

2009 DRAFTING REQUEST

Bill

Received: 11/24/2008

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: Josh Zepnick (608) 266-1707

By/Representing: Ryan

This file may be shown to any legislator: NO

Drafter: rnelson2

May Contact:

Addl. Drafters: agary

Subject: Drunk Driving - other
Drunk Driving - penalties
Beverages
Transportation - driver licenses

Extra Copies: EVM, PJH

Submit via email: YES

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

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Drunk driving reforms

Instructions:

See attached

Drafting History:

Table with 8 columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. Row 1: /P1, rnelson2, kfollett, phenry, [blank], lparisi, [blank], State. Row 2: 11/28/2008, 12/03/2008, 12/04/2008, [blank], 12/04/2008. Row 3: phurley, kfollett, [blank], [blank]. Row 4: 12/03/2008, 12/04/2008, [blank], [blank]. Row 5: agary, [blank], [blank], [blank]. Row 6: 12/03/2008, [blank], [blank], [blank].

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/P4	rnelson2 01/09/2009	kfollett 01/20/2009 kfollett 01/20/2009	mduchek 01/20/2009 mduchek 01/21/2009	_____	cduerst 01/21/2009		S&L
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/2	agary 02/04/2009	kfollett 02/04/2009	rschluet 02/04/2009	_____	cduerst 02/04/2009	cduerst 02/04/2009	S&L
/3	rnelson2 02/06/2009	kfollett 02/09/2009	phenry 02/09/2009	_____	lparisi 02/09/2009	lparisi 02/09/2009	

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→ At Intro.

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	agary 12/03/2008			_____			

*13 kif
2/19*

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Jacketed the 1/1 for Zepnick RPN

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/?

/P1 rnelson2 11/28/2008 kfollett 12/03/2008 phenry 12/04/2008 lparisi 12/04/2008 State
phurley 12/03/2008 kfollett 12/04/2008
agary 12/03/2008

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Handwritten signature: MD PJH 1/20

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1P215f
12/9

[Handwritten signature and scribbles]

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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414-550-1159

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/?	rnelson2	1/11/08 12/14/08 PK/f	12/14/08 pk	12/14/08 pk/fk			

FE Sent For:

<END>

Nelson, Robert P.

From: Gary, Aaron
Sent: Thursday, December 04, 2008 4:36 PM
To: Schroeder, Ryan
Cc: Hurley, Peggy; Nelson, Robert P.
Subject: RE: Draft review: LRB 09-0940/P1 Topic: Prohibiting retailers from selling unlimited or undefined quantity of alcohol for a fixed price (all you can drink specials)

Ryan,

Did you want these provisions included in the OWI draft that Bob Nelson has been working on, LRB-0914?

I will be the drafter of the alcohol (ch. 125) provisions and either Bob or Peggy will draft the OWI provisions. To get started, I need a little clearer understanding of how this publication process is going to work.

When the offender is stopped and arrested for OWI, he won't be at a bar, he'll be in a vehicle somewhere (possibly the bar parking lot but probably along a highway somewhere). Did you envision that the law enforcement officer would ascertain where the offender had been drinking at the time of arrest or booking, or would it be the judge? (The offender will have a 5th amendment right not to answer until sentencing, so basically better informed criminals would have a leg up in avoiding publication of their names.) If it's the officer, do you want to require this information to be recorded on the uniform traffic citation or elsewhere and, from that point, who should the info. be forwarded to (which leads into one of the questions below)? Another thing I'll need to know is how "far back" you want to go, that is, although some offenders might drink steadily at one bar, many will be bar hoppers and I'm wondering if only the last establishment will be published or if, for example, the person had drinks at 10 bars that night, whether the names of all 10 bars would be published (including where the person innocuously had his first drink)? And did you want publication of private residences if the person had been drinking at, for example, a Christmas party at a friend's home? There is also the question of funding and responsibility for the publication. Who publishes the notice? DOR? DOT? the court? and who pays for it? The official notice you refer to in the third paragraph of your e-mail is quite different than the full-page ad referred to in the first paragraph? Did you want the publication to be consistent with other notice publications under ch. 985 or did you want a full page ad for every offender? Finally, as far as content, is the offender's name, residence address, age, and place where he was drinking (as clarified above) sufficient info. for each publication?

Thanks for your assistance.

Aaron

Aaron R. Gary
 Attorney, Legislative Reference Bureau
 608.261.6926 (voice)
 608.264.6948 (fax)
 aaron.gary@legis.state.wi.us

From: Parisi, Lori
Sent: Thursday, December 04, 2008 2:35 PM
To: Gary, Aaron
Subject: FW: Draft review: LRB 09-0940/P1 Topic: Prohibiting retailers from selling unlimited or undefined quantity of alcohol for a fixed price (all you can drink specials)

Aaron, see below. This is regarding a draft of yours. Thanks.

