

## 2007 SENATE BILL 116

March 27, 2007 – Introduced by Senators SULLIVAN, ROESSLER, LEIBHAM, BRESKE, DARLING, GROTHMAN, COGGS and KEDZIE, cosponsored by Representatives STASKUNAS, ZIEGELBAUER, KERKMAN, HUBLER, BLACK, JESKEWITZ, HAHN, BENEDICT, GUNDRUM, HEBL, MASON, BERCEAU, GUNDERSON, WASSERMAN, CULLEN, MOLEPSKE, FIELDS, LOTHIAN and HRAYCHUCK. Referred to Committee on Judiciary and Corrections.

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

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person who commits his or her fifth 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 fifth or sixth offense related to drunken driving or driving under the influence of an intoxicant or other drug. A person who commits his or her seventh, eighth, or ninth 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 tenth 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

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report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

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***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) (am) 5., 6., or 7., or (f), (2j) (d), or (3m),  
6           or 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) (am) 5. of the statutes is amended to read:

9           346.65 (2) (am) 5. Except as provided in pars. (f) and (g), is guilty of a Class H  
10          felony and shall be fined not less than \$600 and imprisoned for not less than 6 months  
11          if 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) (am) 6. of the statutes is created to read:

16          346.65 (2) (am) 6. Except as provided in par. (f), is guilty of a Class G felony if  
17          the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,  
18          plus the total number of suspensions, revocations, and other convictions counted  
19          under s. 343.307 (1), equals 7, 8, or 9, except that suspensions, revocations, or  
20          convictions arising out of the same incident or occurrence shall be counted as one.

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

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

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

8           346.65 **(2)** (f) If there was a minor passenger under 16 years of age in the motor  
9 vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (1),  
10 the applicable minimum and maximum forfeitures, fines, or imprisonment under  
11 par. (am) for the conviction are doubled. An offense under s. 346.63 (1) that subjects  
12 a person to a penalty under par. (am) 3., 4., ~~or 5., 6., or 7.~~ when there is a minor  
13 passenger under 16 years of age in the motor vehicle is a felony and the place of  
14 imprisonment shall be determined under s. 973.02.

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

16           346.65 **(2c)** In sub. (2) (am) 2., 3., 4., ~~and 5., 6., and 7.~~, the time period shall be  
17 measured from the dates of the refusals or violations that resulted in the revocation  
18 or convictions. If a person has a suspension, revocation, or conviction for any offense  
19 under a local ordinance or a state statute of another state that would be counted  
20 under s. 343.307 (1), that suspension, revocation, or conviction shall count as a prior  
21 suspension, revocation, or conviction under sub. (2) (am) 2., 3., 4., ~~and 5., 6., and 7.~~

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

