1~~ 0.08 or more may cause
3 injury to another person by the operation of a snowmobile.

4 **SECTION 18.** 350.101 (2) (d) of the statutes is amended to read:

5 350.101 (2) (d) *Defenses.* In an action under this subsection, the defendant has
6 a defense if he or she proves by a preponderance of the evidence that the injury would
7 have occurred even if he or she had been exercising due care and he or she had not
8 been under the influence of an intoxicant or did not have an alcohol concentration
9 of ~~0.1~~ 0.08 or more.

10 **SECTION 19.** 885.235 (1g) (a) 1. of the statutes is renumbered 885.235 (1g) (a).

11 **SECTION 20.** 885.235 (1g) (a) 2. of the statutes is repealed.

12 **SECTION 21.** 885.235 (1g) (b) of the statutes is amended to read:

13 885.235 (1g) (b) Except with respect to the operation of a commercial motor
14 vehicle as provided in par. (d), the fact that the analysis shows that the person had
15 an alcohol concentration of more than 0.04 but less than ~~0.1~~ 0.08 is relevant evidence
16 on the issue of intoxication or an alcohol concentration of ~~0.1~~ 0.08 or more but is not
17 to be given any prima facie effect.

18 **SECTION 22.** 885.235 (1g) (bd) of the statutes is repealed.

19 **SECTION 23.** 885.235 (1g) (c) of the statutes is amended to read:

20 885.235 (1g) (c) The In cases involving persons who have 2 or fewer prior
21 convictions, suspensions, or revocations, as counted under s. 343.307 (1), the fact
22 that the analysis shows that the person had an alcohol concentration of ~~0.1~~ 0.08 or
23 more is prima facie evidence that he or she was under the influence of an intoxicant
24 and is prima facie evidence that he or she had an alcohol concentration of ~~0.1~~ 0.08
25 or more.

1 **SECTION 24.** 885.235 (1g) (cd) of the statutes is repealed.

2 **SECTION 25.** 885.235 (1m) of the statutes is amended to read:

3 ~~885.235 (1m) In any action under s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m)~~
4 ~~or (7), or 350.101 (1) (c), evidence of the amount of alcohol in the person's blood at the~~
5 ~~time in question, as shown by chemical analysis of a sample of the person's blood or~~
6 ~~urine or evidence of the amount of alcohol in the person's breath, is admissible on the~~
7 ~~issue of whether he or she had an alcohol concentration in the range specified in s.~~
8 ~~23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m), or 350.101 (1) (c) or an alcohol~~
9 ~~concentration above 0.0 under s. 346.63 (7) if the sample was taken within 3 hours~~
10 ~~after the event to be proved. The fact that the analysis shows that the person had~~
11 ~~an alcohol concentration of more than 0.0 but not more than ~~0.1~~ 0.08 is prima facie~~
12 ~~evidence that the person had an alcohol concentration in the range specified in s.~~
13 ~~23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m), or 350.101 (1) (c) or an alcohol~~
14 ~~concentration above 0.0 under s. 346.63 (7).~~

15 **SECTION 26.** 940.09 (1) (bm) of the statutes is amended to read:

16 940.09 (1) (bm) Causes the death of another by the operation of a commercial
17 motor vehicle while the person has an alcohol concentration of 0.04 or more but less
18 than ~~0.1~~ 0.08.

19 **SECTION 27.** 940.09 (1) (e) of the statutes is amended to read:

20 940.09 (1) (e) Causes the death of an unborn child by the operation of a
21 commercial motor vehicle while the person has an alcohol concentration of 0.04 or
22 more but less than ~~0.1~~ 0.08.

