

2007 DRAFTING REQUEST

Bill

Received: **11/16/2006**

Received By: **bbalinsk**

Wanted: **As time permits**

Identical to LRB: **05-2778**

For: **Legislative Council - LRC 266-0292**

By/Representing: **Don Dyke**

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

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**
Transportation - driver licenses

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **don.dyke@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Ignition interlock restriction on occupational license for OWI repeater (R 0709-16)

Instructions:

See attached - redraft 05-2778

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	bbalinsk 12/22/2006	jdyer 12/26/2006	nmatzke 12/27/2006	_____	cduerst 12/27/2006		
	phurley 12/26/2006	jdyer 12/07/2007		_____			
	phurley 12/06/2007			_____			
/P2	phurley 12/07/2007	jdyer 12/07/2007	pgreensl 12/07/2007	_____	mbarman 12/07/2007		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	phurley 12/14/2007	jdye 12/17/2007	jfrantze 12/07/2007	_____	cdurst 12/07/2007		
/1			rschlue 12/17/2007	_____	sbasford 12/17/2007	sbasford 12/19/2007	

FE Sent For:

<END>

↳ Not Needed

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Handwritten signature and date: 12/17/07

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/P3

jfrantze _____
12/07/2007 _____

cduerst
12/07/2007

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		<i>P3 12/7 jld</i>					
/P2			pgreensl 12/07/2007	_____	mbarman 12/07/2007		
			<i>10/17</i>	<i>12/7</i>			

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Table with 8 columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. Includes handwritten notes and initials.

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/P1	bbalinsk 12/22/2006 phurley	P1 12/26 jld	nwn 12/27	nwn 12/27			

FE Sent For:

<END>

REMEDIAL LEGISLATIVE PROPOSAL

Wisconsin Department of Transportation

DT1605 9/2004 s.13.83(1)(c)4 Wis. Stats.

Instructions: Complete this form for **Law Revision Committee Remedial Legislative proposal(s)** for which a Division requests Secretary's Office (SO) approval. This form must be signed by the Division Administrator.

Short Title of Issue Allow IID restriction on occupational issued to federal repeater, even if court exempts offender's vehicle from IID equipping	
Date Submitted October 19, 2004	Division Executive Offices--OGC
Lead Division Contact Person John Sobotik	Area Code - Telephone Number 608-261-0126
Specific Statutory Change Amend s. 343.10(5)(a)3. to allow court to restrict occupational license to operating only interlock device-equipped vehicles, even if court grants hardship exemption for vehicle owned by offender or orders vehicle used in the offense to be seized: 343.10(5)(a)3. If the applicant has 2 or more prior convictions, suspensions, or revocations, as counted under s. 343.307 (1), the occupational license of the applicant shall restrict the applicant's operation under the occupational license to vehicles that are equipped with a functioning ignition interlock device if the court has ordered under s. 343.301 (1) [DELETE: that each motor vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device] [INSERT: (a) 1. or 2. that the person's operating privilege for Class D vehicles be restricted to operating vehicles that are equipped with an ignition interlock device] or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the motor vehicle owned by the person and used in the violation or improper refusal be equipped with an ignition interlock device. A person to whom a restriction under this subdivision applies violates that restriction if he or she requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device. If the occupational license restricts the applicant's operation to a vehicle that is equipped with an ignition interlock device, the applicant shall be liable for the reasonable costs of equipping the vehicle with the ignition interlock device.	
Administrative Problem with Current Statute s. 343.10(5)(a)3. and 343.301(1)(a)2. contradict each other. 343.301(1)(a)2. provides that a federal repeater shall have his or her operating *privilege* restricted to IID equipped vehicles if the person qualifies as a federal repeater. That should mean that any *license*, including an occupational license, will be so restricted. This restriction applies even if the court exempts a particular vehicle from an IID restriction or orders a vehicle seized under 346.65. Section 343.10(5)(a)3., however, provides that IID restrictions apply on occupational licenses only if EACH motor vehicle titled in the offender's name is ordered to have an IID. This requires that there be no IID restriction imposed on an occupational license, notwithstanding 343.301(1)(a)2.'s operating privilege restriction, if the court grants a hardship exemption for a particular vehicle or orders the vehicle used in the offense seized.	
Justification/Need for Change Wisconsin law must comply with federal law for federal OWI-repeater sanctions, but does not if the person obtains an occupational license but not every vehicle is court-ordered to be equipped with IID. This change conforms to federal law by effecting the operating privilege restriction required under federal law.	
Fiscal Effect, If Any None	

