



State of Wisconsin  
2009 - 2010 LEGISLATURE

Wanted  
by 12/11  
end of day

P2  
LRB-0914/P1  
RPN:kjf:ph  
↑  
+ ARG

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 12/9  
D-note

repeal

1 AN ACT *to repeal* 343.301 (1) (title) and 343.301 (2); *to renumber and amend*  
2 343.301 (1) (c) and 343.301 (1) (d); *to consolidate, renumber and amend*  
3 343.301 (1) (a) 1. and 2. and 343.301 (1) (b) 1. and 2.; and *to amend* 343.10 (5)  
4 (a) 3., 343.30 (1q) (d), 343.301 (title), 343.305 (10) (d), 343.305 (10m) (a), 343.305  
5 (10m) (b), 346.65 (6) (a) 1., 346.655 (1), 346.70 (3m) (b), 347.417 (1), 347.417 (2),  
6 940.09 (1d) (a) 1., 940.09 (1d) (a) 2., 940.25 (1d) (a) 1., 940.25 (1d) (a) 2. and  
7 973.05 (3) (a) of the statutes; **relating to:** drunk driving penalties,  
8 consumption reports, and restrictions on certain alcohol consumption specials,

and making an appropriation

**Analysis by the Legislative Reference Bureau**

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

ADD FE-S

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

insert 1-9

9 SECTION 1. 343.10 (5) (a) 3. of the statutes is amended to read:  
10 343.10 (5) (a) 3. If the applicant has 2 or more prior convictions, suspensions,  
11 or revocations, as counted under s. 343.307 (1), the The occupational license of the

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

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

17 343.30 (1q) (d) The assessment report shall order compliance with a driver  
18 safety plan. The report shall inform the person of the fee provisions under s. 46.03  
19 (18) (f). The driver safety plan may include a component that makes the person  
20 aware of the effect of his or her offense on a victim and a victim's family. The driver  
21 safety plan may include treatment for the person's misuse, abuse, or dependence on  
22 alcohol, controlled substances, or controlled substance analogs, or attendance at a  
23 school under s. 345.60, or both. If the person has a total of one or more prior  
24 convictions, suspensions, or revocations counted under s. 343.307 (1), the driver  
25 safety plan shall include treatment for the person's misuse, abuse, or dependence on

1 alcohol, controlled substances, or controlled substance analogs, or 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 with treatment. The school under s. 345.60  
8 shall notify the department, the county department under s. 51.42 and the person  
9 of the 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 any 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.

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

12 **343.301 (title) Installation of ignition interlock device or**  
13 **immobilization of a motor vehicle.**

14 SECTION 4. 343.301 (1) (title) of the statutes is repealed.

15 SECTION 5. 343.301 (1) (a) 1. and 2. of the statutes are consolidated,  
16 renumbered 343.301 (1) and amended to read:

17 343.301 (1) ~~Except as provided in subd. 2., if~~ <sup>plainly</sup> ~~if~~ a person improperly refuses to  
18 take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and  
19 ~~the person has a total of one or more prior convictions, suspensions, or revocations,~~  
20 ~~counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and~~  
21 ~~other convictions, suspensions, and revocations counted under s. 343.307 (1), the~~  
22 ~~court may order that the person's operating privilege for the operation of "Class D"~~  
23 ~~vehicles be restricted to operating "Class D" vehicles that are equipped with an~~  
24 ~~ignition interlock device. 2. If a person improperly refuses to take a test under s.~~  
25 ~~343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total~~

1 of 2 or more convictions, suspensions, or revocations, counted under s. 343.307 (1)  
2 within any 5-year period had an alcohol concentration of 0.1 or more at the time of  
3 the offense, the court shall order that the person's operating privilege for the  
4 operation of "Class D" vehicles be restricted to operating vehicles that are equipped  
5 with an ignition interlock device and shall order that each motor vehicle for which  
6 the person's name appears on the vehicle's certificate of title or registration be  
7 equipped with an ignition interlock device. If equipping each motor vehicle with an  
8 ignition interlock device under this subdivision would cause an undue financial  
9 hardship, the court may order that one or more motor vehicles subject to this  
10 subdivision not be equipped with an ignition interlock device. This <sup>subsection</sup> ~~subdivision~~ does  
11 not apply if the court enters an order under sub. (2) (a) 2. or, if the person has 2 or  
12 more prior convictions, suspensions, or revocations for purposes of this subdivision,  
13 to the motor vehicle owned by the person and used in the violation or refusal if the  
14 court orders the vehicle to be seized and forfeited under s. 346.65 (6).

15 **SECTION 6.** 343.301 (1) (b) 1. and 2. of the statutes are consolidated,  
16 renumbered 343.301 (2m) and amended to read:

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

Insert  
5-14  
5-14

1 granted under this chapter. The court may order the installation of an ignition  
2 interlock device under sub. (1) immediately upon issuing an order under sub. (1).

