

2009 DRAFTING REQUEST

Bill

Received: 11/25/2008

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Tony Staskunas (608) 266-0620

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Drunk Driving - penalties

Extra Copies:

Submit via email: YES

Requester's email: Rep.Staskunas@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Ignition interlock devices for OWI offenses

Instructions:

07-4423 with changes discussed at meeting 11-25

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>
/?	phurley 01/02/2009	wjackson 01/12/2009 csicilia 01/12/2009		_____			S&L
/P1	phurley 01/15/2009	csicilia 01/22/2009	jfrantze 01/13/2009	_____	sbasford 01/13/2009		S&L
/P2	phurley 01/23/2009	csicilia 01/27/2009	jfrantze 01/22/2009	_____	cdurst 01/22/2009		S&L

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/1			rschluet 01/27/2009	_____	lparisi 01/27/2009		S&L
/2	phurley 01/29/2009	csicilia 02/02/2009	rschluet 02/02/2009	_____	sbasford 02/02/2009	cduerst 02/02/2009	

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rschluet _____
01/27/2009 _____

lparisi _____
01/27/2009 _____

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/P2 cjs 1/17/09

Handwritten signatures and dates: 1/22, 1/22

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/?	phurley	PI gjs 11/13/09	Jb 11/13	2/RS 11/13			

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Michigan IID costs

COST:

The state does not regulate the cost of ignition interlock devices. However, the Legislature did limit the amount that can be charged to people on low-incomes to a maximum of \$1 per day. In order to qualify for this reduced fee your income must fall below 150% of the current Poverty Guidelines of the U.S. Secretary of Health and Human Services. To determine if you may qualify, see your vendor for details. The state law does require copies of the previous years filed State Income Tax forms for verification.

221 N Staskunas

IID

07-4422/3

If Failure to comply

either by not installing
or tampering

not installing ↑ same penalties as tampering \$347.50 to include impus up to 6 mos for first offence (don't ↑ for first)

347.413 make sure this includes not installing (or put not installing as a sep offense).

If "rolling check" reverts ↑ PAC, that should = 347.413 or sep. viol.

If IID discovers viol, they must report it to DOT. DOT sends report to ct where conviction took place and to law enforcement where viol took place.

IC will ask DOT where the violation should be reported & how quickly

IC will ask DOT what ha-

don't put this part in, says Andrea 12-22-08. Have DOT rules

Funding: who pays for ↑ DOT staff/work
who pays for indigent folks to
get IID's?

Look @ NM law

Indigent folks: If 150% of current
Poverty Guidelines of US Dept of
Social Services, only
cost \$1/day

So: Get rid of 343.301(6) re: 5%
stuff. Limit to \$1 per day for
people at or below poverty level
(federal)

So: t/c w/ Adrienne. Put into
DOT rules that ~~reports go to~~
where/ how quickly reports need
to go.

\$25, not \$50 fee at install

0933/P1

TODAY - per requester

2007 BILL

g's

SA 07 ✓
SA 09 ✓
X-ref ✓
stat comp ✓
revi ✓
2007 ✓

P.W.F.

1-2-09
1-7-09
1-13-09
Regen Cat

1 AN ACT to repeat 342.12 (4) (c) 1. b., 343.301 (2), 346.65 (6), 940.09 (1d) (b) and
2 940.25 (1d) (b); to renumber and amend 343.301 (1) (c), 343.301 (1) (d), 940.09
3 (1d) (a) 1., 940.09 (1d) (a) 2., 940.25 (1d) (a) 1. and 940.25 (1d) (a) 2.; to
4 consolidate, renumber and amend 343.301 (1) (a) 1. and 2. and 343.301 (1)
5 (b) 1. and 2.; to amend 340.01 (46m) (c), 342.12 (4) (c) 1. c., 342.13 (1), 343.10
6 (5) (a) 3., 343.301 (title), 343.305 (10m) (title), 343.305 (10m) (a), 343.305 (10m)
7 (b), 347.417 (1) and 347.417 (2); and to create 20.395 (5) (cim), 20.395 (5) (ck),
8 343.301 (5), 343.301 (6) and 347.50 (1t) of the statutes; relating to: requiring
9 ignition interlock devices for certain motor vehicle violations, granting
10 rule-making authority, and providing a penalty.

making an appropriations

Analysis by the Legislative Reference Bureau

Under current law, if a person is convicted of a second offense relating to operating a motor vehicle with a prohibited alcohol concentration (in most cases, a concentration of 0.8 or higher) or under the influence of an intoxicant (OWI-related offense), a judge may immobilize the person's motor vehicles or require that the person's operating privilege be limited to operating vehicles that are equipped with

BILL

an ignition interlock device. If a person is convicted of a third or subsequent OWI-related offense within five years, a judge must limit the person's operating privilege to operating vehicles that are equipped with an ignition interlock device unless the judge orders that the person's motor vehicles be immobilized or seized and sold at auction.

Current law requires the person to pay for the costs of installing and monitoring the ignition interlock device on every motor vehicle he or she owns. If the judge determines that this would work a hardship to the person, current law allows the judge to require an ignition interlock device on some, but not all, of the person's motor vehicles.

This bill eliminates the option of ordering ^{the} the person's vehicle to be immobilized or seized and sold at auction. The bill makes it mandatory for a judge to require that the person's operating privilege be limited, for a minimum of one year, to operating vehicles that are equipped with an ignition interlock device if either of the following are true: 1) ^{the} a person commits a first OWI-related offense with an alcohol concentration of 0.16 or more; or 2) ^{the} a person commits a second OWI-related offense.

Under the bill, the judge must order that every motor vehicle the person owns be equipped with an ignition interlock device. If the judge determines that the installation of an ignition interlock device would work a financial hardship to the person, the judge may order that the ignition interlock device be installed at no cost to the person, except for the payment by the person of a \$50 surcharge upon the installation of the first ignition interlock device. The bill requires the Department of Transportation (DOT) to promulgate rules establishing a program, funded with monies received from ignition interlock providers, to reimburse ignition interlock providers who install and monitor ignition interlock devices free of charge in cases of financial hardship.

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.** 20.395 (5) (cim) of the statutes is created to read:

2 20.395 (5) (cim) *Ignition interlock indigency fund.* From the general fund, all
3 moneys received under the rules promulgated under s. 343.301 (6) for expenditures
4 related to administering an ignition interlock indigency fund and reimbursing
5 ignition interlock device providers for goods and services.

6 **SECTION 2.** 20.395 (5) (ck) of the statutes is created to read:

BILL

1 20.395 (5) (ck) *Ignition interlock device administration and enforcement.* From
2 the general fund, all moneys received under s. 343.301 (5) for expenditures related
3 to administering and enforcing the ignition interlock device and vehicle
4 immobilization program under s. 343.301.

5 **SECTION 3.** 340.01 (46m) (c) of the statutes is amended to read:

6 340.01 (46m) (c) If the person is subject to an order under s. 343.301 or if the
7 person has 3 or more prior convictions, suspensions or revocations, as counted under
8 s. 343.307 (1), an alcohol concentration of more than 0.02.

9 **SECTION 4.** 342.12 (4) (c) 1. b. of the statutes is repealed. x

10 **SECTION 5.** 342.12 (4) (c) 1. c. of the statutes is amended to read:

11 342.12 (4) (c) 1. c. The person requesting the issuance of the certificate of title
12 files an affidavit with the department attesting that the conditions ^{condition} under subd. 1. a.
13 and b. are met. ^{is}

14 **SECTION 6.** 342.13 (1) of the statutes is amended to read:

15 342.13 (1) If a certificate of title is lost, stolen, mutilated, or destroyed, or
16 becomes illegible, the owner or legal representative of the owner named in the
17 certificate, as shown by the records of the department, shall promptly make
18 application for and may obtain a replacement upon furnishing information
19 satisfactory to the department. The replacement certificate of title shall contain a
20 notation, in a form determined by the department, identifying the certificate as a
21 replacement certificate that may be subject to the rights of a person under the
22 original certificate. ~~If applicable under s. 346.65 (6), the replacement certificate of~~
23 ~~title shall include the notation "Per section 346.65 (6) of the Wisconsin statutes,~~
24 ~~ownership of this motor vehicle may not be transferred without prior court approval".~~

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1 **SECTION 7.** 343.10 (5) (a) 3. of the statutes, as affected by 2007 Wisconsin Act

2 94, is amended to read:

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

20 **SECTION 8.** 343.301 (title) of the statutes is amended to read:

21 **343.301 (title) Installation of ignition interlock device or**
 22 **immobilization of a motor vehicle.**

23 **SECTION 9.** 343.301 (1) (a) 1. and 2. of the statutes are consolidated,
 24 renumbered 343.301 (1) and amended to read:

(9) Sec. #. RP; 343.301 (1) (title)

BILL

1 343.301 (1) ~~Except as provided in subd. 2., if~~ If a person improperly refuses to
2 take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and
3 the person either had an alcohol concentration of 0.16 or more at the time of the
4 offense or has a total of one or more prior convictions, suspensions, or revocations,
5 counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and
6 other convictions, suspensions, and revocations counted under s. 343.307 (1), the
7 court may order that the person's operating privilege for the operation of "Class D"
8 vehicles be restricted to operating "Class D" vehicles that are equipped with an
9 ignition interlock device. 2. If a person improperly refuses to take a test under s.
10 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total
11 of 2 or more convictions, suspensions, or revocations, counted under s. 343.307 (1)
12 within any 5-year period, the court shall order that the person's operating privilege
13 for the operation of "Class D" vehicles be restricted to operating vehicles that are
14 equipped with an ignition interlock device and shall order that each motor vehicle
15 for which the person's name appears on the vehicle's certificate of title or registration
16 be equipped with an ignition interlock device. ~~If equipping each motor vehicle with~~
17 ~~an ignition interlock device under this subdivision subsection would cause an undue~~
18 ~~financial hardship, the court may order that one or more motor vehicles subject to~~
19 ~~this subdivision not be equipped with an ignition interlock device. This subdivision~~
20 ~~does not apply if the court enters an order under sub. (2) (a) 2. or, if the person has~~
21 ~~2 or more prior convictions, suspensions, or revocations for purposes of this~~
22 ~~subdivision, to the motor vehicle owned by the person and used in the violation or~~
23 ~~refusal if the court orders the vehicle to be seized and forfeited under s. 346.65 (6)~~
24 the ignition interlock device be installed and monitored without cost to the person
25 and that the ignition interlock device provider be reimbursed as provided in sub. (6).