(Division Administrator Signature – Brush Script Font If Computer Filled)

(Date)

OGC Completes: DOT Remedial Legislation Proposal Number
R0709-16

RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: BARB) (Date: 12 / 18 / 06)



Please transfer the drafting file for

2005 LRB 2778 to the drafting file

for 2007 LRB 0801

Leg.
Council

The final version of the 2005 draft and the final Request Sheet will be copied on yellow paper, and returned to the original 2005 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

For research purposes, because the 2005 draft was incorporated into a 2007 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the 2007 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

--- OR ---

Please copy the drafting file for

2007 LRB / _____ (include the version) and place it in the

drafting file for 2007 LRB

For research purposes, because the original 2007 draft was incorporated into another 2007 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the new 2007 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

The original drafting file will then be returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

0801/PI

Q
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

LPS-PWF
please

Regen

1 AN ACT *to amend* 343.10 (5) (a) 3. of the statutes; **relating to:** occupational
2 licenses for certain offenders (suggested as remedial legislation by the
3 Department of Transportation).

Analysis by the Legislative Reference Bureau

Upon a person's third or subsequent violation within a five-year period related to operating a vehicle while intoxicated (OWI), current law requires a court to order that the person's operating privilege be restricted to operating only vehicles that are equipped with an ignition interlock device. However, the court may allow vehicles that are titled or registered in the person's name to remain free of an ignition interlock device in the interest of preventing a hardship to another person who may use that vehicle. The person who committed the violations may apply for an occupational license that allows the person to operate a motor vehicle for limited purposes, such as for travel to and from places of employment or education.

Current law requires the Department of Transportation (DOT) to limit an occupational license for a person who has two or more prior OWI-related violations to operating only vehicles that are equipped with an ignition interlock device if a court has ordered every vehicle that is titled or registered in the person's name to be equipped with an ignition interlock device.

This bill requires DOT to limit an occupational license for a person who has two or more prior OWI-related violations to operating only vehicles that are equipped with an ignition interlock device regardless of whether a court has ordered every vehicle that is titled or registered in the person's name to be equipped with an ignition interlock device.

For further information, see the NOTES[✓] provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Transportation[✓] and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 343.10 (5) (a) 3. of the statutes is amended to read:

2 343.10 (5) (a) 3. If the applicant has 2 or more prior convictions, suspensions,
3 or revocations, as counted under s. 343.307 (1), the occupational license of the
4 applicant shall restrict the applicant's operation under the occupational license to
5 vehicles that are equipped with a functioning ignition interlock device if the court
6 has ordered under s. 343.301 (1) that each motor vehicle for which the person's name
7 appears on the vehicle's certificate of title or registration be equipped with an
8 ignition interlock device or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the
9 motor vehicle owned by the person and used in the violation or improper refusal be
10 equipped with an ignition interlock device.[✓] A person to whom a restriction under this
11 subdivision applies violates that restriction if he or she requests or permits another
12 to blow into an ignition interlock device or to start a motor vehicle equipped with an
13 ignition interlock device for the purpose of providing the person an operable motor
14 vehicle without the necessity of first submitting a sample of his or her breath to
15 analysis by the ignition interlock device. If the occupational license restricts the
16 applicant's operation to a vehicle that is equipped with an ignition interlock device,

1 the applicant shall be liable for the reasonable costs of equipping the vehicle with the
2 ignition interlock device.

3 (END)

CORRESPONDENCE MEMORANDUM

Wisconsin Department of Transportation

DT1175 97

Date: October 31, 2007
To: Paul Nilsen, Karen Baetsen
cc:
From: John J. Sobotik, Asst. General Counsel
Subject: Remedial Draft 0801/p1

I have reviewed remedial draft 0801/P1, and conclude that it needs further analysis or correction.

The intent of the drafting request is to insure that a person who obtains an occupational license where a court has entered some kind of an IID order (whether on the driver or on vehicles owned by the driver) is subject to an IID restriction. This draft goes beyond that request and restricts the occupational licenses issued to any person with 2 or more prior OWIs to an IID restriction. Thus, for example, a person who had 2 OWI offenses in the early 1990's, and who is now subject to a demerit point suspension for several speeding tickets, would be have his/her occupational license restricted to IID equipped vehicles. That reaches beyond the intent of the federal legislation and the department's request.