3 **SECTION 7.** 343.301 (1) (c) of the statutes is renumbered 343.301 (3) and  
4 amended to read:

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

8 **SECTION 8.** 343.301 (1) (d) of the statutes is renumbered 343.301 (4) and  
9 amended to read:

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

16 **SECTION 9.** 343.301 (2) of the statutes is repealed.

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

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

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

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

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

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

23 **SECTION 12.** 343.305 (10m) (b) of the statutes is amended to read:

24 343.305 (10m) (b) If the person whose operating privilege is revoked under sub.  
25 (10) has 2 or more convictions, suspensions, or revocations, as counted under s.



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

10 **SECTION 13.** 346.65 (6) (a) 1. of the statutes is amended to read:

11 346.65 (6) (a) 1. The court ~~may~~ shall order a law enforcement officer to seize  
12 the motor vehicle used in the violation or improper refusal and owned by the person  
13 whose operating privilege is revoked under s. 343.305 (10) or who committed a  
14 violation of s. 346.63 (1) (a), (am), or (b) or (2) (a) 1., 2., or 3., 940.09 (1) (a), (am), (b),  
15 (c), (cm), or (d), or 940.25 (1) (a), (am), (b), (c), (cm), or (d) if the person whose operating  
16 privilege is revoked under s. 343.305 (10) or who is convicted of the violation has 2  
17 or more prior suspensions, revocations, or convictions, counting convictions under ss.  
18 940.09 (1) and 940.25 in the person's lifetime, plus other convictions, suspensions,  
19 or revocations counted under s. 343.307 (1). The court may not order a motor vehicle  
20 seized ~~if the court enters an order under s. 343.301 to immobilize the motor vehicle~~  
21 ~~or equip the motor vehicle with an ignition interlock device or if seizure would result~~  
22 in undue hardship or extreme inconvenience or would endanger the health and  
23 safety of a person.

24 **SECTION 14.** 346.655 (1) of the statutes is amended to read:

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

9           **SECTION 15.** 346.70 (3m) (b) of the statutes is amended to read:

10           346.70 (3m) (b) The department shall tabulate and may analyze all accident  
11 reports and shall publish ~~annually~~ monthly or at more frequent intervals statistical  
12 information ~~based thereon~~ as to the number and circumstances of traffic accidents.  
13 The reports shall include a tabulation of the number of accidents in which the  
14 consumption of intoxicants or other drugs were contributing factors to the accidents  
15 and information as to the amounts of intoxicants or other drugs that were in the blood  
16 of the drivers involved in the accidents.

17           **SECTION 16.** 347.417 (1) of the statutes is amended to read:

18           347.417 (1) No person may remove, disconnect, tamper with, or otherwise  
19 circumvent the operation of any immobilization device installed in response to a  
20 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. This  
21 subsection does not apply to the removal of an immobilization device pursuant to a  
22 court order or to necessary repairs to a malfunctioning immobilization device.

23           **SECTION 17.** 347.417 (2) of the statutes is amended to read:

24           347.417 (2) The department shall design a warning label which shall be affixed  
25 by the owner of each immobilization device before the device is used to immobilize

1 any motor vehicle under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. The  
2 label shall provide notice of the penalties for removing, disconnecting, tampering  
3 with, or otherwise circumventing the operation of the immobilization device.

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

5 940.09 (1d) (a) 1. Except as provided in subd. 2., if the person who committed  
6 an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more prior convictions,~~  
7 ~~suspensions, or revocations, counting convictions under sub. (1) and s. 940.25 in the~~  
8 ~~person's lifetime, plus other convictions, suspensions, or revocations counted under~~  
9 ~~s. 343.307 (1) had an alcohol concentration of 0.1 or more at the time of the offense,~~  
10 ~~the procedure under s. 343.301~~ shall be followed if the court enters an order  
11 regarding operating privilege restriction ~~or enters an order regarding~~  
12 immobilization.

13 **SECTION 19.** 940.09 (1d) (a) 2. of the statutes is amended to read:

14 940.09 (1d) (a) 2. Notwithstanding par. (b), if the person who committed an  
15 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more convictions,~~  
16 ~~suspensions, or revocations counted under s. 343.307 (1) within any 5-year period~~  
17 ~~had an alcohol concentration of 0.1 or more at the time of the offense,~~ the procedure  
18 ~~under s. 343.301~~ shall be followed if the court enters an order regarding operating  
19 privilege restriction and the installation of an ignition interlock device ~~or enters an~~  
20 ~~order regarding immobilization.~~

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

22 940.25 (1d) (a) 1. Except as provided in subd. 2., if the person who committed  
23 an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more prior convictions,~~  
24 ~~suspensions, or revocations, counting convictions under sub. (1) and s. 940.09 (1) in~~  
25 ~~the person's lifetime, plus other convictions, suspensions, or revocations counted~~

1 under s. 343.307 (1) had an alcohol concentration of <sup>less than</sup> 0.1<sup>2</sup> or more at the time of the  
2 offense, the procedure under s. 343.301<sup>(1)(a)</sup> shall be followed if the court enters an order  
3 regarding operating privilege restriction ~~or enters an order regarding~~  
4 immobilization.