①
struck
period

BILL

SECTION 10

1 **SECTION 10.** 343.301 (1) (b) 1. and 2. of the statutes are consolidated, *
2 renumbered 343.301 (2m) and amended to read:

3 343.301 (2m) The court may shall restrict the operating privilege ~~restriction~~ ↓ ↓ ↓
4 under ~~par. (a) 1.~~ sub. (1) for a period of not less than one year nor more than the
5 maximum operating privilege revocation period permitted for the refusal or
6 violation. ~~2. The court shall order the operating privilege restriction and the~~
7 ~~installation of an ignition interlock device under par. (a) 2. for a period of not less than~~
8 ~~one year nor more than the maximum operating privilege revocation period~~
9 ~~permitted for the refusal or violation, beginning one year after the operating~~
10 ~~privilege revocation period begins~~ on the date the department issues any license
11 granted under this chapter. The court may order the installation of an ignition
12 interlock device under sub. (1) immediately upon issuing an order under sub. (1).

13 **SECTION 11.** 343.301 (1) (c) of the statutes is renumbered 343.301 (3) ^(a) and
14 amended to read: ^(a) Except as provided in par. (b), if ^

15 343.301 (3) ~~If~~ the court enters an order under ~~par. (a)~~ sub. (1), the person shall
16 be liable for the reasonable cost of equipping and maintaining any ignition interlock
17 device installed on his or her motor vehicle. x

18 **SECTION 12.** 343.301 (1) (d) of the statutes is renumbered 343.301 (4) and ^
19 amended to read: x

20 343.301 (4) A person to whom an order under ~~par. (a)~~ sub. (1) applies violates
21 that order if he or she requests or permits another to blow into an ignition interlock
22 device or to start a motor vehicle equipped with an ignition interlock device for the
23 purpose of providing the person an operable motor vehicle without the necessity of
24 first submitting a sample of his or her breath to analysis by the ignition interlock
25 device.

fails to have an ignition interlock device installed as ordered, or if he or she

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INSERT A

1 **SECTION 13.** 343.301 (2) of the statutes is repealed.

2 **SECTION 14.** 343.301 (5) of the statutes is created to read:

3 343.301 (5) In addition to the the costs under sub. (3), the person shall pay to
4 the department a surcharge of ~~\$50~~^{\$25} upon the installation of the first ignition interlock
5 device.

6 **SECTION 15.** 343.301 (6) of the statutes is created to read:

7 343.301 (6) The department shall promulgate rules to reimburse ignition
8 interlock device providers for the cost of installing and monitoring an ignition
9 interlock device when a court makes a finding under sub. (1) that the installation of
10 an ignition interlock device would cause an undue financial hardship to a person.
11 The rules shall include all of the following:

12 (a) A requirement that an ignition interlock device service provider that
13 provides an ignition interlock device pursuant to an order under this section pay 5
14 percent of the total gross revenue it receives to the department.

15 (b) A requirement that the department reimburse the ignition interlock device
16 service provider for the costs associated with providing an ignition interlock device
17 if a court orders that reimbursement is appropriate under sub. (1).

18 (c) A requirement that the secretary conduct an annual review to determine
19 whether the amount paid under par. (a) is sufficient to cover costs under par. (b).

20 **SECTION 16.** 343.305 (10m) (title) of the statutes is amended to read:

21 343.305 (10m) (title) ~~REFUSALS; SEIZURE, IMMOBILIZATION OR IGNITION INTERLOCK~~
22 OF A MOTOR VEHICLE.

23 **SECTION 17.** 343.305 (10m) (a) of the statutes is amended to read:

24 343.305 (10m) (a) Except as provided in par. (b), if the person whose operating
25 privilege is revoked under sub. (10) has one or more prior convictions, suspensions,

BILL

SECTION 17

1 or revocations, as counted under s. 343.307 (1), the procedure under s. 343.301 shall
 2 be followed if the court enters an order regarding operating privilege restriction or
 3 enters an order regarding immobilization. If the number of convictions under ss.
 4 940.09 (1) and 940.25 in the lifetime of the person whose operating privilege is
 5 revoked under sub. (10), plus the total number of other convictions, suspensions, and
 6 revocations counted under s. 343.307 (1), equals 2 or more, the procedure under s.
 7 346.65 (6) shall be followed if the court orders seizure and forfeiture of the motor
 8 vehicle used in the improper refusal and owned by the person.

9 **SECTION 18.** 343.305 (10m) (b) of the statutes is amended to read:

10 343.305 (10m) (b) If the person whose operating privilege is revoked under sub.
 11 (10) has 2 or more convictions, suspensions, or revocations, as counted under s.
 12 343.307 (1) within any 5-year period, the procedure under s. 343.301 shall be
 13 followed if the court enters an order regarding operating privilege restriction and the
 14 installation of an ignition interlock device or enters an order regarding
 15 immobilization. If the number of convictions under ss. 940.09 (1) and 940.25 in the
 16 lifetime of the person whose operating privilege is revoked under sub. (10), plus the
 17 total number of other convictions, suspensions, and revocations counted under s.
 18 343.307 (1), equals 2 or more, the procedure under s. 346.65 (6) shall be followed if
 19 the court orders seizure and forfeiture of the motor vehicle used in the improper
 20 refusal and owned by the person.

21 **SECTION 19.** 346.65 (6) of the statutes is repealed. X

22 **SECTION 20.** 347.417 (1) of the statutes is amended to read:

23 347.417 (1) No person may remove, disconnect, tamper with, or otherwise
 24 circumvent the operation of any immobilization device installed in response to a
 25 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (2). This subsection does

Insert B

PLAIN
 plain period
 2007 stats

BILL

1 not apply to the removal of an immobilization device pursuant to a court order or to
2 necessary repairs to a malfunctioning immobilization device.

3 **SECTION 21.** 347.417 (2) of the statutes is amended to read:

4 347.417 (2) The department shall design a warning label which shall be affixed
5 by the owner of each immobilization device before the device is used to immobilize
6 any motor vehicle under s. 346.65 (6), 1999 stats., ~~or s. 343.301 (2).~~ The label shall
7 provide notice of the penalties for removing, disconnecting, tampering with, or
8 otherwise circumventing the operation of the immobilization device.

9 **SECTION 22.** 347.50 (1t) of the statutes is created to read:

10 347.50 (1t) In addition to the penalty under sub. (1s), if a person who is subject
11 to an order under s. 343.301 violates s. 347.413, the court shall extend the order
12 under s. 343.301 (1) or (2m) for 6 months for each violation.

13 **SECTION 23.** 940.09 (1d) (a) 1. of the statutes is renumbered 940.09 (1d) (ac) and
14 amended to read:

15 940.09 (1d) (ac) Except as provided in ~~subd. 2. par. (bc)~~, if the person who
16 committed an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more prior
17 convictions, suspensions, or revocations, counting convictions under sub. (1) and s.
18 940.25 in the person's lifetime, plus other convictions, suspensions, or revocations
19 counted under s. 343.307 (1), the procedure under s. 343.301 shall be followed if the
20 court enters an order regarding operating privilege restriction ~~or enters an order~~
21 regarding immobilization.

22 **SECTION 24.** 940.09 (1d) (a) 2. of the statutes is renumbered 940.09 (1d) (bc) and
23 amended to read:

24 940.09 (1d) (bc) ~~Notwithstanding par. (b),~~ if If the person who committed an
25 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more convictions,

BILL

SECTION 24

1 suspensions, or revocations counted under s. 343.307 (1) ~~within any 5-year period,~~
 2 the procedure under s. 343.301 shall be followed if the court enters an order
 3 regarding operating privilege restriction and the installation of an ignition interlock
 4 device ~~or enters an order regarding immobilization.~~

5 **SECTION 25.** 940.09 (1d) (b) of the statutes is repealed. x

6 **SECTION 26.** 940.25 (1d) (a) 1. of the statutes is renumbered 940.25 (1d) (ac) and x
 7 amended to read:

8 940.25 (1d) (ac) Except as provided in ~~subd. 2. par. (bc),~~ if the person who
 9 committed an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more prior
 10 convictions, suspensions, or revocations, counting convictions under sub. (1) and s.
 11 940.09 (1) in the person's lifetime, plus other convictions, suspensions, or revocations
 12 counted under s. 343.307 (1), the procedure under s. 343.301 shall be followed if the
 13 court enters an order regarding operating privilege restriction ~~or enters an order~~
 14 ~~regarding immobilization.~~

15 **SECTION 27.** 940.25 (1d) (a) 2. of the statutes is renumbered 940.25 (1d) (bc) and x
 16 amended to read:

17 940.25 (1d) (bc) ~~Notwithstanding par. (b), if~~ If the person who committed an
 18 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more convictions,
 19 suspensions, or revocations counted under s. 343.307 (1) ~~within any 5-year period,~~
 20 the procedure under s. 343.301 shall be followed if the court enters an order
 21 regarding operating privilege restriction and the installation of an ignition interlock
 22 device ~~or enters an order regarding immobilization.~~

23 **SECTION 28.** 940.25 (1d) (b) of the statutes is repealed. x

24 *SECTION 28. Initial applicability.
 (#) This act first applies to offenses that are committed
 on the effective date of this subsection.* v

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0933/?ins
PJH:.....

INSERT ANALYSIS 1:

Under current law, no one may remove, disconnect, tamper with, or otherwise circumvent the operation of an ignition interlock device. A person who does so may be required to forfeit not less than \$150 nor more than \$600 for the first offense and, for a second or subsequent offense within 5 years, be fined not less than \$300 nor more than \$1,000, or imprisoned for not more than 6 months, or both.

of five may
2 six

INSERT ANALYSIS 2:

1091 person's income is at or below the federal poverty level, the person is required only to pay a \$25 surcharge upon the installation of the first ignition interlock device and \$1 per day toward the cost of installing and monitoring the ignition interlock device. A person whose income is above the federal poverty level is required to pay the surcharge and assume the full cost of installing and monitoring the ignition interlock device.

Under the bill, a court may order a person who removes, disconnects, tampers with, or otherwise circumvents the operation of an ignition interlock device to be imprisoned for not more than six months for a first offense. The bill also subjects a person who fails to have an ignition interlock device installed as ordered by the court to the same penalties as a person who removes, disconnects, tampers with, or otherwise circumvents the operation of an ignition interlock device.

INSERT A:

SECTION 1. 343.301 (3) (b) of the statutes is created to read:

343.301 (3) (b) If the court finds that the person who is subject to an order under sub. (1) has a household income that is at or below the nonfarm federal poverty line for the continental United States, as defined by the federal department of labor under 42 USC 9902 (2), the court shall limit the person's liability under par. (a) to \$1 per day that the ignition interlock device is installed on his or her motor vehicle.