23 ~~**SECTION 28.** 940.09 (1g) (b) of the statutes is amended to read:~~

24 ~~940.09 (1g) (b) Causes the death of another by the operation or handling of a~~
25 ~~firearm or airgun while the person has an alcohol concentration of ~~0.1~~ 0.08 or more.~~

1 ~~SECTION 29. 940.09 (1g) (d) of the statutes is amended to read:~~

2 ~~940.09 (1g) (d) Causes the death of an unborn child by the operation or~~
3 ~~handling of a firearm or airgun while the person has an alcohol concentration of 0.1~~
4 ~~0.08 or more.~~

5 SECTION 30. 940.25 (1) (bm) of the statutes is amended to read:

6 940.25 (1) (bm) Causes great bodily harm to another human being by the
7 operation of a commercial motor vehicle while the person has an alcohol
8 concentration of 0.04 or more but less than ~~0.1~~ 0.08.

9 SECTION 31. 940.25 (1) (e) of the statutes is amended to read:

10 940.25 (1) (e) Causes great bodily harm to an unborn child by the operation of
11 a commercial motor vehicle while the person has an alcohol concentration of 0.04 or
12 more but less than ~~0.1~~ 0.08.

13 SECTION 32. 949.08 (2) (em) of the statutes is amended to read:

14 949.08 (2) (em) Is an adult passenger in the offender's commercial motor
15 vehicle and the crime involved is specified in s. 346.63 (6) or 940.25 and the passenger
16 knew the offender was under the influence of an intoxicant, a controlled substance,
17 a controlled substance analog or any combination of an intoxicant, controlled
18 substance and controlled substance analog, or had an alcohol concentration of 0.04
19 or more but less than ~~0.1~~ 0.08. This paragraph does not apply if the victim is also a
20 victim of a crime specified in s. 940.30, 940.305, 940.31, or 948.30.

21 ~~SECTION 33. 967.055 (1) (b) of the statutes is amended to read:~~

22 ~~967.055 (1) (b) The legislature intends to encourage the vigorous prosecution~~
23 ~~of offenses concerning the operation of motorboats by persons under the influence of~~
24 ~~an intoxicant, a controlled substance, a controlled substance analog or any~~
25 ~~combination of an intoxicant, controlled substance and controlled substance analog~~

1 to a degree which renders him or her incapable of operating a motorboat safely, or
 2 under the combined influence of an intoxicant and any other drug to a degree which
 3 renders him or her incapable of operating a motorboat safely or having an alcohol
 4 concentration of ~~0.1~~ 0.08 or more.

5 **SECTION 9353. Initial applicability; transportation.**

6 (1) The treatment of sections ~~23.33 (4c) (a) 2. and 3. and (b) 2. and 4., 30.681~~
 7 ~~(1) (b) 1. and (bn) and (2) (b) 1. and (d) 1., 340.01 (46m) (a) and (b), 343.31 (1) (ar),~~
 8 ~~346.63 (2m), (5) (a), and (6) (a), 350.101 (1) (b) and (c) and (2) (b) and (d), 885.235 (1g)~~
 9 ~~(a) 1. and 2., (b), (bd), (c), and (cd) and (1m), 940.09 (1) (bm) and (e), and (1g) (b) and~~
 10 ~~(d), 940.25 (1) (bm) and (e), 949.08 (2) (em), and 967.055 (1) (b)~~ of the statutes first
 11 ~~and~~ applies to offenses committed on the effective date of this subsection.

12 **SECTION 9453. Effective dates; transportation.**

13 (1) The treatment of sections ~~23.33 (4c) (a) 2. and 3. and (b) 2. and 4., 30.681~~
 14 ~~(1) (b) 1. and (bn) and (2) (b) 1. and (d) 1., 340.01 (46m) (a) and (b), 343.31 (1) (ar),~~
 15 ~~346.63 (2m), (5) (a), and (6) (a), 350.101 (1) (b) and (c) and (2) (b) and (d), 885.235 (1g)~~
 16 ~~(a) 1. and 2., (b), (bd), (c), and (cd) and (1m), 940.09 (1) (bm) and (e), and (1g) (b) and~~
 17 ~~(d), 940.25 (1) (bm) and (e), 949.08 (2) (em), and 967.055 (1) (b)~~ of the statutes and
 18 Section 9353 (1) of this act take effect on September 30, 2003.

19 (END)

and
 25
 a.r.