Christina,

A quick question, Rep. Zepnick would like to include that when someone has been convicted of drunk driving their name is published in a full page newspaper page stating name and what location they had been drinking at.

12/05/2008

Also, including a three strikes and your out element that if the location has been named 3 times or more on random occasions then that establishment loses their license and the server too if they have multiple offenses.

Each county in the state has official publications for legal issues and this idea would just be added into the mix as far as name and location of experiences. If that makes sense. Any questions don't hesitate to ask. Thanks Ryan

Ryan J. Schroeder

Office of Rep. Josh Zepnick
State Capitol Room 219 North
P.O. Box 8953
Madison, WI 53703

Phone (608) 266-1707
Toll Free (888) 534-0009
Fax (608) 282-3609

From: Duerst, Christina

Sent: Wednesday, November 26, 2008 8:24 AM

To: Rep.Zepnick

Subject: Draft review: LRB 09-0940/P1 Topic: Prohibiting retailers from selling unlimited or undefined quantity of alcohol for a fixed price (all you can drink specials)

Following is the PDF version of draft LRB 09-0940/P1 and drafter's note.

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Telephone call 12/5 w/ Zepnick
staff

* Interlock @ .12 only for
1st offense

#1

RV

and
2nd or any BAC

#2

AG

publish
Name address, age, # of DWI
offenses-convictions, to
be published

#3

RV

1st offense penalty \$500-
2500

#4

AG

Inc. funds for DOT to
cover the costs of
publication under #2 -
\$5 registration fee increase?

Ryan -

6-1707

12/5/08

county where person resides or
is convicted

official record - page of record

by the end of the 2nd month
after the conviction

\$5 fee →

money to go to DOT to
cover publication cost

if they have ever had an OWI
~~for OWI DWI?~~

Nelson, Robert P.

From: Hurley, Peggy
Sent: Friday, November 21, 2008 3:43 PM
To: Nelson, Robert P.
Subject: FW:

New OWI drafting request. Do you want to take this one? A lot of these are old ideas, but they all need some fleshing out, in my opinion.

From: Hanaman, Cathlene
Sent: Friday, November 21, 2008 3:41 PM
To: Hurley, Peggy
Subject:

I just talked to Ryan in Zepnick's office; on the subject of drunk driving Zepnick wants the following seven points:

1. Ignition interlock for 1st offense if BAC is higher than .10
2. Auto confiscation on 2nd or sub offense
3. Mandatory alcohol counseling on 2nd or sub offense
4. Mandatory community service on 2nd or sub offense
5. Law enforcement agencies must prepare monthly reports on consumption habits (I don't know)
6. \$5 in registration fees (I think this is across the board)
7. Ban "all-you-drink specials" - [REDACTED]

2043.305(10)(c)

AG?

Peggy?

8. If first criminal OWI, then if no OWI offense for 3 years, expunge (he said "the penalty" but maybe he means "the record".) See p. 2 of our continuing email chat.

Nelson, Robert P.

From: Schroeder, Ryan
Sent: Wednesday, November 26, 2008 10:00 AM
To: Nelson, Robert P.
Cc: Peters, Steven
Subject: RE: bill drafts

Attachments: Picture (Metafile)

Thank you Robert,

This information is very helpful and I will call DOT as you suggested.

X As for the recent request we would like it added to the earlier request and thanks again for your help. Ryan



Ryan J. Schroeder
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State Capitol Room 219 North
P.O. Box 8953
Madison, WI 53703

Phone (608) 266-1707
Toll Free (888) 534-0009
Fax (608) 282-3609

From: Nelson, Robert P.
Sent: Wednesday, November 26, 2008 9:48 AM
To: Schroeder, Ryan
Subject: RE: bill drafts

Ryan,

The OWI statutes, as you may know, are not exactly the easiest to understand. As to your first question, the OWI suspension and revocation language is ss. 343.30 (1q) and 343.305 (7), (9), and (10). Basically, if a person is stopped, and refuses to take a test to determine his or her blood alcohol concentration or has a prohibit level, under 343.305, the officer takes the license and takes the person's license and DOT administrative suspends the license for 6 months. Once the person gets to court, the court, under s. 343.30 (1q), if the person is found guilty, revokes the person's license. The time of the revocation depends on the number of previous OWI offenses, as is detailed in s. 343.30 (1q) (b). For the first offense, the revocation is for 6-9 months; the second offense the revocation is for 12-18 months.