INSERT B:

(title) PLAIN

SECTION 2. 347.413 (title) and (1) of the statutes are amended to read:

347.413 **Ignition interlock device tampering; failure to install.** (1) No person may remove, disconnect, tamper with, or otherwise circumvent the operation

of an ignition interlock device installed in response to the court order under s. 346.65 (6), 1999 stats., or s. 343.301 (1), or fail to have the ignition interlock device installed as ordered by the court. This subsection does not apply to the removal of an ignition interlock device upon the expiration of the order requiring the motor vehicle to be so equipped or to necessary repairs to a malfunctioning ignition interlock device by a person authorized by the department.

History: 1991 a. 277; 1993 a. 213; 1999 a. 109; 2001 a. 16 ss. 3445f, 3445g, 4060hd, 4060hw, 4060hy.

INSERT C:

SECTION 3. 347.50 (1s) of the statutes is amended to read: ^{may}

347.50 (1s) Any person violating s. 347.413 (1) or 347.417 (1) may be required to forfeit not less than \$150 nor more than \$600, or be imprisoned for not more than 6 months, or both for the first offense. For a 2nd or subsequent conviction within 5 years, the person may be fined not less than \$300 nor more than \$1,000, or imprisoned for not more than 6 months, or both.

History: 1971 c. 278; 1975 c. 121; 1981 c. 327; 1983 a. 243; 1985 a. 309; 1987 a. 132; 1989 a. 22; 1991 a. 26, 277; 2001 a. 28; 2003 a. 166; 2005 a. 106, 193; 2007 a. 97.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0933/PT

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Slays

P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA ✓

1-15
soon

Repeal Act

1 AN ACT *to repeal* 342.12 (4) (c) 1. b., 343.301 (1) (title), 343.301 (2), 346.65 (6),
2 940.09 (1d) (b) and 940.25 (1d) (b); *to renumber and amend* 343.301 (1) (c),
3 343.301 (1) (d), 940.09 (1d) (a) 1., 940.09 (1d) (a) 2., 940.25 (1d) (a) 1. and 940.25
4 (1d) (a) 2.; *to consolidate, renumber and amend* 343.301 (1) (a) 1. and 2. and
5 343.301 (1) (b) 1. and 2.; *to amend* 340.01 (46m) (c), 342.12 (4) (c) 1. c., 342.13
6 (1), 343.10 (5) (a) 3., 343.301 (title), 343.305 (10m) (title), 343.305 (10m) (a),
7 343.305 (10m) (b), 347.413 (title) and (1), 347.417 (1), 347.417 (2) and 347.50
8 (1s); and *to create* 20.395 (5) (ck), 343.301 (3) (b), 343.301 (5) and 347.50 (1t)
9 of the statutes; **relating to:** requiring ignition interlock devices for certain
10 motor vehicle violations, granting rule-making authority, making an
11 appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, if a person is convicted of a second offense relating to operating a motor vehicle with a prohibited alcohol concentration (in most cases, a concentration of 0.8 or higher) or under the influence of an intoxicant (OWI-related offense), a judge may immobilize the person's motor vehicles or require that the

person's operating privilege be limited to operating vehicles that are equipped with an ignition interlock device. If a person is convicted of a third or subsequent OWI-related offense within five years, a judge must limit the person's operating privilege to operating vehicles that are equipped with an ignition interlock device unless the judge orders that the person's motor vehicles be immobilized or seized and sold at auction.

Current law requires the person to pay for the costs of installing and monitoring the ignition interlock device on every motor vehicle he or she owns. If the judge determines that this would work a hardship to the person, current law allows the judge to require an ignition interlock device on some, but not all, of the person's motor vehicles.

Under current law, no one may remove, disconnect, tamper with, or otherwise circumvent the operation of an ignition interlock device. A person who does so may be required to forfeit not less than \$150 nor more than \$600 for the first offense and, for a second or subsequent offense within five years, may be fined not less than \$300 nor more than \$1,000, or imprisoned for not more than six months, or both.

This bill eliminates the option of ordering the person's vehicle to be immobilized or seized and sold at auction. The bill makes it mandatory for a judge to require that the person's operating privilege be limited, for a minimum of one year, to operating vehicles that are equipped with an ignition interlock device if either of the following are true: 1) the person commits a first OWI-related offense with an alcohol concentration of 0.16 or more; or 2) the person commits a second OWI-related offense.

Under the bill, the judge must order that every motor vehicle the person owns be equipped with an ignition interlock device. If the judge determines that the person's income is at or below the federal poverty level, the person is required to pay only a \$25 surcharge upon the installation of the first ignition interlock device and \$1 per day toward the cost of installing and monitoring the ignition interlock device. A person whose income is above the federal poverty level is required to pay the surcharge and assume the full cost of installing and monitoring the ignition interlock device.

Under the bill, a court may order a person who removes, disconnects, tampers with, or otherwise circumvents the operation of an ignition interlock device to be imprisoned for not more than six months for a first offense. The bill also subjects a person who fails to have an ignition interlock device installed as ordered by the court to the same penalties as a person who removes, disconnects, tampers with, or otherwise circumvents the operation of an ignition interlock device.

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:

SECTION 1. 20.395 (5) (ck) of the statutes is created to read:

Under the bill, if a person who is ordered to do so fails to pay the surcharge or fails to have an ignition interlock device installed, he or she may not obtain an occupational license.

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e (hs)

1 20.395 (5) ^(ck) Ignition interlock device administration and enforcement ^(h-) From
 2 the general fund, all moneys received under s. 343.301 (5) for expenditures related
 3 to administering and enforcing the ignition interlock device and vehicle
 4 immobilization program under s. 343.301.

5 SECTION 2. 340.01 (46m) (c) of the statutes is amended to read:

6 340.01 (46m) (c) If the person is subject to an order under s. 343.301 or if the
 7 person has 3 or more prior convictions, suspensions or revocations, as counted under
 8 s. 343.307 (1), an alcohol concentration of more than 0.02.

9 SECTION 3. 342.12 (4) (c) 1. b. of the statutes is repealed.

10 SECTION 4. 342.12 (4) (c) 1. c. of the statutes is amended to read:

11 342.12 (4) (c) 1. c. The person requesting the issuance of the certificate of title
 12 files an affidavit with the department attesting that the conditions condition under
 13 subd. 1. a. and b. are is met.

14 SECTION 5. 342.13 (1) of the statutes is amended to read:

15 342.13 (1) If a certificate of title is lost, stolen, mutilated, or destroyed, or
 16 becomes illegible, the owner or legal representative of the owner named in the
 17 certificate, as shown by the records of the department, shall promptly make
 18 application for and may obtain a replacement upon furnishing information
 19 satisfactory to the department. The replacement certificate of title shall contain a
 20 notation, in a form determined by the department, identifying the certificate as a
 21 replacement certificate that may be subject to the rights of a person under the
 22 original certificate. ~~If applicable under s. 346.65 (6), the replacement certificate of~~
 23 ~~title shall include the notation "Per section 346.65 (6) of the Wisconsin statutes,~~
 24 ~~ownership of this motor vehicle may not be transferred without prior court approval".~~

25 SECTION 6. 343.10 (5) (a) 3. of the statutes is amended to read:

Insert 3.24

1 343.10 (5) (a) 3. ~~If the applicant has 2 or more prior convictions, suspensions,~~
 2 ~~or revocations, as counted under s. 343.307 (1), the~~ ^{The} occupational license of the
 3 applicant shall restrict the applicant's operation under the occupational license to
 4 vehicles that are equipped with a functioning ignition interlock device if the court
 5 has ordered under s. 343.301 (1) (a) 1. ~~or 2.~~ that the person's operating privilege for
 6 Class D vehicles be restricted to operating vehicles that are equipped with an
 7 ignition interlock device or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the
 8 motor vehicle owned by the person and used in the violation or improper refusal be
 9 equipped with an ignition interlock device. A person to whom a restriction under this
 10 subdivision applies violates that restriction if he or she requests or permits another
 11 to blow into an ignition interlock device or to start a motor vehicle equipped with an
 12 ignition interlock device for the purpose of providing the person an operable motor
 13 vehicle without the necessity of first submitting a sample of his or her breath to

*removes
or
disconnect
an ignition
interlock
device*

14 ~~analysis by the ignition interlock device. If the occupational license restricts the~~
 15 applicant's operation to a vehicle that is equipped with an ignition interlock device,
 16 the applicant shall be liable for the reasonable costs of equipping the vehicle with the
 17 ignition interlock device.

*Except as provided in s. 343.301
(3)(b),
if*

SECTION 7. 343.301 (title) of the statutes is amended to read:

343.301 (title) **Installation of ignition interlock device or immobilization of a motor vehicle.**

SECTION 8. 343.301 (1) (title) of the statutes is repealed.

SECTION 9. 343.301 (1) (a) 1. and 2. of the statutes are consolidated, renumbered 343.301 (1) and amended to read:

343.301 (1) ~~Except as provided in subd. 2.,~~ if 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

→ or otherwise tampers with or circumvents the operation of the ignition interlock device.

1 the person either had an alcohol concentration of ~~0.16~~^{0.15} or more at the time of the
2 ~~offense or~~ has a total of one or more prior convictions, suspensions, or revocations,
3 counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and
4 other convictions, suspensions, and revocations counted under s. 343.307 (1), the
5 court ~~may order that the person's operating privilege for the operation of "Class D"~~
6 ~~vehicles be restricted to operating "Class D" vehicles that are equipped with an~~
7 ~~ignition interlock device. 2. If a person improperly refuses to take a test under s.~~
8 ~~343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total~~
9 ~~of 2 or more convictions, suspensions, or revocations, counted under s. 343.307 (1)~~
10 ~~within any 5-year period, the court shall order that the person's operating privilege~~
11 ~~for the operation of "Class D" vehicles be restricted to operating vehicles that are~~
12 ~~equipped with an ignition interlock device and shall order that each motor vehicle~~
13 ~~for which the person's name appears on the vehicle's certificate of title or registration~~
14 ~~be equipped with an ignition interlock device. If equipping each motor vehicle with~~
15 ~~an ignition interlock device under this subdivision would cause an undue financial~~
16 ~~hardship, the court may order that one or more motor vehicles subject to this~~
17 ~~subdivision not be equipped with an ignition interlock device. This subdivision does~~
18 ~~not apply if the court enters an order under sub. (2) (a) 2. or, if the person has 2 or~~
19 ~~more prior convictions, suspensions, or revocations for purposes of this subdivision,~~
20 ~~to the motor vehicle owned by the person and used in the violation or refusal if the~~
21 ~~court orders the vehicle to be seized and forfeited under s. 346.65 (6).~~

22 SECTION 10. 343.301 (1) (b) 1. and 2. of the statutes are consolidated,
23 renumbered 343.301 (2m) and amended to read:

24 343.301 (2m) The court ~~may~~ shall restrict the operating privilege restriction
25 under ~~par. (a) 1. sub. (1)~~ for a period of not less than one year nor more than the

1 maximum operating privilege revocation period permitted for the refusal or
 2 violation. ~~2. The court shall order the operating privilege restriction and the~~
 3 ~~installation of an ignition interlock device under par. (a) 2. for a period of not less than~~
 4 ~~one year nor more than the maximum operating privilege revocation period~~
 5 ~~permitted for the refusal or violation, beginning one year after the operating~~
 6 ~~privilege revocation period begins on the date the department issues any license~~
 7 ~~granted under this chapter. The court may order the installation of an ignition~~
 8 ~~interlock device under sub. (1) immediately upon issuing an order under sub. (1).~~

9 SECTION 11. 343.301 (1) (c) of the statutes is renumbered 343.301 (3) (a) and
 10 amended to read:

11 343.301 (3) (a) If Except as provided in par. (b), if the court enters an order
 12 under ~~par. (a) sub. (1)~~, the person shall be liable for the reasonable cost of equipping
 13 and maintaining any ignition interlock device installed on his or her motor vehicle.