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

LRB-0919/2dn
PJH: ~~hwh~~:pg



Kirsten:

It is my understanding that you want this draft to lower the prohibited alcohol concentration only for motor vehicles that are not "recreational" vehicles.

This draft preserves at 0.1 the prohibited alcohol concentration for operators of snowmobiles, ATVs or motorboats. It also preserves current law with regard to causing the death of a person or fetus while handling a firearm or airgun with an alcohol concentration of 0.1 or greater.

Please let me know if you would like any other changes.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.state.wi.us

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

LRB-0919/2dn
PJH:kmg:cph

February 3, 2003

Kirsten:

It is my understanding that you want this draft to lower the prohibited alcohol concentration only for motor vehicles that are not "recreational" vehicles.

This draft preserves at 0.1 the prohibited alcohol concentration for operators of snowmobiles, ATVs or motorboats. It also preserves current law with regard to causing the death of a person or fetus while handling a firearm or airgun with an alcohol concentration of 0.1 or greater.

Please let me know if you would like any other changes.

Peggy Hurley
Legislative Attorney
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E-mail: peggy.hurley@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0919/2
PJH:kjf&jld&kmg:cph

3 (m)

stays

DOA:.....Schaeffer - BB0228, Prohibited blood alcohol concentration
FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

Dinde

DON'T
GEN. CAT.

1

AN ACT ...; relating to: prohibited alcohol concentration.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Under current law, a person may not operate a motor vehicle if he or she has an alcohol concentration of 0.1 or more. If a person has two convictions relating to operating a motor vehicle with a prohibited alcohol concentration, he or she may not operate a motor vehicle if he or she has an alcohol concentration of 0.08 or more. If a person has three or more convictions relating to operating a motor vehicle with a prohibited alcohol concentration, he or she may not operate a motor vehicle if he or she has an alcohol concentration of 0.02 or more.

This bill changes the prohibited alcohol concentration from 0.1 to 0.08 for a person with one or no prior convictions relating to operating a motor vehicle with a prohibited alcohol concentration.

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

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

2

SECTION 1. 340.01 (46m) (a) of the statutes is amended to read:

1 340.01 (46m) (a) If the person has ~~one or no~~ 2 or fewer prior convictions,
2 suspensions, or revocations, as counted under s. 343.307 (1), an alcohol
3 concentration of ~~0.1~~ 0.08 or more.

4 SECTION 2. 340.01 (46m) (b) of the statutes is repealed.

5 SECTION 3. 343.31 (1) (ar) of the statutes is amended to read:

6 343.31 (1) (ar) Injury by the operation of a commercial motor vehicle while the
7 person has an alcohol concentration of 0.04 or more but less than ~~0.1~~ 0.08 and which
8 is criminal under s. 346.63 (6).

9 SECTION 4. 346.63 (2m) of the statutes is amended to read:

10 346.63 (2m) If a person has not attained the legal drinking age, as defined in
11 s. 125.02 (8m), the person may not drive or operate a motor vehicle while he or she
12 has an alcohol concentration of more than 0.0 but not more than ~~0.1~~ 0.08. One
13 penalty for violation of this subsection is suspension of a person's operating privilege
14 under s. 343.30 (1p). The person is eligible for an occupational license under s. 343.10
15 at any time. If a person arrested for a violation of this subsection refuses to take a
16 test under s. 343.305, the refusal is a separate violation and the person is subject to
17 revocation of the person's operating privilege under s. 343.305 (10) (em).

18 SECTION 5. 346.63 (5) (a) of the statutes is amended to read:

19 346.63 (5) (a) No person may drive or operate a commercial motor vehicle while
20 the person has an alcohol concentration of 0.04 or more but less than ~~0.1~~ 0.08.

21 SECTION 6. 346.63 (6) (a) of the statutes is amended to read:

22 346.63 (6) (a) No person may cause injury to another person by the operation
23 of a commercial motor vehicle while the person has an alcohol concentration of 0.04
24 or more but less than ~~0.1~~ 0.08.