5 SECTION 21. 940.25 (1d) (a) 2. of the statutes is amended to read:

6 940.25 (1d) (a) 2. Notwithstanding par. (b), if the person who committed an  
7 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more convictions,~~  
8 ~~suspensions, or revocations counted under s. 343.307 (1) within any 5-year period~~  
9 had an alcohol concentration of 0.1<sup>2</sup> or more at the time of the offense, the procedure  
10 under s. 343.301<sup>(1)(a) (bm)</sup> shall be followed if the court enters an order regarding operating  
11 privilege restriction and the installation of an ignition interlock device ~~or enters an~~  
12 ~~order regarding immobilization.~~

13 SECTION 22. 973.05 (3) (a) of the statutes is amended to read:

14 973.05 (3) (a) In lieu of part or all of a fine imposed by a court, the court may  
15 stay the execution of part or all of the sentence and provide that the defendant  
16 perform community service work under pars. (b) and (c). If the defendant's fine was  
17 imposed under s. 346.65 (2) (am) 2., 3., 4., and 5., (f), and (g), the court may stay the  
18 execution of part or all of the sentence and shall provide that the defendant perform  
19 community service work under pars. (b) and (c). Any applicable driver improvement  
20 surcharge under s. 346.655 or any domestic abuse surcharge under s. 973.055 shall  
21 be imposed under ch. 814 regardless of whether part or all of the sentence has been  
22 stayed. If the defendant fails to comply with the community service order, the court  
23 shall order the defendant brought before the court for imposition of sentence. If the

1 defendant complies with the community service order, he or she has satisfied that  
2 portion of the sentence.

3 (END)

*D-Note*

1           **INSERT 1-9:**

2           **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
3           the following amounts for the purposes indicated:

	2009-10	2010-11
4		
5 <b>20.395   Transportation, department of</b>		
6           (5) <b>MOTOR VEHICLE SERVICES AND ENFORCEMENT</b>		
7           (ds) <b>Publication of intoxicated driver</b>		
8           information, state funds	SEG    C	-0-       -0-

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

10           20.395 (5) (ds) *Publication of intoxicated driver information, state funds.* All  
11           moneys received under s. 341.255 (6) for the purpose specified in s. 85.54.

12           **SECTION 3.** 85.54 of the statutes is created to read:

13           **85.54   Publication of intoxicated driver information.** No later than the  
14           end of the 2nd month after receiving a record of conviction showing that a person has  
15           been convicted under s. 346.63 (1) or a local ordinance in conformity with s. 346.63  
16           (1), the department shall cause a class 1 notice, under ch. 985, to be published in a  
17           county where the conviction occurred or the person resides. This notice shall contain  
18           the person's name, age, and last-known residence address and the total number of  
19           times the person has been convicted under s. 346.63 (1) or a local ordinance in  
20           conformity with s. 346.63 (1).

21           **SECTION 4.** 341.255 (6) of the statutes is created to read:

22           341.255 (6) In addition to any other applicable fee under this chapter, the  
23           department shall charge a fee of \$5 for the registration of any vehicle by an applicant

1 who has been convicted under s. 346.63 (1) or a local ordinance in conformity with  
2 s. 346.63 (1). All fees collected under this subsection shall be credited to the  
3 appropriation under s. 20.395 (5) (ds).

4  
5 insert 5-14:

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

8 343.301 (1) (a) ~~Except as provided in subd. 2., if~~ If a person improperly refuses  
9 to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25,  
10 and the person has a total of one or more prior convictions, suspensions, or  
11 revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's  
12 lifetime and other convictions, suspensions, and revocations counted under s.  
13 343.307 (1) an alcohol concentration of less than 0.12 at the time of the offense, the  
14 court may order that the person's operating privilege for the operation of "Class D"  
15 vehicles be restricted to operating "Class D" vehicles that are equipped with an  
16 ignition interlock device.