14 SECTION 12. 343.301 (1) (d) of the statutes is renumbered 343.301 (4) and
 15 amended to read:

16 343.301 (4) A person to whom an order under ~~par. (a) sub. (1)~~ applies violates
 17 that order if he or she fails to have an ignition interlock device installed as ordered,
 18 or if he or she requests or permits another to blow into an ignition interlock device
 19 or to start a motor vehicle equipped with an ignition interlock device for the purpose
 20 of providing the person an operable motor vehicle without the necessity of first
 21 submitting a sample of his or her breath to analysis by the ignition interlock device.

22 SECTION 13. 343.301 (2) of the statutes is repealed.

23 SECTION 14. 343.301 (3) (b) of the statutes is created to read:

24 343.301 (3) (b) If the court finds that the person who is subject to an order under
 25 sub. (1) has a household income that is at or below the nonfarm federal poverty line

or if he or she otherwise tampers with or
circumvents the operation of the ignition interlock
device

1 for the continental United States, as defined by the federal department of labor
2 under 42 USC 9902 (2), the court shall limit the person's liability under par. (a) to
3 \$1 per day that the ignition interlock device is installed on his or her motor vehicle.

4 SECTION 15. 343.301 (5) of the statutes is created to read:

5 343.301 (5) In addition to the the costs under sub. (3), the person shall pay to
6 the department a surcharge of ~~\$25~~ ^{\$50} upon the installation of the first ignition interlock
7 device.

8 SECTION 16. 343.305 (10m) (title) of the statutes is amended to read:

9 343.305 (10m) (title) REFUSALS; SEIZURE, IMMOBILIZATION OR IGNITION INTERLOCK
10 OF A MOTOR VEHICLE.

11 SECTION 17. 343.305 (10m) (a) of the statutes is amended to read:

12 343.305 (10m) (a) Except as provided in par. (b), if the person whose operating
13 privilege is revoked under sub. (10) has one or more prior convictions, suspensions,
14 or revocations, as counted under s. 343.307 (1), the procedure under s. 343.301 shall
15 be followed if the court enters an order regarding operating privilege restriction ~~or~~
16 ~~enters an order regarding immobilization. If the number of convictions under ss.~~
17 ~~940.09 (1) and 940.25 in the lifetime of the person whose operating privilege is~~
18 ~~revoked under sub. (10), plus the total number of other convictions, suspensions, and~~
19 ~~revocations counted under s. 343.307 (1), equals 2 or more, the procedure under s.~~
20 ~~346.65 (6) shall be followed if the court orders seizure and forfeiture of the motor~~
21 ~~vehicle used in the improper refusal and owned by the person.~~

22 SECTION 18. 343.305 (10m) (b) of the statutes is amended to read:

23 343.305 (10m) (b) If the person whose operating privilege is revoked under sub.
24 (10) has 2 or more convictions, suspensions, or revocations, as counted under s.
25 343.307 (1) ~~within any 5-year period~~, the procedure under s. 343.301 shall be

1 followed if the court enters an order regarding operating privilege restriction and the
2 installation of an ignition interlock device ~~or enters an order regarding~~
3 ~~immobilization. If the number of convictions under ss. 940.09 (1) and 940.25 in the~~
4 ~~lifetime of the person whose operating privilege is revoked under sub. (10), plus the~~
5 ~~total number of other convictions, suspensions, and revocations counted under s.~~
6 ~~343.307 (1), equals 2 or more, the procedure under s. 346.65 (6) shall be followed if~~
7 ~~the court orders seizure and forfeiture of the motor vehicle used in the improper~~
8 ~~refusal and owned by the person.~~

9 SECTION 19. 346.65 (6) of the statutes is repealed.

10 SECTION 20. 347.413 (title) and (1) of the statutes are amended to read:

11 **347.413 (title) Ignition interlock device tampering; failure to install.**

12 (1) No person may remove, disconnect, tamper with, or otherwise circumvent the
13 operation of an ignition interlock device installed in response to the court order under
14 s. 346.65 (6), 1999 stats., or s. 343.301 (1), or fail to have the ignition interlock device
15 installed as ordered by the court. This subsection does not apply to the removal of
16 an ignition interlock device upon the expiration of the order requiring the motor
17 vehicle to be so equipped or to necessary repairs to a malfunctioning ignition
18 interlock device by a person authorized by the department.

19 SECTION 21. 347.417 (1) of the statutes is amended to read:

20 347.417 (1) No person may remove, disconnect, tamper with, or otherwise
21 circumvent the operation of any immobilization device installed in response to a
22 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. This
23 subsection does not apply to the removal of an immobilization device pursuant to a
24 court order or to necessary repairs to a malfunctioning immobilization device.

25 SECTION 22. 347.417 (2) of the statutes is amended to read:

no strike

1 347.417 (2) The department shall design a warning label which shall be affixed
 2 by the owner of each immobilization device before the device is used to immobilize
 3 any motor vehicle under s. 346.65 (6), 1999 stats. ~~or s. 343.301 (2)~~ ^{2007 stats.} The label shall
 4 provide notice of the penalties for removing, disconnecting, tampering with, or
 5 otherwise circumventing the operation of the immobilization device.

6 **SECTION 23.** 347.50 (1s) of the statutes is amended to read:

7 347.50 (1s) Any person violating s. 347.413 (1) or 347.417 (1) may be required
 8 to forfeit not less than \$150 nor more than \$600, or may be imprisoned for not more
 9 than 6 months, or both for the first offense. For a 2nd or subsequent conviction within
 10 5 years, the person may be fined not less than \$300 nor more than \$1,000, or
 11 imprisoned for not more than 6 months, or both.

12 **SECTION 24.** 347.50 (1t) of the statutes is created to read:

13 347.50 (1t) In addition to the penalty under sub. (1s), if a person who is subject
 14 to an order under s. 343.301 violates s. 347.413, the court shall extend the order
 15 under s. 343.301 (1) or (2m) for 6 months for each violation.

16 **SECTION 25.** 940.09 (1d) (a) 1. of the statutes is renumbered 940.09 (1d) (ac) and
 17 amended to read:

18 940.09 (1d) (ac) Except as provided in ~~subd. 2. par. (bc)~~, if the person who
 19 committed an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more prior
 20 convictions, suspensions, or revocations, counting convictions under sub. (1) and s.
 21 940.25 in the person's lifetime, plus other convictions, suspensions, or revocations
 22 counted under s. 343.307 (1), the procedure under s. 343.301 shall be followed if the
 23 court enters an order regarding operating privilege restriction ~~or enters an order~~
 24 ~~regarding immobilization.~~

1 **SECTION 26.** 940.09 (1d) (a) 2. of the statutes is renumbered 940.09 (1d) (bc) and
2 amended to read:

3 **940.09 (1d) (bc)** ~~Notwithstanding par. (b),~~ If the person who committed an
4 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more convictions,
5 suspensions, or revocations counted under s. 343.307 (1) ~~within any 5-year period,~~
6 the procedure under s. 343.301 shall be followed if the court enters an order
7 regarding operating privilege restriction and the installation of an ignition interlock
8 device ~~or enters an order regarding immobilization.~~

9 **SECTION 27.** 940.09 (1d) (b) of the statutes is repealed.

10 **SECTION 28.** 940.25 (1d) (a) 1. of the statutes is renumbered 940.25 (1d) (ac) and
11 amended to read:

12 **940.25 (1d) (ac)** Except as provided in ~~subd. 2.~~ par. (bc), if the person who
13 committed an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more prior
14 convictions, suspensions, or revocations, counting convictions under sub. (1) and s.
15 940.09 (1) in the person's lifetime, plus other convictions, suspensions, or revocations
16 counted under s. 343.307 (1), the procedure under s. 343.301 shall be followed if the
17 court enters an order regarding operating privilege restriction ~~or enters an order~~
18 ~~regarding immobilization.~~

19 **SECTION 29.** 940.25 (1d) (a) 2. of the statutes is renumbered 940.25 (1d) (bc) and
20 amended to read:

21 **940.25 (1d) (bc)** ~~Notwithstanding par. (b),~~ If the person who committed an
22 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more convictions,
23 suspensions, or revocations counted under s. 343.307 (1) ~~within any 5-year period,~~
24 the procedure under s. 343.301 shall be followed if the court enters an order

1 regarding operating privilege restriction and the installation of an ignition interlock
2 device ~~or enters an order regarding immobilization.~~

3 **SECTION 30.** 940.25 (1d) (b) of the statutes is repealed.

4 **SECTION 31. Initial applicability.**

5 (1) This act first applies to offenses that are committed on the effective date of
6 this subsection.

7 (END)

↖
Insert 11.6

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0933/P1ins
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1 INSERT 3.24:

2 SECTION 1. 343.10 (2) (a) (intro.) of the statutes is amended to read:

3 343.10 (2) (a) (intro.) Except as provided in pars. (b) to (e) (f), a person is eligible
4 for an occupational license if the following conditions are satisfied:

5 ~~NOTE: NOTE: Par. (a) (intro.) is amended eff. the date stated in the notice provided by the secretary of transportation and published in the Wisconsin Administrative Register under section 85.515(2) (b) of the statutes by 2007 Wis. Act 20 to read: NOTE:~~

6 ~~(a) Except as provided in pars. (b) to (e), and subject to s. 343.165 (5), a person is eligible for an occupational license if the following conditions are satisfied:~~
~~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; 2007 a. 20, 94.~~

7 SECTION 2. 343.10 (2) (a) (intro.) of the statutes, as affected by 2007 Wisconsin
8 Act 20 and 2009 Wisconsin Act (this act), is repealed and recreated to read:

9 343.10 (2) (a) (intro.) Except as provided in pars. (b) to (f), a person is eligible for an
10 occupational license if the following conditions are satisfied:

and subject
to s. 343.165(5)

11 SECTION 3. 343.10 (2) (f) of the statutes is created to read:

12 343.10 (2) (f) If the court orders under s. 343.301 (1) that the person's operating
13 privilege for the operation of "Class D" vehicles be restricted to operating vehicles
14 that are equipped with an ignition interlock device, no occupational license may be
15 granted until the person pays the surcharge under s. 343.301 (5) and submits proof
16 that an ignition interlock device has been installed in each motor vehicle for which
17 the person's name appears on the vehicle's certificate of title or registration.