25 SECTION 7. 885.235 (1g) (a) 1. of the statutes is renumbered 885.235 (1g) (a).

1 SECTION 8. 885.235 (1g) (a) 2. of the statutes is repealed.

2 SECTION 9. 885.235 (1g) (b) of the statutes is amended to read:

3 885.235 (1g) (b) Except with respect to the operation of a commercial motor
4 vehicle as provided in par. (d), the fact that the analysis shows that the person had
5 an alcohol concentration of more than 0.04 but less than ~~0.1~~ 0.08 is relevant evidence
6 on the issue of intoxication or an alcohol concentration of ~~0.1~~ 0.08 or more but is not
7 to be given any prima facie effect.

8 SECTION 10. 885.235 (1g) (bd) of the statutes is repealed.

9 SECTION 11. 885.235 (1g) (c) of the statutes is amended to read:

10 885.235 (1g) (c) The In cases involving persons who have 2 or fewer prior
11 convictions, suspensions, or revocations, as counted under s. 343.307 (1), the fact
12 that the analysis shows that the person had an alcohol concentration of ~~0.1~~ 0.08 or
13 more is prima facie evidence that he or she was under the influence of an intoxicant
14 and is prima facie evidence that he or she had an alcohol concentration of ~~0.1~~ 0.08
15 or more.

16 SECTION 12. 885.235 (1g) (cd) of the statutes is repealed.

17 SECTION 13. 940.09 (1) (bm) of the statutes is amended to read:

18 940.09 (1) (bm) Causes the death of another by the operation of a commercial
19 motor vehicle while the person has an alcohol concentration of 0.04 or more but less
20 than ~~0.1~~ 0.08.

21 SECTION 14. 940.09 (1) (e) of the statutes is amended to read:

22 940.09 (1) (e) Causes the death of an unborn child by the operation of a
23 commercial motor vehicle while the person has an alcohol concentration of 0.04 or
24 more but less than ~~0.1~~ 0.08.

25 SECTION 15. 940.25 (1) (bm) of the statutes is amended to read:

1 940.25 (1) (bm) Causes great bodily harm to another human being by the
2 operation of a commercial motor vehicle while the person has an alcohol
3 concentration of 0.04 or more but less than ~~0.1~~ 0.08.

4 SECTION 16. 940.25 (1) (e) of the statutes is amended to read:

5 940.25 (1) (e) Causes great bodily harm to an unborn child by the operation of
6 a commercial motor vehicle while the person has an alcohol concentration of 0.04 or
7 more but less than ~~0.1~~ 0.08.

8 SECTION 17. 949.08 (2) (em) of the statutes is amended to read:

9 949.08 (2) (em) Is an adult passenger in the offender's commercial motor
10 vehicle and the crime involved is specified in s. 346.63 (6) or 940.25 and the passenger
11 knew the offender was under the influence of an intoxicant, a controlled substance,
12 a controlled substance analog or any combination of an intoxicant, controlled
13 substance and controlled substance analog, or had an alcohol concentration of 0.04
14 or more but less than ~~0.1~~ 0.08. This paragraph does not apply if the victim is also a
15 victim of a crime specified in s. 940.30, 940.305, 940.31, or 948.30.

16 SECTION 9353. Initial applicability; transportation.

17 (1) The treatment of sections 340.01 (46m) (a) and (b), 343.31 (1) (ar), 346.63
18 (2m), (5) (a), and (6) (a), 885.235 (1g) (a) 1. and 2., (b), (bd), (c), and (cd), 940.09 (1)
19 (bm) and (e), 940.25 (1) (bm) and (e), and 949.08 (2) (em) of the statutes first applies

to offenses committed on the effective date of this subsection.

*but does not preclude the
counting of other
convictions, suspensions, or
revocations as prior
convictions, suspensions,
or revocations for*

SECTION 9453. Effective dates; transportation.