The federal law requires compliance with 23 CFR s. 1275.4, which provides, in pertinent part:

§ 1275.4 Compliance criteria.

(a) To avoid the transfer of funds as specified in § 1275.6 of this part, a State must enact and enforce a law that establishes, as a minimum penalty, that all repeat intoxicated drivers shall:

- (1) Receive a driver's license suspension of not less than one year;
- (2) Be subject to either—
 - (i) The impoundment of each of the driver's motor vehicles during the one-year license suspension;
 - (ii) The immobilization of each of the driver's motor vehicles during the one-year license suspension; or
 - (iii) The installation of a State-approved ignition interlock system on each of the driver's motor vehicles at the conclusion of the one-year license suspension;...

(b) Exceptions...

(2) A State may provide limited exceptions to the requirement to install an ignition interlock system on each of the offender's motor vehicles, contained in paragraph (a)(2)(iii) of this section, on an individual basis, to avoid undue financial hardship, **provided the State law requires that the offender may not operate a motor vehicle without an ignition interlock system.**

(3) Such exceptions may be issued only in accordance with a State law, regulation or binding policy directive establishing the conditions under which vehicles may be released by the State or under Statewide published guidelines and in exceptional circumstances specific to the offender's motor vehicle, and may not result in the unrestricted use of the vehicle by the repeat intoxicated driver. **[emphasis mine]**

Under current s. 343.10(5)(a)3., DOT is not supposed to require an IID of the offender if any of his or her vehicles are exempted from an IID requirement. That statute reads:

343.10(5)(a)3.

3. If the applicant has 2 or more prior convictions, suspensions, or revocations, as counted under s. 343.307 (1), the occupational license of the applicant shall restrict the applicant's operation under the occupational license to vehicles that are equipped with a functioning ignition interlock device **if the court has ordered under s. 343.301 (1) that each motor vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device or**

any

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has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the motor vehicle owned by the person and used in the violation or improper refusal be equipped with an ignition interlock device... [Emphasis mine]

There are instances where a court does NOT impose a vehicle sanction on one of a defendant's cars (or on the car used in the offense), but DOES order IIDs on other vehicles. In those circumstances, under the letter of the current statute, WisDOT should not be restricting the occupational licenses of those drivers to IID equipped vehicles.

The problem was entirely with the statutory requirement that EACH vehicle has to be affected by an IID restriction before the IID restriction can be put on the vehicle. The statute should provide that if ANY IID order is issued by the court, then the operating privilege restriction should go on the occupational license.

That would accomplish 2 things. First, it brings WI into compliance with 23 USC s. 164 (and the law into line with DMV practice). Second, it makes the IID provisions consistent to the extent that it makes the provisions applicable to "federal repeaters"¹ consistent with the restrictions we apply to persons with multiple OWIs who fall outside the requirements of the federal law. [Wisconsin requires the operating privilege apply to non-federal repeaters, why wouldn't it require it of the persons with more closely spaced OWI offenses?]

I provide the text of the relevant s. 343.301 provisions below. It should be noted that this amendment does not fix the other problem with the IID, Ignition Interlock and vehicle seizure provisions that exist. That is, that under the federal law, the courts can order vehicle seizure of some vehicle, immobilization of others, and ignition interlocks on others. Under the current statutory scheme, the court cannot immobilize some vehicles and order IIDs on others. This is a practical problem, not a federal compliance problem.

- John Sobotik

343.301(1)(a) *[this provision allows but does not require restriction of the operating privileges of all 2nd offenders]*

1. Except as provided in subd. 2., if a person improperly refuses to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total of one or more prior convictions, suspensions, or revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and other convictions, suspensions, and revocations counted under s. 343.307 (1), the court may order that the person's operating privilege for the operation of "Class D" vehicles be restricted to operating "Class D" vehicles that are equipped with an ignition interlock device.