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

17 SECTION 6. 343.301 (1) (a) 2. of the statutes is renumbered 343.301 (1) (a) and  
18 amended to read:

19 343.301 (1) (a) ~~2.~~ If Except as provided in par. (a), if a person improperly refuses  
20 to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25,  
21 and the person has a total of 2 or more convictions, suspensions, or revocations,  
22 counted under s. 343.307 (1) within any 5-year period, the court shall order that the  
23 person's operating privilege for the operation of "Class D" vehicles be restricted to  
24 operating vehicles that are equipped with an ignition interlock device and shall order

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

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

12 insert 9-9:

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

14 346.65 (2) (am) 1. Shall forfeit not less than \$150 \$500 nor more than \$300  
 15 \$2500, except as provided in subds. 2. to 5. and par. (f).

**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.

16 **SECTION 8.** 346.65 (2) (am) 2. of the statutes is amended to read:

17 346.65 (2) (am) 2. Except as provided in pars. (bm) and (f), shall be fined not  
 18 less than \$350 \$500 nor more than \$1,100 \$2500 and imprisoned for not less than  
 19 5 days nor more than 6 months if the number of convictions under ss. 940.09 (1) and  
 20 940.25 in the person's lifetime, plus the total number of suspensions, revocations,  
 21 and other convictions counted under s. 343.307 (1) within a 10-year period, equals



1 2, except that suspensions, revocations, or convictions arising out of the same  
2 incident or occurrence shall be counted as one.

**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 9.** 346.65 (2) (am) 3. of the statutes is amended to read:

4 346.65 (2) (am) 3. Except as provided in pars. (cm), (f), and (g), shall be fined  
5 not less than \$600 \$500 nor more than \$2,000 \$2500 and imprisoned for not less than  
6 30 days nor more than one year in the county jail if the number of convictions under  
7 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of  
8 suspensions, revocations, and other convictions counted under s. 343.307 (1), equals  
9 3, except that suspensions, revocations, or convictions arising out of the same  
10 incident or occurrence shall be counted as one.

**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.

11 **SECTION 10.** 346.65 (2) (am) 4. of the statutes is amended to read:

12 346.65 (2) (am) 4. Except as provided in pars. (f) and (g), shall be fined not less  
13 than \$600 \$500 nor more than \$2,000 \$2500 and imprisoned for not less than 60 days  
14 nor more than one year in the county jail if the number of convictions under ss. 940.09  
15 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,  
16 revocations and other convictions counted under s. 343.307 (1), equals 4, except that  
17 suspensions, revocations or convictions arising out of the same incident or  
18 occurrence shall be counted as one.

**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.

19

20

21

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0914/P2dn

ARG...*kgf*

*Date*

ATTN: Ryan Schroeder

I have drafted the additional \$5 vehicle registration fee to apply each year, forever, once a person has received his or her first OWI. Please let me know if this is not consistent with your intent. I also note that only convictions, not refusals, are considered under the provisions of the draft.

I do not know whether the additional \$5 fee will be sufficient to cover DOT's costs. I recommend that you have the draft reviewed by DOT.

I note that, under s. 16.47 (2), neither house may pass any bill containing an appropriation, increasing the cost of state government, or decreasing state revenues by more than \$10,000 annually until both houses pass the executive budget bill, except that the governor or Joint Committee on Finance may recommend and the legislature may enact emergency appropriation bills during that period. While s. 16.47 (2) establishes a rule of legislative procedure and the legislature (not the courts) would determine the extent to which it is enforced, s. 16.47(2) underpins other practical considerations. Because the biennial budget act repeals and recreates the appropriation schedule under s. 20.005, if this draft is introduced and enacted before the budget act is enacted and the provisions of this draft are not incorporated into the budget act, the budget act will eliminate the appropriation created by this draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0914/P2dn  
ARG:kjf:rs

December 9, 2008

ATTN: Ryan Schroeder

I have drafted the additional \$5 vehicle registration fee to apply each year, forever, once a person has received his or her first OWI. Please let me know if this is not consistent with your intent. I also note that only convictions, not refusals, are considered under the provisions of the draft.

I do not know whether the additional \$5 fee will be sufficient to cover DOT's costs. I recommend that you have the draft reviewed by DOT.

I note that, under s. 16.47 (2), neither house may pass any bill containing an appropriation, increasing the cost of state government, or decreasing state revenues by more than \$10,000 annually until both houses pass the executive budget bill, except that the governor or Joint Committee on Finance may recommend and the legislature may enact emergency appropriation bills during that period. While s. 16.47 (2) establishes a rule of legislative procedure and the legislature (not the courts) would determine the extent to which it is enforced, s. 16.47 (2) underpins other practical considerations. Because the biennial budget act repeals and recreates the appropriation schedule under s. 20.005, if this draft is introduced and enacted before the budget act is enacted and the provisions of this draft are not incorporated into the budget act, the budget act will eliminate the appropriation created by this draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: [aaron.gary@legis.wisconsin.gov](mailto:aaron.gary@legis.wisconsin.gov)

12/15 Zepnick  
? - Take out seizure changes?  
Starkunas has a bill.