18 INSERT 11.6:

19 SECTION 4. Effective dates. This act takes effect on the day after publication,
20 except as follows:

21 (1) The repeal and recreation of s. 343.10 (2) (a) (intro) of the statutes takes
22 effect on the day after publication, or on the date on which the creation of section
343.165 of the statutes by 2007 Wisconsin Act 20 takes effect, whichever is later.

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1-23-09
Repeal Cut
soon

1 **AN ACT to repeal** 342.12 (4) (c) 1. b., 343.301 (1) (title), 343.301 (2), 346.65 (6),
2 940.09 (1d) (b) and 940.25 (1d) (b); **to renumber and amend** 343.301 (1) (c),
3 343.301 (1) (d), 940.09 (1d) (a) 1., 940.09 (1d) (a) 2., 940.25 (1d) (a) 1. and 940.25
4 (1d) (a) 2.; **to consolidate, renumber and amend** 343.301 (1) (a) 1. and 2. and
5 343.301 (1) (b) 1. and 2.; **to amend** 340.01 (46m) (c), 342.12 (4) (c) 1. c., 342.13
6 (1), 343.10 (2) (a) (intro.), 343.10 (5) (a) 3., 343.301 (title), 343.305 (10m) (title),
7 343.305 (10m) (a), 343.305 (10m) (b), 347.413 (title) and (1), 347.417 (1),
8 347.417 (2) and 347.50 (1s); **to repeal and recreate** 343.10 (2) (a) (intro.); and
9 **to create** 20.395 (5) (hs), 343.10 (2) (f), 343.301 (3) (b), 343.301 (5) and 347.50
10 (1t) of the statutes; **relating to:** requiring ignition interlock devices for certain
11 motor vehicle violations, granting rule-making authority, making an
12 appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, if a person is convicted of a second offense relating to operating a motor vehicle with a prohibited alcohol concentration (in most cases, a

concentration of 0.8 or higher) or under the influence of an intoxicant (OWI-related offense), a judge may immobilize the person's motor vehicles or require that the person's operating privilege be limited to operating vehicles that are equipped with an ignition interlock device. If a person is convicted of a third or subsequent OWI-related offense within five years, a judge must limit the person's operating privilege to operating vehicles that are equipped with an ignition interlock device unless the judge orders that the person's motor vehicles be immobilized or seized and sold at auction.

Current law requires the person to pay for the costs of installing and monitoring the ignition interlock device on every motor vehicle he or she owns. If the judge determines that this would work a hardship to the person, current law allows the judge to require an ignition interlock device on some, but not all, of the person's motor vehicles.

Under current law, no one may remove, disconnect, tamper with, or otherwise circumvent the operation of an ignition interlock device. A person who does so may be required to forfeit not less than \$150 nor more than \$600 for the first offense and, for a second or subsequent offense within five years, may be fined not less than \$300 nor more than \$1,000, or imprisoned for not more than six months, or both.

This bill eliminates the option of ordering the person's vehicle to be immobilized or seized and sold at auction. The bill makes it mandatory for a judge to require that the person's operating privilege be limited, for a minimum of one year, to operating vehicles that are equipped with an ignition interlock device if either of the following are true: 1) the person commits a first OWI-related offense with an alcohol concentration of 0.15 or more; or 2) the person commits a second OWI-related offense.

Under the bill, the judge must order that every motor vehicle the person owns be equipped with an ignition interlock device. If the judge determines that the person's income is at or below the federal poverty level, the person is required to pay only a \$50 surcharge upon the installation of the first ignition interlock device and \$1 per day toward the cost of installing and monitoring the ignition interlock device. A person whose income is above the federal poverty level is required to pay the surcharge and assume the full cost of installing and monitoring the ignition interlock device. Under the bill, if a person who is ordered to do so fails to pay the surcharge or fails to have an ignition interlock device installed, he or she may not obtain an occupational license.

Under the bill, a court may order a person who removes, disconnects, tampers with, or otherwise circumvents the operation of an ignition interlock device to be imprisoned for not more than six months for a first offense. The bill also subjects a person who fails to have an ignition interlock device installed as ordered by the court to the same penalties as a person who removes, disconnects, tampers with, or otherwise circumvents the operation of an ignition interlock device.

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.** 20.395 (5) (hs) of the statutes is created to read:

2 20.395 (5) (hs) *Ignition interlock device administration and enforcement.* All
3 moneys received under s. 343.301 (5) for expenditures related to administering and
4 enforcing the ignition interlock device program under s. 343.301.

5 **SECTION 2.** 340.01 (46m) (c) of the statutes is amended to read:

6 340.01 (**46m**) (c) If the person is subject to an order under s. 343.301 or if the
7 person has 3 or more prior convictions, suspensions or revocations, as counted under
8 s. 343.307 (1), an alcohol concentration of more than 0.02.

9 **SECTION 3.** 342.12 (4) (c) 1. b. of the statutes is repealed.

10 **SECTION 4.** 342.12 (4) (c) 1. c. of the statutes is amended to read:

11 342.12 (4) (c) 1. c. The person requesting the issuance of the certificate of title
12 files an affidavit with the department attesting that the ~~conditions~~ condition under
13 subd. 1. a. ~~and b. are~~ is met.

14 **SECTION 5.** 342.13 (1) of the statutes is amended to read:

15 342.13 (1) If a certificate of title is lost, stolen, mutilated, or destroyed, or
16 becomes illegible, the owner or legal representative of the owner named in the
17 certificate, as shown by the records of the department, shall promptly make
18 application for and may obtain a replacement upon furnishing information
19 satisfactory to the department. The replacement certificate of title shall contain a
20 notation, in a form determined by the department, identifying the certificate as a
21 replacement certificate that may be subject to the rights of a person under the

1 original certificate. ~~If applicable under s. 346.65 (6), the replacement certificate of~~
2 ~~title shall include the notation "Per section 346.65 (6) of the Wisconsin statutes,~~
3 ~~ownership of this motor vehicle may not be transferred without prior court approval".~~

4 **SECTION 6.** 343.10 (2) (a) (intro.) of the statutes is amended to read:

5 343.10 (2) (a) (intro.) Except as provided in pars. (b) to ~~(e)~~ (f), a person is eligible
6 for an occupational license if the following conditions are satisfied:

7 **SECTION 7.** 343.10 (2) (a) (intro.) of the statutes, as affected by 2007 Wisconsin
8 Act 20 and 2009 Wisconsin Act (this act), is repealed and recreated to read:

9 343.10 (2) (a) (intro.) Except as provided in pars. (b) to (f), and subject to s.
10 343.165 (5), a person is eligible for an occupational license if the following conditions
11 are satisfied:

12 **SECTION 8.** 343.10 (2) (f) of the statutes is created to read:

13 343.10 (2) (f) If the court orders under s. 343.301 (1) that the person's operating
14 privilege for the operation of "Class D" vehicles be restricted to operating vehicles
15 that are equipped with an ignition interlock device, no occupational license may be
16 granted until the person pays the surcharge under s. 343.301 (5) and submits proof
17 that an ignition interlock device has been installed in each motor vehicle for which
18 the person's name appears on the vehicle's certificate of title or registration.

19 **SECTION 9.** 343.10 (5) (a) 3. of the statutes is amended to read:

20 343.10 (5) (a) 3. ~~If the applicant has 2 or more prior convictions, suspensions,~~
21 ~~or revocations, as counted under s. 343.307 (1), the~~ The occupational license of the
22 applicant shall restrict the applicant's operation under the occupational license to
23 vehicles that are equipped with a functioning ignition interlock device if the court
24 has ordered under s. 343.301 (1) ~~(a) 1. or 2.~~ that the person's operating privilege for
25 Class D vehicles be restricted to operating vehicles that are equipped with an

1 ignition interlock device or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the
2 motor vehicle owned by the person and used in the violation or improper refusal be
3 equipped with an ignition interlock device. A person to whom a restriction under this
4 subdivision applies violates that restriction if he or she removes or disconnects an
5 ignition interlock device, requests or permits another to blow into an ignition
6 interlock device or to start a motor vehicle equipped with an ignition interlock device
7 for the purpose of providing the person an operable motor vehicle without the
8 necessity of first submitting a sample of his or her breath to analysis by the ignition
9 interlock device. If, or otherwise tampers with or circumvents the operation of the
10 ignition interlock device. Except as provided in s. 343.301 (3) (b), if the occupational
11 license restricts the applicant's operation to a vehicle that is equipped with an
12 ignition interlock device, the applicant shall be liable for the reasonable costs of
13 equipping the vehicle with the ignition interlock device.

14 **SECTION 10.** 343.301 (title) of the statutes is amended to read:

15 **343.301 (title) Installation of ignition interlock device or**
16 **immobilization of a motor vehicle.**

17 **SECTION 11.** 343.301 (1) (title) of the statutes is repealed.

18 **SECTION 12.** 343.301 (1) (a) 1. and 2. of the statutes are consolidated,
19 renumbered 343.301 (1) and amended to read:

20 343.301 (1) ~~Except as provided in subd. 2., if~~ If a person improperly refuses to
21 take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and
22 the person either had an alcohol concentration of 0.15 or more at the time of the
23 offense or has a total of one or more prior convictions, suspensions, or revocations,
24 counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and
25 other convictions, suspensions, and revocations counted under s. 343.307 (1), the

1 court may order that the person's operating privilege for the operation of "Class D"
2 vehicles be restricted to operating "Class D" vehicles that are equipped with an
3 ignition interlock device. 2. If a person improperly refuses to take a test under s.
4 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total
5 of 2 or more convictions, suspensions, or revocations, counted under s. 343.307 (1)
6 within any 5-year period, the court shall order that the person's operating privilege
7 for the operation of "Class D" vehicles be restricted to operating vehicles that are
8 equipped with an ignition interlock device and shall order that each motor vehicle
9 for which the person's name appears on the vehicle's certificate of title or registration
10 be equipped with an ignition interlock device. If equipping each motor vehicle with
11 an ignition interlock device under this subdivision would cause an undue financial
12 hardship, the court may order that one or more motor vehicles subject to this
13 subdivision not be equipped with an ignition interlock device. This subdivision does
14 not apply if the court enters an order under sub. (2) (a) 2. or, if the person has 2 or
15 more prior convictions, suspensions, or revocations for purposes of this subdivision,
16 to the motor vehicle owned by the person and used in the violation or refusal if the
17 court orders the vehicle to be seized and forfeited under s. 346.65 (6).