As to the question about ignition interlock devices, I do not have that information, so I suggest you contact the DOT secretarie's office and they should get that info to you.

X Is the request to expunge the record a new, separate request, or do you want it added to the earlier request?

Bob N

From: Schroeder, Ryan
Sent: Wednesday, November 26, 2008 9:21 AM
To: Nelson, Robert P.
Subject: RE: bill drafts

Hello Robert,

Just a quick question for you. What does current law say if anything when it comes to suspended license or revocation penalties for first and second offenders caught drinking and driving?

Also, where would one look to find information about ignition interlocks, if they are being used at all in sentencing or if it's limited circumstances or a brand new option?

Finally, Rep. Zepnick would like to add something to first criminal offense; that if a driver is clear for three years without another OWI, the penalty is expunged.

Thanks for answering my questions and look forward t hearing from you. Ryan

<< OLE Object: Picture (Metafile) >>

Ryan J. Schroeder
Office of Rep. Josh Zepnick
State Capitol Room 219 North
P.O. Box 8953
Madison, WI 53703

Phone (608) 266-1707
Toll Free (888) 534-0009
Fax (608) 282-3609

From: Nelson, Robert P.
Sent: Monday, November 24, 2008 9:57 AM
To: Schroeder, Ryan
Subject: RE: bill drafts

Ryan,

We only received the request last Friday. I do my requests based on when they are received, if possible, and I have other requests that I received before yours, so it may not be possible to draft the bill, have it edited, and send it to your office today.

Bob Nelson

From: Schroeder, Ryan
Sent: Monday, November 24, 2008 9:44 AM
To: Hanaman, Cathlene
Subject: RE: bill drafts

Good Morning Cathlene,

Wanted to follow-up with you on our phone conversation from Friday. Thank you again for the drafts pertaining to child welfare issues. Also, wondered if you had anything drafted as of yet with regards to drunk driving issues.

I spoke with Rep. Zepnick if you don't have all 7 points addressed if he could see something at the very least dealing with banning of all you can drink specials and ignition locks by today that would be great.

He wanted me to let you know that he will be in his office this afternoon should you need to talk with him in further detail about these issues.

Thanks,
Ryan

<< OLE Object: Picture (Metafile) >>

Ryan J. Schroeder

Office of Rep. Josh Zepnick
State Capitol Room 219 North
P.O. Box 8953
Madison, WI 53703

Phone (608) 266-1707
Toll Free (888) 534-0009
Fax (608) 282-3609

From: Hanaman, Cathlene
Sent: Friday, November 21, 2008 11:07 AM
To: Schroeder, Ryan
Subject:

You should have received one of the drafts (and a d-note discussing the three options we discussed yesterday). The other two will arrive shortly. I am available to draft any other ideas that your office generates or any redrafts to these drafts I just sent.

-Cathlene

Gary, Aaron

From: Hurley, Peggy

Sent: Wednesday, December 03, 2008 11:34 AM

To: Gary, Aaron; Nelson, Robert P.

Regarding the \$5 "registration fee," Rep. Zepnick just wants an extra \$5 fee imposed on drunk drivers. I think the most logical place for that would be to increase the driver improvement surcharge by \$5. Ryan agrees.

12/3/08 telephone call to Ryan at Zepnick's office:

Clarification on "expungement" portion of request – IF first offense is criminalized in a bill that we draft for this office, then the office will want some sort of expungement for the first offense if the person has no other OWIs within a certain period of time (3 years, perhaps). For now, hold off on this portion until the office determines what they want to do with criminalization. Also, we need to discuss what "expungement" will mean – do they want just not counting or actual expungement? Ryan thinks that Rep. Zepnick will want to meet to discuss these issues.

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4371/P1ins
PJH:wlj:pg

INSERT ANALYSIS:

(OWI)

Under current law, no one may operate a motor vehicle while under the influence of an intoxicant or with a prohibited blood alcohol concentration or with a detectable amount of a restricted controlled substance in his or her blood. A person who does so, or who improperly refuses a field sobriety test is guilty of an OWI-related offense and is subject to forfeitures or fines and periods of imprisonment that increase with each subsequent OWI-related offense.

If a person commits a second OWI-related offense, a judge may, in addition to imposing a fine and period of imprisonment, either order that the vehicle used in the offense be immobilized or restrict the person's operating privileges so that the person may only operate a vehicle that is equipped with an ignition interlock device (iid).