1st off < 1/2 option at 5-30 days  
7-12 after 5- day to 6 months

2nd 15 days 9 months

3rd 60 1 yr

4th 1 yr or jail - H felony

5th G

F

1st offense -- can

we break into criminal  
and civil

12/15/08

Meeting w/ Rep. Zepnick, Ryan, RPN, ARB

- #5 → everybody →
  - public & public safety
  - "sobriety checkpoints" →
  - safety re drunk driving →
  - key on drunk driving
- program to combat drunk driving
  - safety program

**Gary, Aaron**

---

**From:** Schroeder, Ryan  
**Sent:** Tuesday, December 16, 2008 1:45 PM  
**To:** Gary, Aaron  
**Cc:** Peters, Steven  
**Subject:** RE: Follow-up to our meeting yesterday

Hello Aaron,

I spoke to Dennis Hues from DOT to gather more information on the sobriety check-point theme. Although the check-points as we both know are illegal, the concept that is legal is called HVE or High Visibility Enforcement program. Another word that has been used in the past for the same idea is saturation patrols. His recommendation is that you could refer to either terminology so a portion of that money would go to fund those programs. Hope this helps and if you have any further questions let our office know.

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:** Gary, Aaron  
**Sent:** Wednesday, December 10, 2008 3:22 PM  
**To:** Schroeder, Ryan  
**Cc:** Nelson, Robert P.  
**Subject:** RE:

Hi Ryan,

I converted LRB-0940 to an introducible /1 draft. You'll have it shortly.

I checked with Bob and we're both available Monday mid-morning to mid-afternoon. Let me know what time we should come over to meet.

Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)

12/16/2008



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Due 1/7

regen.

1 AN ACT *to repeal* 343.301 (1) (title) and 343.301 (2); *to renumber and amend*  
 2 343.301 (1) (a) 1., 343.301 (1) (a) 2., 343.301 (1) (c) and 343.301 (1) (d); *to*  
 3 *consolidate, renumber and amend* 343.301 (1) (b) 1. and 2.; *to amend*  
 4 343.10 (5) (a) 3., 343.30 (1q) (d), 343.301 (title), 343.305 (10) (d), 343.305 (10m)  
 5 (a), 343.305 (10m) (b), 346.65 (2) (am) 1., 346.65 (2) (am) 2., 346.65 (2) (am) 3.,  
 6 346.65 (2) (am) 4., 346.65 (6) (a) 1., 346.70 (3m) (b), 347.417 (1), 347.417 (2),  
 7 940.09 (1d) (a) 1., 940.09 (1d) (a) 2., 940.25 (1d) (a) 1., 940.25 (1d) (a) 2. and  
 8 973.05 (3) (a); and *to create* 20.395 (5) (ds), 85.54 and 341.255 (6) of the  
 9 statutes; **relating to:** drunk driving penalties, consumption reports,  
 10 restrictions on certain alcohol consumption specials, and making an  
 11 appropriation.

deterrence  
intoxicated driver deterrence, vehicle  
registration fees,

**Analysis by the Legislative Reference Bureau**

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

insert RMONAL →  
insert AG  
ANAL →

For further information see the *state* 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. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

			2009-10	2010-11
20.395	Transportation, department of			
(5)	MOTOR VEHICLE SERVICES AND ENFORCEMENT			
(ds)	Publication of intoxicated driver information, state funds	SEG C	-0-	-0-

SECTION 2. 20.395 (5) (ds) of the statutes is created to read:

20.395 (5) (ds) *Publication of intoxicated driver information, state funds.* All moneys received under s. 341.255 (6) for the purpose specified in s. 85.54.

SECTION 3. 85.54 of the statutes is created to read:

**85.54 *Publication of intoxicated driver information.*** No later than the end of the 2nd month after receiving a record of conviction showing that a person has been convicted under s. 346.63 (1) or a local ordinance in conformity with s. 346.63 (1), the department shall cause a class 1 notice, under ch. 985, to be published in a county where the conviction occurred or the person resides. This notice shall contain the person's name, age, and last-known residence address and the total number of times the person has been convicted under s. 346.63 (1) or a local ordinance in conformity with s. 346.63 (1).

SECTION 4. 341.255 (6) of the statutes is created to read:



1           341.255 (6) In addition to any other applicable fee under this chapter, the  
2 department shall charge a fee of \$5 for the registration of any vehicle by an applicant  
3 *under this chapter* who has been convicted under s. 346.63 (1) or a local ordinance in conformity with  
4 ~~s. 346.63 (1)~~. All fees collected under this subsection shall be credited to the  
5 appropriation under s. 20.395 (5) (ds).