343.301(1)(a)2. *[this provision requires restriction of all federal repeaters operating privileges and requires sanctions on the vehicles.]*

2. If a person improperly refuses to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total of 2 or more convictions, suspensions, or revocations, counted under s. 343.307 (1) within any 5-year period, the court shall order that the person's operating privilege for the operation of "Class D" vehicles be restricted to operating vehicles that are equipped with an ignition interlock device and shall order that each motor vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device. If equipping each motor vehicle with an ignition interlock device under this subdivision would cause an undue financial hardship, the court may order that one or more motor vehicles subject to this subdivision not be equipped with an ignition interlock device. This subdivision does not apply if the court enters an order under sub. (2) (a) 2. or, if the person has 2 or more prior convictions, suspensions, or revocations for purposes of this subdivision, to the motor vehicle owned by the person and used in the violation or refusal if the court orders the vehicle to be seized and forfeited under s. 346.65 (6).

¹ The federal government considers anyone with 2 offenses in any 5-year period to be a "repeat offender." This state, in contrast, generally treats any person with 2 offenses since January 1, 1989, as a repeat offender. (see s. 346.65, Stats.)

From the U.S. Code Online via GPO Access
[wais.access.gpo.gov]
[Laws in effect as of January 3, 2005]
[Document not affected by Public Laws enacted between
January 3, 2005 and August 7, 2006]
[CITE: 23USC164]

TITLE 23--HIGHWAYS

CHAPTER 1--FEDERAL-AID HIGHWAYS

SUBCHAPTER I--GENERAL PROVISIONS

Sec. 164. Minimum penalties for repeat offenders for driving
while intoxicated or driving under the influence

(a) Definitions.--In this section, the following definitions apply:

(1) Alcohol concentration.--The term "alcohol concentration" means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(2) Driving while intoxicated; driving under the influence.--The terms "driving while intoxicated" and "driving under the influence" mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

(3) License suspension.--The term "license suspension" means the suspension of all driving privileges.

(4) Motor vehicle.--The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

(5) Repeat intoxicated driver law.--The term "repeat intoxicated driver law" means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall--

(A) receive a driver's license suspension for not less than 1 year;

(B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles;

(C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

(D) receive--

(i) in the case of the second offense--

(I) an assignment of not less than 30 days of community service; or

(II) not less than 5 days of imprisonment; and

(ii) in the case of the third or subsequent offense--

(I) an assignment of not less than 60 days of community service; or

(II) not less than 10 days of imprisonment.

(b) Transfer of Funds.--

(1) Fiscal years 2001 and 2002.--On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1 1/2 percent of the funds apportioned to the State on that date

pa

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

by
12-10

Regen

1 AN ACT *to amend* 343.10 (5) (a) 3. of the statutes; **relating to:** occupational
 2 licenses for certain offenders (suggested as [✓]remedial legislation by the
 3 Department of Transportation).

Analysis by the Legislative Reference Bureau

Upon a person's third or subsequent violation within a five-year period related to operating a vehicle while intoxicated (OWI), current law requires a court to order that the person's operating privilege be restricted to operating only vehicles that are equipped with an ignition interlock device. However, the court may allow vehicles that are titled or registered in the person's name to remain free of an ignition interlock device in the interest of preventing a hardship to another person who may use that vehicle. The person who committed the violations may apply for an occupational license that allows the person to operate a motor vehicle for limited purposes, such as for travel to and from places of employment or education.

Current law requires the Department of Transportation (DOT) to limit an occupational license for a person who has two or more prior OWI-related violations to operating only vehicles that are equipped with an ignition interlock device if a court has ordered every vehicle that is titled or registered in the person's name to be equipped with an ignition interlock device.

This bill requires DOT to limit an occupational license for a person who has two or more prior OWI-related violations to operating only vehicles that are equipped with an ignition interlock device regardless of whether a court has ordered every vehicle that is titled or registered in the person's name to be equipped with an ignition interlock device.

Insert analysis ✓

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

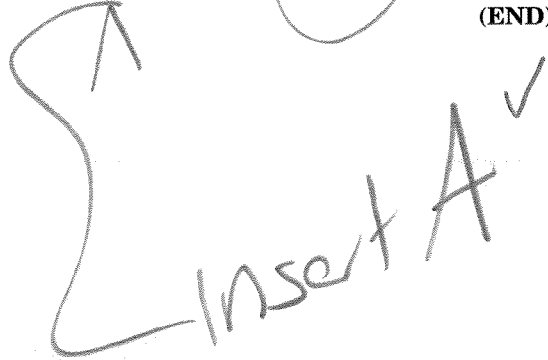
LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Transportation and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 343.10 (5) (a) 3. of the statutes is amended to read:

343.10 (5) (a) 3. If the applicant has 2 or more prior convictions, suspensions, or revocations, as counted under s. 343.307 (1), the occupational license of the applicant shall restrict the applicant's operation under the occupational license to vehicles that are equipped with a functioning ignition interlock device if the court has ordered under s. 343.301 (1) that each motor vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the motor vehicle owned by the person and used in the violation or improper refusal be equipped with an ignition interlock device. A person to whom a restriction under this subdivision applies violates that restriction if he or she requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device. If the occupational license restricts the applicant's operation to a vehicle that is equipped with an ignition interlock device,

1 the applicant shall be liable for the reasonable costs of equipping the vehicle with the
2 ignition interlock device.