22 (1) The treatment of sections 340.01 (46m) (a) and (b), 343.31 (1) (ar), 346.63 or
23 (2m), (5) (a), and (6) (a), 885.235 (1g) (a) 1. and 2., (b), (bd), (c), and (cd), 940.09 (1) purposes
of administrative
action by the
Department of
Transportation, sentencing
by a court, or revocation or
suspension of motor vehicle
operating privileges.

and 20
refusals

need titles

PROHIBITED ALCOHOL CONCENTRATION.

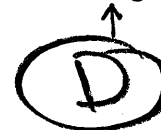
PJH

1 (bm) and (e), 940.25 (1) (bm) and (e), and 949.08 (2) (em) of the statutes and SECTION
2 9353 (1) of this act take effect on September 30, 2003.

3 (END)

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

LRB-0919/2dn
PJH:kmg:cph



February 3, 2003

Kirsten:

It is my understanding that you want this draft to lower the prohibited alcohol concentration only for motor vehicles that are not "recreational" vehicles.

This draft preserves at 0.1 the prohibited alcohol concentration for operators of snowmobiles, ATVs or motorboats. It also preserves current law with regard to causing the death of a person or fetus while handling a firearm or airgun with an alcohol concentration of 0.1 or greater.

Please let me know if you would like any other changes.

This draft makes technical changes to the initial applicability section.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.state.wi.us

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

LRB-0919/3dn
PJH:kmg:jf

February 4, 2003

Kirsten:

This draft makes technical changes to the initial applicability section.

Peggy Hurley
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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0919/3
PJH:kjf&jld&kmg:jf

DOA:.....Schaeffer – BB0228, Prohibited blood alcohol concentration
FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: prohibited alcohol concentration.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Under current law, a person may not operate a motor vehicle if he or she has an alcohol concentration of 0.1 or more. If a person has two convictions relating to operating a motor vehicle with a prohibited alcohol concentration, he or she may not operate a motor vehicle if he or she has an alcohol concentration of 0.08 or more. If a person has three or more convictions relating to operating a motor vehicle with a prohibited alcohol concentration, he or she may not operate a motor vehicle if he or she has an alcohol concentration of 0.02 or more.

This bill changes the prohibited alcohol concentration from 0.1 to 0.08 for a person with one or no prior convictions relating to operating a motor vehicle with a prohibited alcohol concentration.

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

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

2 SECTION 1. 340.01 (46m) (a) of the statutes is amended to read:

1 340.01 (46m) (a) If the person has ~~one or no~~ 2 or fewer prior convictions,
2 suspensions, or revocations, as counted under s. 343.307 (1), an alcohol
3 concentration of ~~0.1~~ 0.08 or more.

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

6 343.31 (1) (ar) Injury by the operation of a commercial motor vehicle while the
7 person has an alcohol concentration of 0.04 or more but less than ~~0.1~~ 0.08 and which
8 is criminal under s. 346.63 (6).

9 **SECTION 4.** 346.63 (2m) of the statutes is amended to read:

10 346.63 (2m) If a person has not attained the legal drinking age, as defined in
11 s. 125.02 (8m), the person may not drive or operate a motor vehicle while he or she
12 has an alcohol concentration of more than 0.0 but not more than ~~0.1~~ 0.08. One
13 penalty for violation of this subsection is suspension of a person's operating privilege
14 under s. 343.30 (1p). The person is eligible for an occupational license under s. 343.10
15 at any time. If a person arrested for a violation of this subsection refuses to take a
16 test under s. 343.305, the refusal is a separate violation and the person is subject to
17 revocation of the person's operating privilege under s. 343.305 (10) (em).

18 **SECTION 5.** 346.63 (5) (a) of the statutes is amended to read:

19 346.63 (5) (a) No person may drive or operate a commercial motor vehicle while
20 the person has an alcohol concentration of 0.04 or more but less than ~~0.1~~ 0.08.

21 **SECTION 6.** 346.63 (6) (a) of the statutes is amended to read:

22 346.63 (6) (a) No person may cause injury to another person by the operation
23 of a commercial motor vehicle while the person has an alcohol concentration of 0.04
24 or more but less than ~~0.1~~ 0.08.