If a person commits a third or subsequent OWI-related offense within 5 years, a judge is required to either order that the vehicle used in the offense be immobilized or restrict the person's operating privileges so that the person may only operate a vehicle that is equipped with an iid. Current law offers a third option for a person who commits a third or subsequent OWI-related offense in his or her lifetime: the judge may order the vehicle used in the offense to be seized and sold by a law enforcement agency. A vehicle that is subject to seizure and sale need not be immobilized or equipped with an iid.

Under this bill, the options remain the same for a person who commits a second OWI-related offense, but if a person commits a 3rd or subsequent OWI offense, the bill requires a judge to order that the person's vehicle used in the offense be seized and sold by a law enforcement agency.

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



in 12/3
wanted by 12/10

RPN: kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1 AN ACT ...; relating to: drunk driving penalties, consumption reports, and
2 restrictions on certain alcohol consumption specials.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

3 SECTION 1. 343.10 (5) (a) 3. of the statutes is amended to read:
4 343.10 (5) (a) 3. If the applicant has 2 or more prior convictions, suspensions,
5 or revocations, as counted under s. 343.307 (1), the The occupational license of the
6 applicant shall restrict the applicant's operation under the occupational license to
7 vehicles that are equipped with a functioning ignition interlock device if the court
8 has ordered under s. 343.301 (1) (a) 1. or 2. that the person's operating privilege for
9 Class D vehicles be restricted to operating vehicles that are equipped with an
10 ignition interlock device or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the

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

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326; 2005 a. 443 s. 265; 2007 a. 20, 94.

11 **SECTION 2.** 343.30 (1q) (d) of the statutes is amended to read:

12 343.30 (1q) (d) The assessment report shall order compliance with a driver
 13 safety plan. The report shall inform the person of the fee provisions under s. 46.03
 14 (18) (f). The driver safety plan may include a component that makes the person
 15 aware of the effect of his or her offense on a victim and a victim's family. The driver
 16 safety plan may include treatment for the person's misuse, abuse, or dependence on
 17 alcohol, controlled substances, or controlled substance analogs, or attendance at a
 18 school under s. 345.60, or both. If the person has a total of one or more prior
 19 convictions, suspensions, or revocations counted under s. 343.307 (1), the driver
 20 safety plan shall include treatment for the person's misuse, abuse, or dependence on
 21 alcohol, controlled substances, or controlled substance analogs, or attendance at a
 22 school under s. 345.60, or both. If the plan requires inpatient treatment, the
 23 treatment shall not exceed 30 days. A driver safety plan under this paragraph shall
 24 include a termination date consistent with the plan which shall not extend beyond

1 one year. The county department under s. 51.42 shall assure notification of the
2 department of transportation and the person of the person's compliance or
3 noncompliance with assessment and with treatment. The school under s. 345.60
4 shall notify the department, the county department under s. 51.42 and the person
5 of the person's compliance or noncompliance with the requirements of the school.
6 Nonpayment of the assessment fee or, if the person has the ability to pay,
7 nonpayment of the driver safety plan fee is noncompliance with the court order. If
8 the department is notified of any noncompliance, other than for nonpayment of the
9 assessment fee or driver safety plan fee, it shall revoke the person's operating
10 privilege until the county department under s. 51.42 or the school under s. 345.60
11 notifies the department that the person is in compliance with assessment or the
12 driver safety plan. If the department is notified that a person has not paid the
13 assessment fee, or that a person with the ability to pay has not paid the driver safety
14 plan fee, the department shall suspend the person's operating privilege for a period
15 of 2 years or until it receives notice that the person has paid the fee, whichever occurs
16 first. The department shall notify the person of the suspension or revocation, the
17 reason for the suspension or revocation and the person's right to a review. A person
18 may request a review of a revocation based upon failure to comply with a driver safety
19 plan within 10 days of notification. The review shall be handled by the subunit of
20 the department of transportation designated by the secretary. The issues at the
21 review are limited to whether the driver safety plan, if challenged, is appropriate and
22 whether the person is in compliance with the assessment order or the driver safety
23 plan. The review shall be conducted within 10 days after a request is received. If the
24 driver safety plan is determined to be inappropriate, the department shall order a
25 reassessment and if the person is otherwise eligible, the department shall reinstate

1 the person's operating privilege. If the person is determined to be in compliance with
 2 the assessment or driver safety plan, and if the person is otherwise eligible, the
 3 department shall reinstate the person's operating privilege. If there is no decision
 4 within the 10-day period, the department shall issue an order reinstating the
 5 person's operating privilege until the review is completed, unless the delay is at the
 6 request of the person seeking the review.