18 **SECTION 13.** 343.301 (1) (b) 1. and 2. of the statutes are consolidated,
19 renumbered 343.301 (2m) and amended to read:

20 343.301 (2m) The court may shall restrict the operating privilege restriction
21 under ~~par. (a) 1.~~ sub. (1) for a period of not less than one year nor more than the
22 maximum operating privilege revocation period permitted for the refusal or
23 violation. ~~2.~~ The court shall order the operating privilege restriction and the
24 installation of an ignition interlock device under ~~par. (a) 2.~~ for a period of not less than
25 one year nor more than the maximum operating privilege revocation period

1 ~~permitted for the refusal or violation, beginning one year after the operating~~
2 ~~privilege revocation period begins on the date the department issues any license~~
3 ~~granted under this chapter. The court may order the installation of an ignition~~
4 ~~interlock device under sub. (1) immediately upon issuing an order under sub. (1).~~

5 SECTION 14. 343.301 (1) (c) of the statutes is renumbered 343.301 (3) (a) and
6 amended to read:

7 343.301 (3) (a) If Except as provided in par. (b), if the court enters an order
8 under ~~par. (a) sub. (1)~~, the person shall be liable for the reasonable cost of equipping
9 and maintaining any ignition interlock device installed on his or her motor vehicle.

10 SECTION 15. 343.301 (1) (d) of the statutes is renumbered 343.301 (4) and
11 amended to read:

12 343.301 (4) A person to whom an order under ~~par. (a) sub. (1)~~ applies violates
13 that order if he or she fails to have an ignition interlock device installed as ordered,
14 removes or disconnects an ignition interlock device, requests or permits another to
15 blow into an ignition interlock device or to start a motor vehicle equipped with an
16 ignition interlock device for the purpose of providing the person an operable motor
17 vehicle without the necessity of first submitting a sample of his or her breath to
18 analysis by the ignition interlock device, or otherwise tampers with or circumvents
19 the operation of the ignition interlock device.

20 SECTION 16. 343.301 (2) of the statutes is repealed.

21 SECTION 17. 343.301 (3) (b) of the statutes is created to read:

22 343.301 (3) (b) If the court finds that the person who is subject to an order under
23 sub. (1) has a household income that is at or below the nonfarm federal poverty line
24 for the continental United States, as defined by the federal department of labor

1 under 42 USC 9902 (2), the court shall limit the person's liability under par. (a) to
2 \$1 per day that the ignition interlock device is installed on his or her motor vehicle.

3 **SECTION 18.** 343.301 (5) of the statutes is created to read:

4 343.301 (5) In addition to the the costs under sub. (3), the person shall pay to
5 the department a surcharge of \$50 upon the installation of the first ignition interlock
6 device.

7 **SECTION 19.** 343.305 (10m) (title) of the statutes is amended to read:

8 343.305 (10m) (title) REFUSALS; SEIZURE, IMMOBILIZATION OR IGNITION INTERLOCK
9 OF A MOTOR VEHICLE.

10 **SECTION 20.** 343.305 (10m) (a) of the statutes is amended to read:

11 343.305 (10m) (a) Except as provided in par. (b), if the person whose operating
12 privilege is revoked under sub. (10) has one or more prior convictions, suspensions,
13 or revocations, as counted under s. 343.307 (1), the procedure under s. 343.301 shall
14 be followed if the court enters an order regarding operating privilege restriction or
15 enters an order regarding immobilization. ~~If the number of convictions under ss.~~
16 ~~940.09 (1) and 940.25 in the lifetime of the person whose operating privilege is~~
17 ~~revoked under sub. (10), plus the total number of other convictions, suspensions, and~~
18 ~~revocations counted under s. 343.307 (1), equals 2 or more, the procedure under s.~~
19 ~~346.65 (6) shall be followed if the court orders seizure and forfeiture of the motor~~
20 ~~vehicle used in the improper refusal and owned by the person.~~

21 **SECTION 21.** 343.305 (10m) (b) of the statutes is amended to read:

22 343.305 (10m) (b) If the person whose operating privilege is revoked under sub.
23 (10) has 2 or more convictions, suspensions, or revocations, as counted under s.
24 343.307 (1) ~~within any 5-year period~~, the procedure under s. 343.301 shall be
25 followed if the court enters an order regarding operating privilege restriction and the

1 installation of an ignition interlock device ~~or enters an order regarding~~
2 immobilization. ~~If the number of convictions under ss. 940.09 (1) and 940.25 in the~~
3 ~~lifetime of the person whose operating privilege is revoked under sub. (10), plus the~~
4 ~~total number of other convictions, suspensions, and revocations counted under s.~~
5 ~~343.307 (1), equals 2 or more, the procedure under s. 346.65 (6) shall be followed if~~
6 ~~the court orders seizure and forfeiture of the motor vehicle used in the improper~~
7 ~~refusal and owned by the person.~~

8 **SECTION 22.** 346.65 (6) of the statutes is repealed.

9 **SECTION 23.** 347.413 (title) and (1) of the statutes are amended to read:

10 **347.413 (title) Ignition interlock device tampering; failure to install.**

11 (1) No person may remove, disconnect, tamper with, or otherwise circumvent the
12 operation of an ignition interlock device installed in response to the court order under
13 s. 346.65 (6), 1999 stats., or s. 343.301 (1), or fail to have the ignition interlock device
14 installed as ordered by the court. This subsection does not apply to the removal of
15 an ignition interlock device upon the expiration of the order requiring the motor
16 vehicle to be so equipped or to necessary repairs to a malfunctioning ignition
17 interlock device by a person authorized by the department.

18 **SECTION 24.** 347.417 (1) of the statutes is amended to read:

19 347.417 (1) No person may remove, disconnect, tamper with, or otherwise
20 circumvent the operation of any immobilization device installed in response to a
21 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. This
22 subsection does not apply to the removal of an immobilization device pursuant to a
23 court order or to necessary repairs to a malfunctioning immobilization device.

24 **SECTION 25.** 347.417 (2) of the statutes is amended to read:

1 347.417 (2) The department shall design a warning label which shall be affixed
2 by the owner of each immobilization device before the device is used to immobilize
3 any motor vehicle under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. The
4 label shall provide notice of the penalties for removing, disconnecting, tampering
5 with, or otherwise circumventing the operation of the immobilization device.

6 **SECTION 26.** 347.50 (1s) of the statutes is amended to read:

7 347.50 (1s) Any person violating s. 347.413 (1) or 347.417 (1) may be required
8 to forfeit not less than \$150 nor more than \$600, or may be imprisoned for not more
9 than 6 months, or both for the first offense. For a 2nd or subsequent conviction within
10 5 years, the person may be fined not less than \$300 nor more than \$1,000, or
11 imprisoned for not more than 6 months, or both.

12 **SECTION 27.** 347.50 (1t) of the statutes is created to read:

13 347.50 (1t) In addition to the penalty under sub. (1s), if a person who is subject
14 to an order under s. 343.301 violates s. 347.413, the court shall extend the order
15 under s. 343.301 (1) or (2m) for 6 months for each violation.

16 **SECTION 28.** 940.09 (1d) (a) 1. of the statutes is renumbered 940.09 (1d) (ac) and
17 amended to read:

18 940.09 (1d) (ac) Except as provided in ~~subd. 2. par. (bc)~~, if the person who
19 committed an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more prior
20 convictions, suspensions, or revocations, counting convictions under sub. (1) and s.
21 940.25 in the person's lifetime, plus other convictions, suspensions, or revocations
22 counted under s. 343.307 (1), the procedure under s. 343.301 shall be followed if the
23 court enters an order regarding operating privilege restriction ~~or enters an order~~
24 ~~regarding immobilization.~~

1 **SECTION 29.** 940.09 (1d) (a) 2. of the statutes is renumbered 940.09 (1d) (bc) and
2 amended to read:

3 940.09 **(1d)** (bc) ~~Notwithstanding par. (b), if~~ If the person who committed an
4 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more convictions,
5 suspensions, or revocations counted under s. 343.307 (1) ~~within any 5-year period,~~
6 the procedure under s. 343.301 shall be followed if the court enters an order
7 regarding operating privilege restriction and the installation of an ignition interlock
8 device ~~or enters an order regarding immobilization.~~

9 **SECTION 30.** 940.09 (1d) (b) of the statutes is repealed.

10 **SECTION 31.** 940.25 (1d) (a) 1. of the statutes is renumbered 940.25 (1d) (ac) and
11 amended to read:

12 940.25 **(1d)** (ac) ~~Except as provided in subd. 2. par. (bc),~~ if the person who
13 committed an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more prior
14 convictions, suspensions, or revocations, counting convictions under sub. (1) and s.
15 940.09 (1) in the person's lifetime, plus other convictions, suspensions, or revocations
16 counted under s. 343.307 (1), the procedure under s. 343.301 shall be followed if the
17 court enters an order regarding operating privilege restriction ~~or enters an order~~
18 ~~regarding immobilization.~~

19 **SECTION 32.** 940.25 (1d) (a) 2. of the statutes is renumbered 940.25 (1d) (bc) and
20 amended to read:

21 940.25 **(1d)** (bc) ~~Notwithstanding par. (b), if~~ If the person who committed an
22 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more convictions,
23 suspensions, or revocations counted under s. 343.307 (1) ~~within any 5-year period,~~
24 the procedure under s. 343.301 shall be followed if the court enters an order

1 regarding operating privilege restriction and the installation of an ignition interlock
2 device ~~or enters an order regarding immobilization.~~

3 **SECTION 33.** 940.25 (1d) (b) of the statutes is repealed.

4 **SECTION 34. Initial applicability.**

5 (1) This act first applies to offenses that are committed on the effective date of
6 this subsection.

7 **SECTION 35. Effective dates.** This act takes effect on the day after publication,
8 except as follows:

9 (1) The repeal and recreation of s. 343.10 (2) (a) (intro) of the statutes takes
10 effect on the day after publication, or on the date on which the creation of section
11 343.165 of the statutes by 2007 Wisconsin Act 20 takes effect, whichever is later.

