

**2007 DRAFTING REQUEST****Senate Amendment (SA-SB116)**Received: **09/24/2007**Received By: **phurley**Wanted: **Today**

Identical to LRB:

For: **Jim Sullivan (608) 266-2512**

By/Representing:

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Subject: **Drunk Driving - penalties**

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Submit via email: **YES**Requester's email: **Sen.Sullivan@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Saferide surcharge

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**Instructions:**

Increase surcharge from 355 to 365; counties get 60%; DOA gets 38.5%. DOA transfers 9.75% to saferide

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**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>
/1	phurley 09/24/2007	wjackson 09/27/2007	jfrantze 09/28/2007	_____	cduerst 09/28/2007	cduerst 09/28/2007	

FE Sent For:

&lt;END&gt;

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phurley

1 wlj 9/27

9/28

9/28

FE Sent For:

<END>

## 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

**SENATE BILL 116**

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.

**SENATE BILL 116**

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:



WLj

**SENATE AMENDMENT ,  
TO 2007 SENATE BILL 116**

Other  
SOON

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 1: before that line insert:

3 **"SECTION 1g.** 20.435 (6) (hx) of the statutes is amended to read:

4 20.435 (6) (hx) *Services related to drivers, receipts.* The amounts in the  
5 schedule for services related to drivers. All moneys received by the secretary of  
6 administration from the driver improvement surcharge on court fines and  
7 forfeitures authorized under s. 346.655 and all moneys transferred from the  
8 appropriation account under s. 20.395 (5) (di) shall be credited to this appropriation.

9 The secretary of administration shall annually transfer to the appropriation account  
10 under s. 20.395 (5) (ek) ~~3.76%~~ 9.75% <sup>EP</sup> of all moneys credited to this appropriation from  
11 the driver improvement surcharge. Any unencumbered moneys in this  
12 appropriation account may be transferred to sub. (7) (hy) and ss. 20.255 (1) (hm),  
13 20.285 (1) (ia), 20.395 (5) (ci) and (di), and 20.455 (5) (h) by the secretary of

- 1 administration, after consultation with the secretaries of health and family services
- 2 and transportation, the superintendent of public instruction, the attorney general,
- 3 and the president of the University of Wisconsin System.

**History:** 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 289 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434.

4 **2.** Page 2, line 1: substitute "SECTION 1M" for "SECTION 1".

5 **3.** Page 4, line 3: after that line insert:

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

7 346.655 (1) If a court imposes a fine or a forfeiture for a violation of s. 346.63

8 (1) or (5), except for a first violation of s. 346.63 (1) (b), if the person who committed

9 the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at

10 the time of the violation, or a local ordinance in conformity therewith, or s. 346.63

11 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall

12 impose a driver improvement surcharge under ch. 814 in an amount of \$355 \$365 in

13 addition to the fine or forfeiture, plus costs, fees, and other surcharges imposed under

14 ch. 814.

**History:** 1981 c. 20; 1981 c. 314; 1983 a. 27 s. 2202 (20); 1985 a. 29, 337; 1987 a. 3, 27, 399; 1989 a. 31, 105; 1991 a. 39; 1993 a. 16; 1995 a. 27, 201; 1997 a. 27; 1999 a. 109; 1999 a. 150 s. 672; 2001 a. 16, 104; 2003 a. 30, 33, 139, 326.

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

16 346.655 (2) (a) Except as provided in par. (b), the clerk of court shall collect and

17 transmit the amount under sub. (1) to the county treasurer as provided in s. 59.40

18 (2) (m). The county treasurer shall then make payment of ~~38.5%~~ 40% of the amount

19 to the secretary of administration as provided in s. 59.25 (3) (f) 2.

**History:** 1981 c. 20; 1981 c. 314; 1983 a. 27 s. 2202 (20); 1985 a. 29, 337; 1987 a. 3, 27, 399; 1989 a. 31, 105; 1991 a. 39; 1993 a. 16; 1995 a. 27, 201; 1997 a. 27; 1999 a. 109; 1999 a. 150 s. 672; 2001 a. 16, 104; 2003 a. 30, 33, 139, 326.

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



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

**History:** 1981 c. 20; 1981 c. 314; 1983 a. 27 s. 2202 (20); 1985 a. 29, 337; 1987 a. 3, 27, 399; 1989 a. 31, 105; 1991 a. 39; 1993 a. 16; 1995 a. 27, 201; 1997 a. 27; 1999  
a. 109; 1999 a. 150 s. 672; 2001 a. 16, 104; 2003 a. 30, 33, 139, 326.

7

(END)

**Barman, Mike**

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**From:** Barman, Mike  
**Sent:** Friday, December 14, 2007 12:00 PM  
**To:** Renk, Jeff  
**Subject:** RE: New amendment stripes

I will send new ones over to you this afternoon.

Mike

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**From:** Renk, Jeff  
**Sent:** Friday, December 14, 2007 11:10 AM  
**To:** Barman, Mike  
**Subject:** New amendment stripes

Hi Mike,

Would it be possible to get some new stripes for 3 amendments? Senate amendments 1 (a0660/1), 2 (a0659/2), and 3 (a0733/1) to Senate Bill 116 were misplaced/lost while it was in committee. Two of these amendments were adopted in committee. We do not need to reintroduce them or anything like that....I just need the red stripes to be replaced. I have copies of the amendments since they have been introduced already, so it's just the covers I need. Thanks.

***Jeffrey Renk***  
Assistant Chief Clerk  
Wisconsin Senate  
Room B20 Southeast, State Capitol  
(608) 266-2517  
[jeff.renk@legis.wisconsin.gov](mailto:jeff.renk@legis.wisconsin.gov)