History: 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979 c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26, 32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17, 285; 1987 a. 332 s. 64; 1989 a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 317; 1995 a. 27, 77, 269, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; 1999 a. 32, 109, 143; 2001 a. 15, 16, 38; 2003 a. 30, 80; 2005 a. 277; 2005 a. 443 s. 265; 2005 a. 466; 2007 a. 20 ss. 3300, 9121 (6) (a); 2007 a. 134.

7 **SECTION 3.** 343.301 (title) of the statutes is amended to read:

8 **343.301 (title) Installation of ignition interlock device or**
 9 **immobilization of a motor vehicle.**

→ SECTION # 343.301 (1) (title) of the statutes is repealed. ✓

History: 1999 a. 109; 2001 a. 16 ss. 3417m to 3420t, 4060gj, 4060hw, 4060hy; 2001 a. 104.

10 **SECTION 4.** 343.301 (1) (a) 1. and 2. of the statutes are consolidated,
 11 renumbered 343.301 (1) and amended to read:

12 **343.301 (1)** Except as provided in subd. 2., if if a person improperly refuses to
 13 take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and
 14 the person has a total of one or more prior convictions, suspensions, or revocations,
 15 counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and
 16 other convictions, suspensions, and revocations counted under s. 343.307 (1), the
 17 court may order that the person's operating privilege for the operation of "Class D"
 18 vehicles be restricted to operating "Class D" vehicles that are equipped with an
 19 ignition interlock device. 2. If a person improperly refuses to take a test under s.
 20 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total
 21 of 2 or more convictions, suspensions, or revocations, counted under s. 343.307 (1)
 22 within any 5-year period had an alcohol concentration of 0.10 or more at the time of
 23 the offense, the court shall order that the person's operating privilege for the

1 operation of "Class D" vehicles be restricted to operating vehicles that are equipped
2 with an ignition interlock device and shall order that each motor vehicle for which
3 the person's name appears on the vehicle's certificate of title or registration be
4 equipped with an ignition interlock device. If equipping each motor vehicle with an
5 ignition interlock device under this subdivision would cause an undue financial
6 hardship, the court may order that one or more motor vehicles subject to this
7 subdivision not be equipped with an ignition interlock device. This subdivision does
8 not apply ~~if the court enters an order under sub. (2) (a) 2. or~~, if the person has 2 or
9 more prior convictions, suspensions, or revocations for purposes of this subdivision,
10 to the motor vehicle owned by the person and used in the violation or refusal if the
11 court orders the vehicle to be seized and forfeited under s. 346.65 (6).

History: 1999 a. 109; 2001 a. 16 ss. 3417m to 3420t, 4060gj, 4060hw, 4060hy; 2001 a. 104.

12 **SECTION 5.** 343.301 (1) (b) 1. and 2. of the statutes are consolidated,
13 renumbered 343.301 (2m) and amended to read:

14 343.301 (2m) The court ~~may~~ shall restrict the operating privilege restriction
15 under ~~par. (a) 1.~~ sub. (1) for a period of not less than one year nor more than the
16 maximum operating privilege revocation period permitted for the refusal or
17 violation. ~~2. The court shall order the operating privilege restriction and the~~
18 ~~installation of an ignition interlock device under par. (a) 2. for a period of not less than~~
19 ~~one year nor more than the maximum operating privilege revocation period~~
20 ~~permitted for the refusal or violation, beginning one year after the operating~~
21 ~~privilege revocation period begins on the date that the department issues any license~~
22 ~~granted under this chapter. The court may order the installation of an ignition~~
23 interlock device under sub. (1) immediately upon issuing an order under sub. (1).

History: 1999 a. 109; 2001 a. 16 ss. 3417m to 3420t, 4060gj, 4060hw, 4060hy; 2001 a. 104.

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

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

History: 1999 a. 109; 2001 a. 16 ss. 3417m to 3420t, 4060gj, 4060hw, 4060hy; 2001 a. 104.

6 SECTION 7. 343.301 (1) (d) of the statutes is renumbered 343.301 (4) and
7 amended to read:

8 343.301 (4) A person to whom an order under ~~par. (a)~~ [✓] sub. (1) applies violates
9 that order if he or she requests or permits another to blow into an ignition interlock
10 device or to start a motor vehicle equipped with an ignition interlock device for the
11 purpose of providing the person an operable motor vehicle without the necessity of
12 first submitting a sample of his or her breath to analysis by the ignition interlock
13 device.

History: 1999 a. 109; 2001 a. 16 ss. 3417m to 3420t, 4060gj, 4060hw, 4060hy; 2001 a. 104.