12 (END)

↑
Insert
Effective Date

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0933/P2ins
PJH:cjs:jf

INSERT EFFECTIVE DATE: ✓

[#]**SECTION 1. Effective dates.** This act takes effect on first day of the 3rd month beginning after publication, except as follows:

[#](1) The repeal and recreation of s. 343.10 (2) (a) (intro) of the statutes takes effect on the first day of the 3rd month beginning after publication, or on the date on which the creation of section 343.165 of the statutes by 2007 Wisconsin Act 20 takes effect, whichever is later. ✓

TODAY

2009 - 2010 LEGISLATURE

LRB-09334
PJH:cjs:rs
skys

2009 BILL

SAV

by
~~2-23-09~~
Regen Cat

1 AN ACT *to repeal* 342.12 (4) (c) 1. b., 343.301 (1) (title), 343.301 (2), 346.65 (6),
2 940.09 (1d) (b) and 940.25 (1d) (b); *to renumber and amend* 343.301 (1) (c),
3 343.301 (1) (d), 940.09 (1d) (a) 1., 940.09 (1d) (a) 2., 940.25 (1d) (a) 1. and 940.25
4 (1d) (a) 2.; *to consolidate, renumber and amend* 343.301 (1) (a) 1. and 2. and
5 343.301 (1) (b) 1. and 2.; *to amend* 340.01 (46m) (c), 342.12 (4) (c) 1. c., 342.13
6 (1), 343.10 (2) (a) (intro.), 343.10 (5) (a) 3., 343.301 (title), 343.305 (10m) (title),
7 343.305 (10m) (a), 343.305 (10m) (b), 347.413 (title) and (1), 347.417 (1),
8 347.417 (2) and 347.50 (1s); *to repeal and recreate* 343.10 (2) (a) (intro.); and
9 *to create* 20.395 (5) (hs), 343.10 (2) (f), 343.301 (3) (b), 343.301 (5) and 347.50
10 (1t) of the statutes; **relating to:** requiring ignition interlock devices for certain
11 motor vehicle violations, granting rule-making authority, making an
12 appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, if a person is convicted of a second offense relating to operating a motor vehicle with a prohibited alcohol concentration (in most cases, a

BILL

concentration of 0.8 or higher) or under the influence of an intoxicant (OWI-related offense), a judge may immobilize the person's motor vehicles or require that the person's operating privilege be limited to operating vehicles that are equipped with an ignition interlock device. If a person is convicted of a third or subsequent OWI-related offense within five years, a judge must limit the person's operating privilege to operating vehicles that are equipped with an ignition interlock device unless the judge orders that the person's motor vehicles be immobilized or seized and sold at auction.

Current law requires the person to pay for the costs of installing and monitoring the ignition interlock device on every motor vehicle he or she owns. If the judge determines that this would work a hardship to the person, current law allows the judge to require an ignition interlock device on some, but not all, of the person's motor vehicles.

Under current law, no one may remove, disconnect, tamper with, or otherwise circumvent the operation of an ignition interlock device. A person who does so may be required to forfeit not less than \$150 nor more than \$600 for the first offense and, for a second or subsequent offense within five years, may be fined not less than \$300 nor more than \$1,000, or imprisoned for not more than six months, or both.

This bill eliminates the option of ordering the person's vehicle to be immobilized or seized and sold at auction. The bill makes it mandatory for a judge to require that the person's operating privilege be limited, for a minimum of one year, to operating vehicles that are equipped with an ignition interlock device if either of the following are true: 1) the person commits a first OWI-related offense with an alcohol concentration of 0.15 or more; or 2) the person commits a second OWI-related offense.

Under the bill, the judge must order that every motor vehicle the person owns be equipped with an ignition interlock device. If the judge determines that the person's income is at or below the federal poverty level, the person is required to pay only a \$50 surcharge upon the installation of the first ignition interlock device, and \$1 per day toward the cost of installing and monitoring the ignition interlock device. A person whose income is above the federal poverty level is required to pay the surcharge and assume the full cost of installing and monitoring the ignition interlock device. Under the bill, if a person who is ordered to do so fails to pay the surcharge or fails to have an ignition interlock device installed, he or she may not obtain an occupational license.

Under the bill, a court may order a person who removes, disconnects, tampers with, or otherwise circumvents the operation of an ignition interlock device to be imprisoned for not more than six months for a first offense. The bill also subjects a person who fails to have an ignition interlock device installed as ordered by the court to the same penalties as a person who removes, disconnects, tampers with, or otherwise circumvents the operation of an ignition interlock device.

150 percent of

person's income is at or below the federal poverty level, the person is required to pay only a \$50 surcharge upon the installation of the first ignition interlock device, and \$1 per day toward the cost of installing and monitoring the ignition interlock device. A person whose income is above the federal poverty level is required to pay the surcharge and assume the full cost of installing and monitoring the ignition interlock device. Under the bill, if a person who is ordered to do so fails to pay the surcharge or fails to have an ignition interlock device installed, he or she may not obtain an occupational license.

each

150 percent of

and for each ignition interlock device, half of the installation cost, and

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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.** 20.395 (5) (hs) of the statutes is created to read:

2 20.395 (5) (hs) *Ignition interlock device administration and enforcement.* All
3 moneys received under s. 343.301 (5) for expenditures related to administering and
4 enforcing the ignition interlock device program under s. 343.301.

5 **SECTION 2.** 340.01 (46m) (c) of the statutes is amended to read:

6 340.01 (46m) (c) If the person is subject to an order under s. 343.301 or if the
7 person has 3 or more prior convictions, suspensions or revocations, as counted under
8 s. 343.307 (1), an alcohol concentration of more than 0.02.

9 **SECTION 3.** 342.12 (4) (c) 1. b. of the statutes is repealed.

10 **SECTION 4.** 342.12 (4) (c) 1. c. of the statutes is amended to read:

11 342.12 (4) (c) 1. c. The person requesting the issuance of the certificate of title
12 files an affidavit with the department attesting that the ~~conditions~~ condition under
13 subd. 1. a. ~~and b.~~ are is met.

14 **SECTION 5.** 342.13 (1) of the statutes is amended to read:

15 342.13 (1) If a certificate of title is lost, stolen, mutilated, or destroyed, or
16 becomes illegible, the owner or legal representative of the owner named in the
17 certificate, as shown by the records of the department, shall promptly make
18 application for and may obtain a replacement upon furnishing information
19 satisfactory to the department. The replacement certificate of title shall contain a
20 notation, in a form determined by the department, identifying the certificate as a
21 replacement certificate that may be subject to the rights of a person under the

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1 original certificate. ~~If applicable under s. 346.65 (6), the replacement certificate of~~
2 ~~title shall include the notation “Per section 346.65 (6) of the Wisconsin statutes,~~
3 ~~ownership of this motor vehicle may not be transferred without prior court approval”.~~

4 **SECTION 6.** 343.10 (2) (a) (intro.) of the statutes is amended to read:

5 343.10 (2) (a) (intro.) Except as provided in pars. (b) to (e) ~~(f)~~, a person is eligible
6 for an occupational license if the following conditions are satisfied:

7 **SECTION 7.** 343.10 (2) (a) (intro.) of the statutes, as affected by 2007 Wisconsin
8 Acts 20 and 2009 Wisconsin Act ... (this act), is repealed and recreated to read:

9 343.10 (2) (a) (intro.) Except as provided in pars. (b) to (f), and subject to s.
10 343.165 (5), a person is eligible for an occupational license if the following conditions
11 are satisfied:

12 **SECTION 8.** 343.10 (2) (f) of the statutes is created to read:

13 343.10 (2) (f) If the court orders under s. 343.301 (1) that the person's operating
14 privilege for the operation of “Class D” vehicles be restricted to operating vehicles
15 that are equipped with an ignition interlock device, no occupational license may be
16 granted until the person pays the surcharge under s. 343.301 (5) and submits proof
17 that an ignition interlock device has been installed in each motor vehicle for which
18 the person's name appears on the vehicle's certificate of title or registration.

19 **SECTION 9.** 343.10 (5) (a) 3. of the statutes is amended to read:

20 343.10 (5) (a) 3. ~~If the applicant has 2 or more prior convictions, suspensions,~~
21 ~~or revocations, as counted under s. 343.307 (1), the~~ The occupational license of the
22 applicant shall restrict the applicant's operation under the occupational license to
23 vehicles that are equipped with a functioning ignition interlock device if the court
24 has ordered under s. 343.301 (1) ~~(a) 1. or 2.~~ that the person's operating privilege for
25 Class D vehicles be restricted to operating vehicles that are equipped with an

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1 ignition interlock device or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the
2 motor vehicle owned by the person and used in the violation or improper refusal be
3 equipped with an ignition interlock device. A person to whom a restriction under this
4 subdivision applies violates that restriction if he or she removes or disconnects an
5 ignition interlock device, requests or permits another to blow into an ignition
6 interlock device or to start a motor vehicle equipped with an ignition interlock device
7 for the purpose of providing the person an operable motor vehicle without the
8 necessity of first submitting a sample of his or her breath to analysis by the ignition
9 interlock device. ~~If, or otherwise tampers with or circumvents the operation of the~~
10 ignition interlock device. Except as provided in s. 343.301 (3) (b), if the occupational
11 license restricts the applicant's operation to a vehicle that is equipped with an
12 ignition interlock device, the applicant shall be liable for the reasonable costs of
13 equipping the vehicle with the ignition interlock device.

14 **SECTION 10.** 343.301 (title) of the statutes is amended to read:

15 **343.301** (title) **Installation of ignition interlock device or**
16 **immobilization of a motor vehicle.**

17 **SECTION 11.** 343.301 (1) (title) of the statutes is repealed.

18 **SECTION 12.** 343.301 (1) (a) 1. and 2. of the statutes are consolidated,
19 renumbered 343.301 (1) and amended to read:

20 343.301 (1) ~~Except as provided in subd. 2., if~~ If a person improperly refuses to
21 take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and
22 the person either had an alcohol concentration of 0.15 or more at the time of the
23 offense or has a total of one or more prior convictions, suspensions, or revocations,
24 counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and
25 other convictions, suspensions, and revocations counted under s. 343.307 (1), the

BILL**SECTION 12**

1 court may order that the person's operating privilege for the operation of "Class D"
2 vehicles be restricted to operating "Class D" vehicles that are equipped with an
3 ignition interlock device. 2. If a person improperly refuses to take a test under s.
4 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total
5 of 2 or more convictions, suspensions, or revocations, counted under s. 343.307 (1)
6 within any 5-year period, the court shall order that the person's operating privilege
7 for the operation of "Class D" vehicles be restricted to operating vehicles that are
8 equipped with an ignition interlock device and shall order that each motor vehicle
9 for which the person's name appears on the vehicle's certificate of title or registration
10 be equipped with an ignition interlock device. If equipping each motor vehicle with
11 an ignition interlock device under this subdivision would cause an undue financial
12 hardship, the court may order that one or more motor vehicles subject to this
13 subdivision not be equipped with an ignition interlock device. This subdivision does
14 not apply if the court enters an order under sub. (2) (a) 2. or, if the person has 2 or
15 more prior convictions, suspensions, or revocations for purposes of this subdivision,
16 to the motor vehicle owned by the person and used in the violation or refusal if the
17 court orders the vehicle to be seized and forfeited under s. 346.65 (6).