3 (END)



Insert A ✓

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0801/P1ins
PJH:jld:wnw

Analysis insert: Under this bill, if a person has two or more prior OWI-related violations and a court has ordered that any of a person's vehicles be equipped with an ignition interlock device, DOT must limit the person's occupational license to operating only vehicles that are equipped with an ignition interlock device.

(end analysis insert)

INSERT A:

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the applicant shall be liable for the reasonable costs of equipping the vehicle with the ignition interlock device.

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326; 2005 a. 443 s. 265.

(end ins A)

REMEDIAL LEGISLATIVE PROPOSAL

Wisconsin Department of Transportation

DT1605 9/2004 s.13.83(1)(c)4 Wis. Stats.

Instructions: Complete this form for Law Revision Committee Remedial Legislative proposal(s) for which a Division requests Secretary's Office (SO) approval. This form must be signed by the Division Administrator.

Short Title of Issue Allow IID restriction on occupational issued to federal repeater, even if court exempts offender's vehicle from IID equipping	
Date Submitted October 19, 2004	Division Executive Offices--OGC
Lead Division Contact Person John Sobotik	Area Code - Telephone Number 608-261-0126
Specific Statutory Change Amend s. 343.10(5)(a)3. to allow court to restrict occupational license to operating only interlock device-equipped vehicles, even if court grants hardship exemption for vehicle owned by offender or orders vehicle used in the offense to be seized: 343.10(5)(a)3. If the applicant has 2 or more prior convictions, suspensions, or revocations, as counted under s. 343.307 (1), the occupational license of the applicant shall restrict the applicant's operation under the occupational license to vehicles that are equipped with a functioning ignition interlock device if the court has ordered under s. 343.301 (1) [DELETE: that each motor vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device] [INSERT: (a) 1. or 2. that the person's operating privilege for Class D vehicles be restricted to operating vehicles that are equipped with an ignition interlock device] or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the motor vehicle owned by the person and used in the violation or improper refusal be equipped with an ignition interlock device. A person to whom a restriction under this subdivision applies violates that restriction if he or she requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device. If the occupational license restricts the applicant's operation to a vehicle that is equipped with an ignition interlock device, the applicant shall be liable for the reasonable costs of equipping the vehicle with the ignition interlock device.	
Administrative Problem with Current Statute s. 343.10(5)(a)3. and 343.301(1)(a)2. contradict each other. 343.301(1)(a)2. provides that a federal repeater shall have his or her operating *privilege* restricted to IID equipped vehicles if the person qualifies as a federal repeater. That should mean that any *license*, including an occupational license, will be so restricted. This restriction applies even if the court exempts a particular vehicle from an IID restriction or orders a vehicle seized under 346.65. Section 343.10(5)(a)3., however, provides that IID restrictions apply on occupational licenses only if EACH motor vehicle titled in the offender's name is ordered to have an IID. This requires that there be no IID restriction imposed on an occupational license, notwithstanding 343.301(1)(a)2.'s operating privilege restriction, if the court grants a hardship exemption for a particular vehicle or orders the vehicle used in the offense seized.	
Justification/Need for Change Wisconsin law must comply with federal law for federal OWI-repeater sanctions, but does not if the person obtains an occupational license but not every vehicle is court-ordered to be equipped with IID. This change conforms to federal law by effecting the operating privilege restriction required under federal law.	
Fiscal Effect, If Any None	

(Division Administrator Signature - Brush Script Font If Computer Filled)

(Date)

OGC Completes: DOT Remedial Legislation Proposal Number:
R0709-16

2007 LRB 0801/PI

Hi Peggy,

I *think* John's memo
is addressed by simply inserting
the language requested on our
request sheet. Please look it
over w/ John's memo and see if
it does the trick.

Thanks!