14 SECTION 8. 343.301 (2) of the statutes is repealed.

15 SECTION 9. 343.305 (10) (d) of the statutes is amended to read:

16 343.305 (10) (d) The assessment report shall order compliance with a driver
17 safety plan. The report shall inform the person of the fee provisions under s. 46.03
18 (18) (f). The driver safety plan may include a component that makes the person
19 aware of the effect of his or her offense on a victim and a victim's family. The driver
20 safety plan may include treatment for the person's misuse, abuse, or dependence on
21 alcohol, controlled substances, or controlled substance analogs, [✓] attendance at a
22 school under s. 345.60, or both. If the person has a total of one or more prior
23 convictions, suspensions, or revocations counted under s. 343.307 (1), the driver
24 safety plan shall include treatment for the person's misuse, abuse, or dependence on

1 alcohol, controlled substances, or controlled substance analogs, attendance at a
2 school under s. 345.60, or both. If the plan requires inpatient treatment, the
3 treatment shall not exceed 30 days. A driver safety plan under this paragraph shall
4 include a termination date consistent with the plan which shall not extend beyond
5 one year. The county department under s. 51.42 shall assure notification of the
6 department of transportation and the person of the person's compliance or
7 noncompliance with assessment and treatment. The school under s. 345.60 shall
8 notify the department, the county department under s. 51.42 and the person of the
9 person's compliance or noncompliance with the requirements of the school.
10 Nonpayment of the assessment fee or, if the person has the ability to pay,
11 nonpayment of the driver safety plan fee is noncompliance with the court order. If
12 the department is notified of noncompliance, other than for nonpayment of the
13 assessment fee or driver safety plan fee, it shall revoke the person's operating
14 privilege until the county department under s. 51.42 or the school under s. 345.60
15 notifies the department that the person is in compliance with assessment or the
16 driver safety plan. If the department is notified that a person has not paid the
17 assessment fee, or that a person with the ability to pay has not paid the driver safety
18 plan fee, the department shall suspend the person's operating privilege for a period
19 of 2 years or until it receives notice that the person has paid the fee, whichever occurs
20 first. The department shall notify the person of the suspension or revocation, the
21 reason for the suspension or revocation and the person's right to a review. A person
22 may request a review of a revocation based upon failure to comply with a driver safety
23 plan within 10 days of notification. The review shall be handled by the subunit of
24 the department of transportation designated by the secretary. The issues at the
25 review are limited to whether the driver safety plan, if challenged, is appropriate and

1 whether the person is in compliance with the assessment order or the driver safety
2 plan. The review shall be conducted within 10 days after a request is received. If the
3 driver safety plan is determined to be inappropriate, the department shall order a
4 reassessment and if the person is otherwise eligible, the department shall reinstate
5 the person's operating privilege. If the person is determined to be in compliance with
6 the assessment or driver safety plan, and if the person is otherwise eligible, the
7 department shall reinstate the person's operating privilege. If there is no decision
8 within the 10-day period, the department shall issue an order reinstating the
9 person's operating privilege until the review is completed, unless the delay is at the
10 request of the person seeking the review.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9, 32, 109; 2001 a. 16 ss. 3421m to 3423j, 4060gk, 4060hw, 4060hy; 2001 a. 104; 2003 a. 97, 199; 2005 a. 332, 413; 2007 a. 20 ss. 3303 to 3315, 9121 (6) (a); 2007 a. 136.

11 **SECTION 10. 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~~ ^{person's} 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.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9, 32, 109; 2001 a. 16 ss. 3421m to 3423j, 4060gk, 4060hw, 4060hy; 2001 a. 104; 2003 a. 97, 199; 2005 a. 332, 413; 2007 a. 20 ss. 3303 to 3315, 9121 (6) (a); 2007 a. 136.

22 **SECTION 11. 343.305 (10m) (b)** of the statutes is amended to read:

1 343.305 (10m) (b) If the person whose operating privilege is revoked under sub.
2 (10) has 2 or more convictions, suspensions, or revocations, as counted under s.
3 343.307 (1) within any 5-year period, the procedure under s. 343.301 shall be
4 followed if the court enters an order regarding operating privilege restriction and the
5 installation of an ignition interlock device ~~or enters an order regarding~~
6 immobilization. If the number of convictions under ss. 940.09 (1) and 940.25 in the
7 lifetime of the person whose operating privilege is revoked under sub. (10), plus the
8 total number of other convictions, suspensions, and revocations counted under s.
9 343.307 (1), equals 2 or more, the procedure under s. 346.65 (6) shall be followed if
10 the court orders seizure and forfeiture of the motor vehicle used in the improper
11 refusal and owned by the person.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9, 32, 109; 2001 a. 16 ss. 3421m to 3423j, 4060gk, 4060hw, 4060hy; 2001 a. 104; 2003 a. 97, 199; 2005 a. 332, 413; 2007 a. 20 ss. 3303 to 3315, 9121 (6) (a); 2007 a. 136.