25 **SECTION 7.** 885.235 (1g) (a) 1. of the statutes is renumbered 885.235 (1g) (a).

1 **SECTION 8.** 885.235 (1g) (a) 2. of the statutes is repealed.

2 **SECTION 9.** 885.235 (1g) (b) of the statutes is amended to read:

3 885.235 (1g) (b) Except with respect to the operation of a commercial motor
4 vehicle as provided in par. (d), the fact that the analysis shows that the person had
5 an alcohol concentration of more than 0.04 but less than ~~0.1~~ 0.08 is relevant evidence
6 on the issue of intoxication or an alcohol concentration of ~~0.1~~ 0.08 or more but is not
7 to be given any prima facie effect.

8 **SECTION 10.** 885.235 (1g) (bd) of the statutes is repealed.

9 **SECTION 11.** 885.235 (1g) (c) of the statutes is amended to read:

10 885.235 (1g) (c) The In cases involving persons who have 2 or fewer prior
11 convictions, suspensions, or revocations, as counted under s. 343.307 (1), the fact
12 that the analysis shows that the person had an alcohol concentration of ~~0.1~~ 0.08 or
13 more is prima facie evidence that he or she was under the influence of an intoxicant
14 and is prima facie evidence that he or she had an alcohol concentration of ~~0.1~~ 0.08
15 or more.

16 **SECTION 12.** 885.235 (1g) (cd) of the statutes is repealed.

17 **SECTION 13.** 940.09 (1) (bm) of the statutes is amended to read:

18 940.09 (1) (bm) Causes the death of another by the operation of a commercial
19 motor vehicle while the person has an alcohol concentration of 0.04 or more but less
20 than ~~0.1~~ 0.08.

21 **SECTION 14.** 940.09 (1) (e) of the statutes is amended to read:

22 940.09 (1) (e) Causes the death of an unborn child by the operation of a
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25 **SECTION 15.** 940.25 (1) (bm) of the statutes is amended to read:

1 940.25 (1) (bm) Causes great bodily harm to another human being by the
2 operation of a commercial motor vehicle while the person has an alcohol
3 concentration of 0.04 or more but less than ~~0.1~~ 0.08.

4 **SECTION 16.** 940.25 (1) (e) of the statutes is amended to read:

5 940.25 (1) (e) Causes great bodily harm to an unborn child by the operation of
6 a commercial motor vehicle while the person has an alcohol concentration of 0.04 or
7 more but less than ~~0.1~~ 0.08.

8 **SECTION 17.** 949.08 (2) (em) of the statutes is amended to read:

9 949.08 (2) (em) Is an adult passenger in the offender's commercial motor
10 vehicle and the crime involved is specified in s. 346.63 (6) or 940.25 and the passenger
11 knew the offender was under the influence of an intoxicant, a controlled substance,
12 a controlled substance analog or any combination of an intoxicant, controlled
13 substance and controlled substance analog, or had an alcohol concentration of 0.04
14 or more but less than ~~0.1~~ 0.08. This paragraph does not apply if the victim is also a
15 victim of a crime specified in s. 940.30, 940.305, 940.31, or 948.30.

16 **SECTION 9353. Initial applicability; transportation.**

17 (1) PROHIBITED ALCOHOL CONCENTRATION. The treatment of sections 340.01
18 (46m) (a) and (b), 343.31 (1) (ar), 346.63 (2m), (5) (a), and (6) (a), 885.235 (1g) (a) 1.
19 and 2., (b), (bd), (c), and (cd), 940.09 (1) (bm) and (e), 940.25 (1) (bm) and (e), and
20 949.08 (2) (em) of the statutes first applies to offenses and refusals committed on the
21 effective date of this subsection but does not preclude the counting of other
22 convictions, suspensions, or revocations as prior convictions, suspensions, or
23 revocations for purposes of administrative action by the department of
24 transportation, sentencing by a court, or revocation or suspension of motor vehicle
25 operating privileges.