Paul Nilsen

261-0126



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0801/P2

PJH:jld:pg

P3

~

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

today
12-7

Regen

- 1 AN ACT *to amend* 343.10 (5) (a) 3. of the statutes; **relating to:** occupational
- 2 licenses for certain offenders (suggested as remedial legislation by the
- 3 Department of Transportation).

Analysis by the Legislative Reference Bureau

Upon a person's third or subsequent violation within a five-year period related to operating a vehicle while intoxicated (OWI), current law requires a court to order that the person's operating privilege be restricted to operating only vehicles that are equipped with an ignition interlock device. However, the court may allow vehicles that are titled or registered in the person's name to remain free of an ignition interlock device in the interest of preventing a hardship to another person who may use that vehicle. The person who committed the violations may apply for an occupational license that allows the person to operate a motor vehicle for limited purposes, such as for travel to and from places of employment or education.

Current law requires the Department of Transportation (DOT) to limit an occupational license for a person who has two or more prior OWI-related violations to operating only vehicles that are equipped with an ignition interlock device if a court has ordered every vehicle that is titled or registered in the person's name to be equipped with an ignition interlock device.

Under this bill, if a person has two or more prior OWI-related violations and a court has ordered that ~~any of a person's vehicles be~~ equipped with an ignition interlock device, DOT must limit the person's occupational license to operating only vehicles that are equipped with an ignition interlock device.

the person may only operate a vehicle that is

OVER

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

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7 ~~name appears on the vehicle's certificate of title or registration be~~ equipped with an
8 ignition interlock device or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the
9 motor vehicle owned by the person and used in the violation or improper refusal be
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11 subdivision applies violates that restriction if he or she requests or permits another
12 to blow into an ignition interlock device or to start a motor vehicle equipped with an
13 ignition interlock device for the purpose of providing the person an operable motor
14 vehicle without the necessity of first submitting a sample of his or her breath to
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16 applicant's operation to a vehicle that is equipped with an ignition interlock device,

Class D (a) 1. or 2. that the person's operating privilege for vehicles that are

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2 ignition interlock device.

3 (END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0801/P3

PJH:jld:jf

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

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Current law requires the Department of Transportation (DOT) to limit an occupational license for a person who has two or more prior OWI-related violations to operating only vehicles that are equipped with an ignition interlock device if a court has ordered every vehicle that is titled or registered in the person's name to be equipped with an ignition interlock device.

Under this bill, if a person has two or more prior OWI-related violations and a court has ordered that the person may only operate a vehicle that is equipped with an ignition interlock device, DOT must limit the person's occupational license to operating only vehicles that are equipped with an ignition interlock device.

OVER ↘

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6 has ordered under s. 343.301 (1) ~~that each motor vehicle for which the person's name~~
7 ~~appears on the vehicle's certificate of title or registration be (a) 1. or 2. that the~~
8 ~~person's operating privilege for Class D vehicles be restricted to operating vehicles~~
9 ~~that are equipped with an ignition interlock device or has ordered under s. 346.65~~
10 (6) (a) 1., 1999 stats., that the motor vehicle owned by the person and used in the
11 violation or improper refusal be equipped with an ignition interlock device. A person
12 to whom a restriction under this subdivision applies violates that restriction if he or
13 she requests or permits another to blow into an ignition interlock device OR to start
14 a motor vehicle equipped with an ignition interlock device for the purpose of
15 providing the person an operable motor vehicle without the necessity of first
16 submitting a sample of his or her breath to analysis by the ignition interlock device.
17 If the occupational license restricts the applicant's operation to a vehicle that is

1 equipped with an ignition interlock device, the applicant shall be liable for the
2 reasonable costs of equipping the vehicle with the ignition interlock device.

3 (END)

CS NOTE: Clarifies that DOT must limit the occupational license of a person who has 2 or more prior OWI-related violations ~~in a year period~~ to operating only vehicles equipped with an ignition interlock device, regardless of ^{whether} a court has ordered every vehicle that is titled or registered in the offender's name to be equipped with such a device. According to DOT, the bill conforms to federal requirements.

NOTE:
STC

Basford, Sarah

From: Dyke, Don
Sent: Wednesday, December 19, 2007 9:48 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-0801/1 Topic: Ignition interlock restriction on occupational license for OWI repeater (R 0709-16)

Please Jacket LRB 07-0801/1 for the SENATE.
Thanks,
Don Dyke