12 **SECTION 12.** 346.65 (6) (a) 1. of the statutes is amended to read:

13 346.65 (6) (a) 1. The court may ~~shall~~ order a law enforcement officer to seize
14 the motor vehicle used in the violation or improper refusal and owned by the person
15 whose operating privilege is revoked under s. 343.305 (10) or who committed a
16 violation of s. 346.63 (1) (a), (am), or (b) or (2) (a) 1., 2., or 3., 940.09 (1) (a), (am), (b),
17 (c), (cm), or (d), or 940.25 (1) (a), (am), (b), (c), (cm), or (d) if the person whose operating
18 privilege is revoked under s. 343.305 (10) or who is convicted of the violation has 2
19 or more prior suspensions, revocations, or convictions, counting convictions under ss.
20 940.09 (1) and 940.25 in the person's lifetime, plus other convictions, suspensions,
21 or revocations counted under s. 343.307 (1). The court may not order a motor vehicle
22 seized ~~if the court enters an order under s. 343.301 to immobilize the motor vehicle~~
23 ~~or equip the motor vehicle with an ignition interlock device or if seizure would result~~

1 in undue hardship or extreme inconvenience or would endanger the health and
2 safety of a person.

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

3 **SECTION 13.** 346.655 (1) of the statutes is amended to read:

4 346.655 (1) If a court imposes a fine or a forfeiture for a violation of s. 346.63
5 (1) or (5), except for a first violation of s. 346.63 (1) (b), if the person who committed
6 the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at
7 the time of the violation, or a local ordinance in conformity therewith, or s. 346.63
8 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall
9 impose a driver improvement surcharge under ch. 814 in an amount of \$365 \$370 in
10 addition to the fine or forfeiture, plus costs, fees, and other surcharges imposed under
11 ch. 814.

History: 1981 c. 20; 1981 c. 314; 1983 a. 27 s. 2202 (20); 1985 a. 29, 337; 1987 a. 3, 27, 399; 1989 a. 31, 105; 1991 a. 39; 1993 a. 16; 1995 a. 27, 201; 1997 a. 27; 1999 a. 109; 1999 a. 150 s. 672; 2001 a. 16, 104; 2003 a. 30, 33, 139, 326; 2007 a. 111.

12 **SECTION 14.** 346.70 (3m) (b) of the statutes is amended to read:

13 346.70 (3m) (b) The department shall tabulate and may analyze all accident
14 reports and shall publish ~~annually~~ monthly or at more frequent intervals statistical
15 information based thereon as to the number and circumstances of traffic accidents.

16 The reports shall include a tabulation of the number of accidents in which the
17 consumption of an intoxicant or other drug was a contributing factor to the accident
18 and information as to the amount of intoxicant or other drug that was in the blood
19 of the drivers involved in the accident.

History: 1975 c. 240, 381; 1977 c. 29 ss. 1486, 1654 (7) (a), (c); 1977 c. 100; 1979 c. 99; 1981 c. 20, 133, 314; 1985 a. 29; 1987 a. 211; 1993 a. 246, 437; 1995 a. 113; 2001 a. 27; 2005 a. 253.

20 **SECTION 15.** 347.417 (1) of the statutes is amended to read:

21 347.417 (1) No person may remove, disconnect, tamper with, or otherwise
22 circumvent the operation of any immobilization device installed in response to a
23 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. This

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

3 **History:** 1991 a. 277; 1999 a. 109; 2001 a. 16 ss. 3445h to 3445m, 4060hg, 4060hj, 4060hw, 4060hy.

SECTION 16. 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), 2007 stats. The
7 label shall provide notice of the penalties for removing, disconnecting, tampering
8 with, or otherwise circumventing the operation of the immobilization device.

9 **History:** 1991 a. 277; 1999 a. 109; 2001 a. 16 ss. 3445h to 3445m, 4060hg, 4060hj, 4060hw, 4060hy.

SECTION 17. 940.09 (1d) (a) 1. of the statutes is amended to read:

10 940.09 (1d) (a) 1. Except as provided in subd. 2., if the person who committed
11 an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more prior convictions,~~
12 ~~suspensions, or revocations, counting convictions under sub. (1) and s. 940.25 in the~~
13 ~~person's lifetime, plus other convictions, suspensions, or revocations counted under~~
14 s. 343.307 (1) had an alcohol concentration of 0.10 or more at the time of the offense,
15 the procedure under s. 343.301 shall be followed if the court enters an order
16 regarding operating privilege restriction ~~or enters an order regarding~~
17 ~~immobilization.~~

18 **History:** 1977 c. 173; 1981 c. 20, 184, 314, 391; 1983 a. 459; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 32, 277; 1993 a. 317; 1995 a. 425, 436; 1997 a. 237, 295, 338; 1999 a. 32, 109; 2001 a. 16, 109; 2003 a. 30, 97.