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

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

24           **SECTION 6.** 343.30 (1q) (d) of the statutes is amended to read:

1           343.30 (1q) (d) The assessment report shall order compliance with a driver  
2 safety plan. The report shall inform the person of the fee provisions under s. 46.03  
3 (18) (f). The driver safety plan may include a component that makes the person  
4 aware of the effect of his or her offense on a victim and a victim's family. The driver  
5 safety plan may include treatment for the person's misuse, abuse, or dependence on  
6 alcohol, controlled substances, or controlled substance analogs, or attendance at a  
7 school under s. 345.60, or both. If the person has a total of one or more prior  
8 convictions, suspensions, or revocations counted under s. 343.307 (1), the driver  
9 safety plan shall include treatment for the person's misuse, abuse, or dependence on  
10 alcohol, controlled substances, or controlled substance analogs, or attendance at a  
11 school under s. 345.60, or both. If the plan requires inpatient treatment, the  
12 treatment shall not exceed 30 days. A driver safety plan under this paragraph shall  
13 include a termination date consistent with the plan which shall not extend beyond  
14 one year. The county department under s. 51.42 shall assure notification of the  
15 department of transportation and the person of the person's compliance or  
16 noncompliance with assessment and with treatment. The school under s. 345.60  
17 shall notify the department, the county department under s. 51.42 and the person  
18 of the person's compliance or noncompliance with the requirements of the school.  
19 Nonpayment of the assessment fee or, if the person has the ability to pay,  
20 nonpayment of the driver safety plan fee is noncompliance with the court order. If  
21 the department is notified of any noncompliance, other than for nonpayment of the  
22 assessment fee or driver safety plan fee, it shall revoke the person's operating  
23 privilege until the county department under s. 51.42 or the school under s. 345.60  
24 notifies the department that the person is in compliance with assessment or the  
25 driver safety plan. If the department is notified that a person has not paid the

1 assessment fee, or that a person with the ability to pay has not paid the driver safety  
2 plan fee, the department shall suspend the person's operating privilege for a period  
3 of 2 years or until it receives notice that the person has paid the fee, whichever occurs  
4 first. The department shall notify the person of the suspension or revocation, the  
5 reason for the suspension or revocation and the person's right to a review. A person  
6 may request a review of a revocation based upon failure to comply with a driver safety  
7 plan within 10 days of notification. The review shall be handled by the subunit of  
8 the department of transportation designated by the secretary. The issues at the  
9 review are limited to whether the driver safety plan, if challenged, is appropriate and  
10 whether the person is in compliance with the assessment order or the driver safety  
11 plan. The review shall be conducted within 10 days after a request is received. If the  
12 driver safety plan is determined to be inappropriate, the department shall order a  
13 reassessment and if the person is otherwise eligible, the department shall reinstate  
14 the person's operating privilege. If the person is determined to be in compliance with  
15 the assessment or driver safety plan, and if the person is otherwise eligible, the  
16 department shall reinstate the person's operating privilege. If there is no decision  
17 within the 10-day period, the department shall issue an order reinstating the  
18 person's operating privilege until the review is completed, unless the delay is at the  
19 request of the person seeking the review.

20 **SECTION 7.** 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 8.** 343.301 (1) (title) of the statutes is repealed.

24 **SECTION 9.** 343.301 (1) (a) 1. of the statutes is renumbered 343.301 (1) (a) and  
25 amended to read:

1           343.301 (1) (a) ~~Except as provided in subd. 2., if~~ If a person improperly refuses  
2 to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25,  
3 and the person has ~~a total of one or more prior convictions, suspensions, or~~  
4 ~~revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's~~  
5 ~~lifetime and other convictions, suspensions, and revocations counted under s.~~  
6 343.307 (1) an alcohol concentration of less than 0.12 at the time of the offense, 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.

10           **SECTION 10.** 343.301 (1) (a) 2. of the statutes is renumbered 343.301 (1) (bm)  
11 and amended to read:

12           343.301 (1) (bm) If ~~Except as provided in par. (a), if~~ a person improperly refuses  
13 to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25,  
14 and the person has ~~a total of 2 or more convictions, suspensions, or revocations,~~  
15 ~~counted under s. 343.307 (1) within any 5-year period~~, the court shall order that the  
16 person's operating privilege for the operation of "Class D" vehicles be restricted to  
17 operating vehicles that are equipped with an ignition interlock device and shall order  
18 that each motor vehicle for which the person's name appears on the vehicle's  
19 certificate of title or registration be equipped with an ignition interlock device. If  
20 equipping each motor vehicle with an ignition interlock device under this ~~subdivision~~  
21 paragraph would cause an undue financial hardship, the court may order that one  
22 or more motor vehicles subject to this ~~subdivision~~ paragraph not be equipped with  
23 an ignition interlock device. This ~~subdivision~~ paragraph does not apply if the court  
24 enters an order under sub. (2) (a) 2. or, if the person has 2 or more prior convictions,  
25 suspensions, or revocations for purposes of this ~~subdivision~~ paragraph, to the motor

1 vehicle owned by the person and used in the violation or refusal if the court orders  
2 the vehicle to be seized and forfeited under s. 346.65 (6).