18 **SECTION 13.** 343.301 (1) (b) 1. and 2. of the statutes are consolidated,
19 renumbered 343.301 (2m) and amended to read:

20 343.301 (2m) The court may shall restrict the operating privilege restriction
21 under par. (a) 1. sub. (1) for a period of not less than one year nor more than the
22 maximum operating privilege revocation period permitted for the refusal or
23 violation. 2. The court shall order the operating privilege restriction and the
24 installation of an ignition interlock device under par. (a) 2. for a period of not less than
25 one year nor more than the maximum operating privilege revocation period

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1 ~~permitted for the refusal or violation, beginning one year after the operating~~
2 ~~privilege revocation period begins on the date the department issues any license~~
3 ~~granted under this chapter. The court may order the installation of an ignition~~
4 ~~interlock device under sub. (1) immediately upon issuing an order under sub. (1).~~

5 **SECTION 14.** 343.301 (1) (c) of the statutes is renumbered 343.301 (3) (a) and
6 amended to read:

7 343.301 (3) (a) If Except as provided in par. (b), if the court enters an order
8 under ~~par. (a) sub. (1)~~, the person shall be liable for the reasonable cost of equipping
9 and maintaining any ignition interlock device installed on his or her motor vehicle.

10 **SECTION 15.** 343.301 (1) (d) of the statutes is renumbered 343.301 (4) and
11 amended to read:

12 343.301 (4) A person to whom an order under ~~par. (a) sub. (1)~~ applies violates
13 that order if he or she fails to have an ignition interlock device installed as ordered,
14 removes or disconnects an ignition interlock device, requests or permits another to
15 blow into an ignition interlock device or to start a motor vehicle equipped with an
16 ignition interlock device for the purpose of providing the person an operable motor
17 vehicle without the necessity of first submitting a sample of his or her breath to
18 analysis by the ignition interlock device, or otherwise tampers with or circumvents
19 the operation of the ignition interlock device.

20 **SECTION 16.** 343.301 (2) of the statutes is repealed.

21 **SECTION 17.** 343.301 (3) (b) of the statutes is created to read:

22 343.301 (3) (b) If the court finds that the person who is subject to an order under
23 sub. (1) has a household income that is at or below the nonfarm federal poverty line
24 for the continental United States, as defined by the federal department of labor

150 percent
of

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SECTION 17

1 under 42 USC 9902 (2), the court shall limit the person's liability under par. (a) to
2 \$1 per day that the ignition interlock device is installed on his or her motor vehicle

per vehicle in which an
one-half of the cost of equipping each motor vehicle with an ignition interlock device and

3 **SECTION 18.** 343.301 (5) of the statutes is created to read:

4 343.301 (5) In addition to the the costs under sub. (3), the person shall pay to
5 the department a surcharge of \$50 upon the installation of the first ignition interlock
6 device.

7 **SECTION 19.** 343.305 (10m) (title) of the statutes is amended to read:

8 343.305 (10m) (title) REFUSALS; SEIZURE; IMMOBILIZATION OR IGNITION INTERLOCK
9 OF A MOTOR VEHICLE.

10 **SECTION 20.** 343.305 (10m) (a) of the statutes is amended to read:

11 343.305 (10m) (a) Except as provided in par. (b), if the person whose operating
12 privilege is revoked under sub. (10) has one or more prior convictions, suspensions,
13 or revocations, as counted under s. 343.307 (1), the procedure under s. 343.301 shall
14 be followed if the court enters an order regarding operating privilege restriction or
15 enters an order regarding immobilization. ~~If the number of convictions under ss.~~
16 ~~940.09 (1) and 940.25 in the lifetime of the person whose operating privilege is~~
17 ~~revoked under sub. (10), plus the total number of other convictions, suspensions, and~~
18 ~~revocations counted under s. 343.307 (1), equals 2 or more, the procedure under s.~~
19 ~~346.65 (6) shall be followed if the court orders seizure and forfeiture of the motor~~
20 ~~vehicle used in the improper refusal and owned by the person.~~

21 **SECTION 21.** 343.305 (10m) (b) of the statutes is amended to read:

22 343.305 (10m) (b) If the person whose operating privilege is revoked under sub.
23 (10) has 2 or more convictions, suspensions, or revocations, as counted under s.
24 343.307 (1) ~~within any 5-year period~~, the procedure under s. 343.301 shall be
25 followed if the court enters an order regarding operating privilege restriction and the

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1 installation of an ignition interlock device ~~or enters an order regarding~~
2 immobilization. ~~If the number of convictions under ss. 940.09 (1) and 940.25 in the~~
3 ~~lifetime of the person whose operating privilege is revoked under sub. (10), plus the~~
4 ~~total number of other convictions, suspensions, and revocations counted under s.~~
5 ~~343.307 (1), equals 2 or more, the procedure under s. 346.65 (6) shall be followed if~~
6 ~~the court orders seizure and forfeiture of the motor vehicle used in the improper~~
7 ~~refusal and owned by the person.~~

8 **SECTION 22.** 346.65 (6) of the statutes is repealed.

9 **SECTION 23.** 347.413 (title) and (1) of the statutes are amended to read:

10 **347.413 (title) Ignition interlock device tampering; failure to install.**

11 **(1)** No person may remove, disconnect, tamper with, or otherwise circumvent the
12 operation of an ignition interlock device installed in response to the court order under
13 s. 346.65 (6), 1999 stats., or s. 343.301 (1), or fail to have the ignition interlock device
14 installed as ordered by the court. This subsection does not apply to the removal of
15 an ignition interlock device upon the expiration of the order requiring the motor
16 vehicle to be so equipped or to necessary repairs to a malfunctioning ignition
17 interlock device by a person authorized by the department.

18 **SECTION 24.** 347.417 (1) of the statutes is amended to read:

19 347.417 **(1)** No person may remove, disconnect, tamper with, or otherwise
20 circumvent the operation of any immobilization device installed in response to a
21 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. This
22 subsection does not apply to the removal of an immobilization device pursuant to a
23 court order or to necessary repairs to a malfunctioning immobilization device.

24 **SECTION 25.** 347.417 (2) of the statutes is amended to read:

BILL**SECTION 25**

1 347.417 (2) The department shall design a warning label which shall be affixed
2 by the owner of each immobilization device before the device is used to immobilize
3 any motor vehicle under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. The
4 label shall provide notice of the penalties for removing, disconnecting, tampering
5 with, or otherwise circumventing the operation of the immobilization device.

6 **SECTION 26.** 347.50 (1s) of the statutes is amended to read:

7 347.50 (1s) Any person violating s. 347.413 (1) or 347.417 (1) may be required
8 to forfeit not less than \$150 nor more than \$600, or may be imprisoned for not more
9 than 6 months, or both for the first offense. For a 2nd or subsequent conviction within
10 5 years, the person may be fined not less than \$300 nor more than \$1,000, or
11 imprisoned for not more than 6 months, or both.

12 **SECTION 27.** 347.50 (1t) of the statutes is created to read:

13 347.50 (1t) In addition to the penalty under sub. (1s), if a person who is subject
14 to an order under s. 343.301 violates s. 347.413, the court shall extend the order
15 under s. 343.301 (1) or (2m) for 6 months for each violation.

16 **SECTION 28.** 940.09 (1d) (a) 1. of the statutes is renumbered 940.09 (1d) (ac) and
17 amended to read:

18 940.09 (1d) (ac) Except as provided in ~~subd. 2. par. (bc)~~, if the person who
19 committed an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more prior
20 convictions, suspensions, or revocations, counting convictions under sub. (1) and s.
21 940.25 in the person's lifetime, plus other convictions, suspensions, or revocations
22 counted under s. 343.307 (1), the procedure under s. 343.301 shall be followed if the
23 court enters an order regarding operating privilege restriction ~~or enters an order~~
24 ~~regarding immobilization.~~

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1 **SECTION 29.** 940.09 (1d) (a) 2. of the statutes is renumbered 940.09 (1d) (bc) and
2 amended to read:

3 940.09 **(1d)** (bc) ~~Notwithstanding par. (b), if~~ If the person who committed an
4 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more convictions,
5 suspensions, or revocations counted under s. 343.307 (1) ~~within any 5-year period,~~
6 the procedure under s. 343.301 shall be followed if the court enters an order
7 regarding operating privilege restriction and the installation of an ignition interlock
8 device ~~or enters an order regarding immobilization.~~

9 **SECTION 30.** 940.09 (1d) (b) of the statutes is repealed.

10 **SECTION 31.** 940.25 (1d) (a) 1. of the statutes is renumbered 940.25 (1d) (ac) and
11 amended to read:

12 940.25 **(1d)** (ac) Except as provided in ~~subd. 2. par. (bc),~~ if the person who
13 committed an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more prior
14 convictions, suspensions, or revocations, counting convictions under sub. (1) and s.
15 940.09 (1) in the person's lifetime, plus other convictions, suspensions, or revocations
16 counted under s. 343.307 (1), the procedure under s. 343.301 shall be followed if the
17 court enters an order regarding operating privilege restriction ~~or enters an order~~
18 ~~regarding immobilization.~~

19 **SECTION 32.** 940.25 (1d) (a) 2. of the statutes is renumbered 940.25 (1d) (bc) and
20 amended to read:

21 940.25 **(1d)** (bc) ~~Notwithstanding par. (b), if~~ If the person who committed an
22 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more convictions,
23 suspensions, or revocations counted under s. 343.307 (1) ~~within any 5-year period,~~
24 the procedure under s. 343.301 shall be followed if the court enters an order

BILL

1 regarding operating privilege restriction and the installation of an ignition interlock
2 device ~~or enters an order regarding immobilization.~~

3 **SECTION 33.** 940.25 (1d) (b) of the statutes is repealed.

4 **SECTION 34. Initial applicability.**

5 (1) This act first applies to offenses that are committed on the effective date of
6 this subsection.

7 **SECTION 35. Effective dates.** This act takes effect on first day of the 3rd month
8 beginning after publication, except as follows:

9 (1) The repeal and recreation of s. 343.10 (2) (a) (intro) of the statutes takes
10 effect on the first day of the 3rd month beginning after publication, or on the date on
11 which the creation of section 343.165 of the statutes by 2007 Wisconsin Act 20 takes
12 effect, whichever is later.

13 (END)

Duerst, Christina

From: Ramirez, Adrienne
Sent: Monday, February 02, 2009 12:09 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-0933/2 Topic: Ignition interlock devices for OWI offenses

Please Jacket LRB 09-0933/2 for the ASSEMBLY.