



2005 ASSEMBLY BILL 1097

March 6, 2006 - Introduced by Representatives STASKUNAS, KAUFERT, BERCEAU, BLACK, ZEPNICK, ZIEGELBAUER, ALBERS, TURNER, SHERIDAN and OTT, cosponsored by Senators DARLING, LEIBHAM, CARPENTER and ROESSLER. Referred to Committee on Criminal Justice and Homeland Security.

1 **AN ACT to amend** 48.685 (5) (bm) 4., 346.65 (2) (e), 346.65 (2) (f), 346.65 (2c),
2 346.65 (2e) and 346.65 (7); and **to create** 346.65 (2) (eg) and 346.65 (2) (er) of
3 the statutes; **relating to:** repeat drunken driving offenders and providing a
4 penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who commits his or her sixth or subsequent offense related to drunken driving or driving under the influence of an intoxicant or other drug is guilty of a Class H felony and may be fined not less than \$600 nor more than \$10,000 and imprisoned for not less than six months nor more than six years, or both.

Under this bill, the same penalty applies for a person who commits his or her sixth or seventh offense related to drunken driving or driving under the influence of an intoxicant or other drug. A person who commits his or her eighth, ninth, or tenth offense related to drunken driving or driving under the influence of an intoxicant or other drug is guilty of a Class G felony and may be fined not more than \$25,000 and imprisoned for not more than ten years or both. A person who commits his or her 11th or subsequent offense related to drunken driving or driving under the influence of an intoxicant or other drug is guilty of a Class F felony and may be fined not more than \$25,000 and imprisoned for not more than 12 years and six months or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

ASSEMBLY BILL 1097

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.** 48.685 (5) (bm) 4. of the statutes is amended to read:

2 48.685 (5) (bm) 4. A violation of s. 940.19 (3), 1999 stats., or of s. 125.075 (1),
3 125.085 (3) (a) 2., 125.105 (2) (b), 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (4), (5),
4 or (6), 940.20, 940.203, 940.205, 940.207, or 940.25, a violation of s. 346.63 (1), (2),
5 (5), or (6) that is a felony under s. 346.65 (2) (e), (eg), (er), or (f), (2j) (d), or (3m), or
6 an offense under ch. 961 that is a felony, if committed not more than 5 years before
7 the date of the investigation under sub. (2) (am).

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

9 346.65 (2) (e) Except as provided in pars. (f) and (g), is guilty of a Class H felony
10 and shall be fined not less than \$600 and imprisoned for not less than 6 months if
11 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
12 plus the total number of suspensions, revocations and other convictions counted
13 under s. 343.307 (1), equals 5 or ~~more~~ 6, except that suspensions, revocations or
14 convictions arising out of the same incident or occurrence shall be counted as one.

15 **SECTION 3.** 346.65 (2) (eg) of the statutes is created to read:

16 346.65 (2) (eg) Except as provided in par. (f), is guilty of a Class G felony if the
17 number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus
18 the total number of suspensions, revocations and other convictions counted under s.
19 343.307 (1), equals 7, 8, or 9, except that suspensions, revocations or convictions
20 arising out of the same incident or occurrence shall be counted as one.

21 **SECTION 4.** 346.65 (2) (er) of the statutes is created to read:

ASSEMBLY BILL 1097

1 346.65 (2) (er) Except as provided in par. (f), is guilty of a Class F felony if the
2 number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus
3 the total number of suspensions, revocations and other convictions counted under s.
4 343.307 (1), equals 10 or more, except that suspensions, revocations or convictions
5 arising out of the same incident or occurrence shall be counted as one.

6 **SECTION 5.** 346.65 (2) (f) of the statutes is amended to read:

7 346.65 (2) (f) If there was a minor passenger under 16 years of age in the motor
8 vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (1),
9 the applicable minimum and maximum forfeitures, fines or imprisonment under par.
10 (a), (b), (c), (d) ~~or~~, (eg), or (er), for the conviction are doubled. An offense under
11 s. 346.63 (1) that subjects a person to a penalty under par. (c), (d) ~~or~~, (eg), or (er),
12 when there is a minor passenger under 16 years of age in the motor vehicle is a felony
13 and the place of imprisonment shall be determined under s. 973.02.

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

15 346.65 (2c) In sub. (2) (b) to ~~(e)~~ (er), the time period shall be measured from the
16 dates of the refusals or violations that resulted in the revocation or convictions. If
17 a person has a suspension, revocation or conviction for any offense under a local
18 ordinance or a state statute of another state that would be counted under s. 343.307
19 (1), that suspension, revocation or conviction shall count as a prior suspension,
20 revocation or conviction under sub. (2) (b) to ~~(e)~~ (er).

21 **SECTION 7.** 346.65 (2e) of the statutes is amended to read:

22 346.65 (2e) If the court determines that a person does not have the ability to
23 pay the costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), (d), (e), (eg), (er),
24 (f) or (g), the court may reduce the costs, fine and forfeiture imposed and order the
25 person to pay, toward the cost of the assessment and driver safety plan imposed

ASSEMBLY BILL 1097

1 under s. 343.30 (1q) (c), the difference between the amount of the reduced costs and
2 fine or forfeiture and the amount of costs and fine or forfeiture imposed under sub.
3 (2) (a), (b), (c), (d), (e), (eg), (er), (f) or (g).

4 **SECTION 8.** 346.65 (7) of the statutes is amended to read:

5 346.65 (7) A person convicted under sub. (2) (b), (c), (d) ~~or~~, (e), (eg), or (er) or
6 (2j) (b) or (c) shall be required to remain in the county jail for not less than a
7 48-consecutive-hour period.

8 (END)