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

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

15 **SECTION 12.** 343.301 (1) (c) of the statutes is renumbered 343.301 (3) and  
16 amended to read:

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

20 **SECTION 13.** 343.301 (1) (d) of the statutes is renumbered 343.301 (4) and  
21 amended to read:

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

1 first submitting a sample of his or her breath to analysis by the ignition interlock  
2 device.

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

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

5 343.305 (10) (d) The assessment report shall order compliance with a driver  
6 safety plan. The report shall inform the person of the fee provisions under s. 46.03  
7 (18) (f). The driver safety plan may include a component that makes the person  
8 aware of the effect of his or her offense on a victim and a victim's family. The driver  
9 safety plan may include treatment for the person's misuse, abuse, or dependence on  
10 alcohol, controlled substances, or controlled substance analogs, or attendance at a  
11 school under s. 345.60, or both. If the person has a total of one or more prior  
12 convictions, suspensions, or revocations counted under s. 343.307 (1), the driver  
13 safety plan shall include treatment for the person's misuse, abuse, or dependence on  
14 alcohol, controlled substances, or controlled substance analogs, or attendance at a  
15 school under s. 345.60, or both. If the plan requires inpatient treatment, the  
16 treatment shall not exceed 30 days. A driver safety plan under this paragraph shall  
17 include a termination date consistent with the plan which shall not extend beyond  
18 one year. The county department under s. 51.42 shall assure notification of the  
19 department of transportation and the person of the person's compliance or  
20 noncompliance with assessment and treatment. The school under s. 345.60 shall  
21 notify the department, the county department under s. 51.42 and the person of the  
22 person's compliance or noncompliance with the requirements of the school.  
23 Nonpayment of the assessment fee or, if the person has the ability to pay,  
24 nonpayment of the driver safety plan fee is noncompliance with the court order. If  
25 the department is notified of noncompliance, other than for nonpayment of the

1 assessment fee or driver safety plan fee, it shall revoke the person's operating  
2 privilege until the county department under s. 51.42 or the school under s. 345.60  
3 notifies the department that the person is in compliance with assessment or the  
4 driver safety plan. If the department is notified that a person has not paid the  
5 assessment fee, or that a person with the ability to pay has not paid the driver safety  
6 plan fee, the department shall suspend the person's operating privilege for a period  
7 of 2 years or until it receives notice that the person has paid the fee, whichever occurs  
8 first. The department shall notify the person of the suspension or revocation, the  
9 reason for the suspension or revocation and the person's right to a review. A person  
10 may request a review of a revocation based upon failure to comply with a driver safety  
11 plan within 10 days of notification. The review shall be handled by the subunit of  
12 the department of transportation designated by the secretary. The issues at the  
13 review are limited to whether the driver safety plan, if challenged, is appropriate and  
14 whether the person is in compliance with the assessment order or the driver safety  
15 plan. The review shall be conducted within 10 days after a request is received. If the  
16 driver safety plan is determined to be inappropriate, the department shall order a  
17 reassessment and if the person is otherwise eligible, the department shall reinstate  
18 the person's operating privilege. If the person is determined to be in compliance with  
19 the assessment or driver safety plan, and if the person is otherwise eligible, the  
20 department shall reinstate the person's operating privilege. If there is no decision  
21 within the 10-day period, the department shall issue an order reinstating the  
22 person's operating privilege until the review is completed, unless the delay is at the  
23 request of the person seeking the review.

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

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

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

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

23           **SECTION 18.** 346.65 (2) (am) 1. of the statutes is amended to read:

24           346.65 (2) (am) 1. ~~Shall~~ <sup>If the person had any</sup> forfeit not less than \$150 ~~\$500~~ <sup>2.</sup> nor more than \$300  
25           \$2,500, except as provided in subds. 2. to ~~5.~~ <sup>2.</sup> and par. (f).

So alcohol concentration of less than 0.12,  
shall



Insert 11-1 →

1 SECTION 19. 346.65 (2) (am) 2. of the statutes is amended to read:

2 346.65 (2) (am) 2. Except as provided in pars. (bm) and (f), shall be fined not  
3 less than \$350 ~~\$500~~ <sup>\$700</sup> nor more than \$1,100 ~~\$2,000~~ <sup>\$2,500</sup> and imprisoned for not less than  
4 ~~5~~ <sup>15</sup> days nor more than ~~6~~ <sup>9</sup> months if the number of convictions under ss. 940.09 (1) and  
5 940.25 in the person's lifetime, plus the total number of suspensions, revocations,  
6 and other convictions counted under s. 343.307 (1) within a 10-year period, equals  
7 2, except that suspensions, revocations, or convictions arising out of the same  
8 incident or occurrence shall be counted as one.