SECTION 18. 940.09 (1d) (a) 2. of the statutes is amended to read:

19 940.09 (1d) (a) 2. Notwithstanding par. (b), if the person who committed an
20 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more convictions,~~
21 ~~suspensions, or revocations counted under s. 343.307 (1) within any 5-year period~~
22 had an alcohol concentration of 0.10 or more at the time of the offense, the procedure
23 under s. 343.301 shall be followed if the court enters an order regarding operating

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

History: 1977 c. 173; 1981 c. 20, 184, 314, 391; 1983 a. 459; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 32, 277; 1993 a. 317; 1995 a. 425, 436; 1997 a. 237, 295, 338; 1999 a. 32, 109; 2001 a. 16, 109; 2003 a. 30, 97.

3 **SECTION 19.** 940.25 (1d) (a) 1. of the statutes is amended to read:

4 940.25 (1d) (a) 1. Except as provided in subd. 2., if the person who committed
5 an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more prior convictions,~~
6 ~~suspensions, or revocations, counting convictions under sub. (1) and s. 940.09 (1) in~~
7 ~~the person's lifetime, plus other convictions, suspensions, or revocations counted~~
8 under s. 343.307 (1) had an alcohol concentration of 0.10 or more at the time of the
9 offense, the procedure under s. 343.301 shall be followed if the court enters an order
10 regarding operating privilege restriction ~~or enters an order regarding~~
11 ~~immobilization.~~

History: 1977 c. 193, 272; 1981 c. 20, 184; 1983 a. 459; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 277; 1993 a. 317, 428, 478; 1995 a. 425, 436; 1997 a. 237, 295; 1999 a. 32, 109, 186; 2001 a. 16, 109; 2003 a. 30, 97; 2005 a. 253.

12 **SECTION 20.** 940.25 (1d) (a) 2. of the statutes is amended to read:

13 940.25 (1d) (a) 2. Notwithstanding par. (b), if the person who committed an
14 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more convictions,~~
15 ~~suspensions, or revocations counted under s. 343.307 (1) within any 5-year period~~
16 had an alcohol concentration of 0.10 or more at the time of the offense, the procedure
17 under s. 343.301 shall be followed if the court enters an order regarding operating
18 privilege restriction and the installation of an ignition interlock device ~~or enters an~~
19 ~~order regarding immobilization.~~

History: 1977 c. 193, 272; 1981 c. 20, 184; 1983 a. 459; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 277; 1993 a. 317, 428, 478; 1995 a. 425, 436; 1997 a. 237, 295; 1999 a. 32, 109, 186; 2001 a. 16, 109; 2003 a. 30, 97; 2005 a. 253.

20 **SECTION 21.** 973.05 (3) (a) of the statutes is amended to read:

21 973.05 (3) (a) In lieu of part or all of a fine imposed by a court, the court may
22 stay the execution of part or all of the sentence and provide that the defendant
23 perform community service work under pars. (b) and (c). If the defendant's fine was

1 imposed under s. 346.65 (2) (am) 2., 3., 4., and 5., (f), and (g), the court may stay the
2 execution of part or all of the sentence and shall provide that the defendant perform
3 community service work under pars. (b) and (c). Any applicable driver improvement
4 surcharge under s. 346.655 or any domestic abuse surcharge under s. 973.055 shall
5 be imposed under ch. 814 regardless of whether part or all of the sentence has been
6 stayed. If the defendant fails to comply with the community service order, the court
7 shall order the defendant brought before the court for imposition of sentence. If the
8 defendant complies with the community service order, he or she has satisfied that
9 portion of the sentence.

History: 1977 c. 29; 1979 c. 34, 111; 1981 c. 20, 88, 352; 1983 a. 27, 535; 1985 a. 36; 1987 a. 27, 339, 398; 1989 a. 64, 107, 359; 1991 a. 39; 1993 a. 16; 1995 a. 227, 438, 448; 1997 a. 3, 27, 35, 148, 248; 1999 a. 9, 32; 2001 a. 16, 56, 105; 2003 a. 139; 2005 a. 25, 149, 282, 433; 2005 a. 443 s. 265; 2007 a. 20, 97.

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(END)