

2007 SENATE BILL 116

1 **AN ACT** *to amend* 20.435 (6) (hx), 48.685 (5) (bm) 4., 346.65 (2) (am) 5., 346.65
2 (2) (f), 346.65 (2c), 346.65 (7), 346.655 (1), 346.655 (2) (a) and 346.655 (2) (b); and
3 **to create** 346.65 (2) (am) 6. and 346.65 (2) (am) 7. of the statutes; **relating to:**
4 repeat drunken driving offenders and providing a penalty.

Analysis by the Legislative Reference Bureau

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

5 **SECTION 1g.** 20.435 (6) (hx) of the statutes is amended to read:
6 20.435 **(6)** (hx) *Services related to drivers, receipts.* The amounts in the
7 schedule for services related to drivers. All moneys received by the secretary of
8 administration from the driver improvement surcharge on court fines and
9 forfeitures authorized under s. 346.655 and all moneys transferred from the
10 appropriation account under s. 20.395 (5) (di) shall be credited to this appropriation.

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1 The secretary of administration shall annually transfer to the appropriation account
2 under s. 20.395 (5) (ek) ~~3.76%~~ 9.75 percent of all moneys credited to this
3 appropriation from the driver improvement surcharge. Any unencumbered moneys
4 in this appropriation account may be transferred to sub. (7) (hy) and ss. 20.255 (1)
5 (hm), 20.285 (1) (ia), 20.395 (5) (ci) and (di), and 20.455 (5) (h) by the secretary of
6 administration, after consultation with the secretaries of health and family services
7 and transportation, the superintendent of public instruction, the attorney general,
8 and the president of the University of Wisconsin System.

9 **SECTION 1m.** 48.685 (5) (bm) 4. of the statutes is amended to read:

10 48.685 (5) (bm) 4. A violation of s. 940.19 (3), 1999 stats., or of s. 125.075 (1),
11 125.085 (3) (a) 2., 125.105 (2) (b), 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (4), (5),
12 or (6), 940.20, 940.203, 940.205, 940.207, or 940.25, a violation of s. 346.63 (1), (2),
13 (5), or (6) that is a felony under s. 346.65 (2) (am) 5., 6., or 7., or (f), (2j) (d), or (3m),
14 or an offense under ch. 961 that is a felony, if committed not more than 5 years before
15 the date of the investigation under sub. (2) (am).

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

17 346.65 (2) (am) 5. Except as provided in pars. (f) and (g), is guilty of a Class H
18 felony and shall be fined not less than \$600 and imprisoned for not less than 6 months
19 if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
20 plus the total number of suspensions, revocations and other convictions counted
21 under s. 343.307 (1), equals 5 or ~~more~~ 6, except that suspensions, revocations or
22 convictions arising out of the same incident or occurrence shall be counted as one.

23 **SECTION 3.** 346.65 (2) (am) 6. of the statutes is created to read:

24 346.65 (2) (am) 6. Except as provided in par. (f), is guilty of a Class G felony if
25 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,

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1 plus the total number of suspensions, revocations, and other convictions counted
2 under s. 343.307 (1), equals 7, 8, or 9, except that suspensions, revocations, or
3 convictions arising out of the same incident or occurrence shall be counted as one.

4 **SECTION 4.** 346.65 (2) (am) 7. of the statutes is created to read:

5 346.65 (2) (am) 7. Except as provided in par. (f), is guilty of a Class F felony if
6 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
7 plus the total number of suspensions, revocations, and other convictions counted
8 under s. 343.307 (1), equals 10 or more except that suspensions, revocations, or
9 convictions arising out of the same incident or occurrence shall be counted as one.

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

11 346.65 (2) (f) If there was a minor passenger under 16 years of age in the motor
12 vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (1),
13 the applicable minimum and maximum forfeitures, fines, or imprisonment under
14 par. (am) for the conviction are doubled. An offense under s. 346.63 (1) that subjects
15 a person to a penalty under par. (am) 3., 4., ~~or 5., 6., or 7.~~ when there is a minor
16 passenger under 16 years of age in the motor vehicle is a felony and the place of
17 imprisonment shall be determined under s. 973.02.

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

19 346.65 (2c) In sub. (2) (am) 2., 3., 4., ~~and 5., 6., and 7.~~, the time period shall be
20 measured from the dates of the refusals or violations that resulted in the revocation
21 or convictions. If a person has a suspension, revocation, or conviction for any offense
22 under a local ordinance or a state statute of another state that would be counted
23 under s. 343.307 (1), that suspension, revocation, or conviction shall count as a prior
24 suspension, revocation, or conviction under sub. (2) (am) 2., 3., 4., ~~and 5., 6., and 7.~~

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

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1 346.65 (7) A person convicted under sub. (2) (am) 2., 3., 4., ~~or 5., 6., or 7.~~ or (2j)
2 (am) 2. or 3. shall be required to remain in the county jail for not less than a
3 48-consecutive-hour period.

4 **SECTION 7e.** 346.655 (1) of the statutes is amended to read:

5 346.655 (1) If a court imposes a fine or a forfeiture for a violation of s. 346.63
6 (1) or (5), except for a first violation of s. 346.63 (1) (b), if the person who committed
7 the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at
8 the time of the violation, or a local ordinance in conformity therewith, or s. 346.63
9 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall
10 impose a driver improvement surcharge under ch. 814 in an amount of ~~\$355~~ \$365 in
11 addition to the fine or forfeiture, plus costs, fees, and other surcharges imposed under
12 ch. 814.

13 **SECTION 7m.** 346.655 (2) (a) of the statutes is amended to read:

14 346.655 (2) (a) Except as provided in par. (b), the clerk of court shall collect and
15 transmit the amount under sub. (1) to the county treasurer as provided in s. 59.40
16 (2) (m). The county treasurer shall then make payment of ~~38.5%~~ 40 percent of the
17 amount to the secretary of administration as provided in s. 59.25 (3) (f) 2.

18 **SECTION 7s.** 346.655 (2) (b) of the statutes is amended to read:

19 346.655 (2) (b) If the forfeiture is imposed by a municipal court, the court shall
20 transmit the amount to the treasurer of the county, city, town, or village, and that
21 treasurer shall make payment of ~~38.5%~~ 40 percent of the amount to the secretary of
22 administration as provided in s. 66.0114 (1) (bm). The treasurer of the city, town, or
23 village shall transmit the remaining ~~61.5%~~ 60 percent of the amount to the treasurer
24 of the county.

25 **SECTION 7y. Initial applicability.**

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1 (1) This act first applies to violations committed or refusals occurring on the
2 effective date of this subsection, but does not preclude the counting of other
3 convictions, suspensions, or revocations as prior convictions, suspensions, or
4 revocations for purposes of administrative action by the department of
5 transportation, sentencing by a court, or revocation or suspension of motor vehicle
6 operating privileges.

7

(END)