9 SECTION 20. 346.65 (2) (am) 3. of the statutes is amended to read:

10 346.65 (2) (am) 3. Except as provided in pars. (cm), (f), and (g), shall be fined  
11 not less than \$600 ~~\$500~~ <sup>\$1,000</sup> nor more than \$2,000 ~~\$2,500~~ <sup>\$2,500</sup> and imprisoned for not less than  
12 ~~30~~ <sup>60</sup> days nor more than one year in the county jail if the number of convictions under  
13 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of  
14 suspensions, revocations, and other convictions counted under s. 343.307 (1), equals  
15 3, except that suspensions, revocations, or convictions arising out of the same  
16 incident or occurrence shall be counted as one.

17 SECTION 21. 346.65 (2) (am) 4. of the statutes is amended to read:

18 346.65 (2) (am) 4. Except as provided in pars. (f) and (g), shall be fined not less  
19 than \$600 ~~\$500~~ <sup>\$1,500</sup> nor more than \$2,000 ~~\$2,500~~ <sup>\$2,500</sup> and imprisoned for not less than ~~60~~ <sup>60</sup> days  
20 ~~nor more than one year in the county jail~~ if the number of convictions under ss. 940.09  
21 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,  
22 revocations and other convictions counted under s. 343.307 (1), equals 4, except that  
23 suspensions, revocations or convictions arising out of the same incident or  
24 occurrence shall be counted as one.

Insert 11-24 →

25 SECTION 22. 346.65 (6) (a) 1. of the statutes is amended to read:

1 346.65 (6) (a) 1. The court <sup>plaintiff</sup> ~~may~~ <sup>g</sup> ~~shall~~ order a law enforcement officer to seize  
2 the motor vehicle used in the violation or improper refusal and owned by the person  
3 whose operating privilege is revoked under s. 343.305 (10) or who committed a  
4 violation of s. 346.63 (1) (a), (am), or (b) or (2) (a) 1., 2., or 3., 940.09 (1) (a), (am), (b),  
5 (c), (cm), or (d), or 940.25 (1) (a), (am), (b), (c), (cm), or (d) if the person whose operating  
6 privilege is revoked under s. 343.305 (10) or who is convicted of the violation has 2  
7 or more prior suspensions, revocations, or convictions, counting convictions under ss.  
8 940.09 (1) and 940.25 in the person's lifetime, plus other convictions, suspensions,  
9 or revocations counted under s. 343.307 (1). The court may not order a motor vehicle  
10 seized ~~if the court enters an order under s. 343.301 to immobilize the motor vehicle~~  
11 ~~or equip the motor vehicle with an ignition interlock device~~ <sup>plaintiff</sup> ~~or~~ <sup>plain</sup> if seizure would result  
12 in undue hardship or extreme inconvenience or would endanger the health and  
13 safety of a person.

14 SECTION 23. 346.70 (3m) (b) of the statutes is amended to read:

15 346.70 (3m) (b) The department shall tabulate and may analyze all accident  
16 reports and shall publish ~~annually~~ monthly or at more frequent intervals statistical  
17 information ~~based thereon~~ as to the number and circumstances of traffic accidents.  
18 The reports shall include a tabulation of the number of accidents in which the  
19 consumption of intoxicants or other drugs were contributing factors to the accidents  
20 and information as to the amounts of intoxicants or other drugs that were in the blood  
21 of the drivers involved in the accidents.

22 SECTION 24. 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), 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 **SECTION 25.** 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 **SECTION 26.** 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 less than 0.12 or more at the time of~~  
15 ~~the offense~~, the procedure under s. 343.301 (1) (a) shall be followed if the court enters  
16 an order regarding operating privilege restriction ~~or enters an order regarding~~  
17 ~~immobilization.~~

18 **SECTION 27.** 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 0.12 or more at the time of the offense~~, the procedure  
23 under s. 343.301 (1) (bm) shall be followed if the court enters an order regarding  
24 operating privilege restriction and the installation of an ignition interlock device ~~or~~  
25 ~~enters an order regarding immobilization.~~

1           **SECTION 28.** 940.25 (1d) (a) 1. of the statutes is amended to read:

2           940.25 (1d) (a) 1. Except as provided in subd. 2., if the person who committed  
3 an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more prior convictions,~~  
4 ~~suspensions, or revocations, counting convictions under sub. (1) and s. 940.09 (1) in~~  
5 ~~the person's lifetime, plus other convictions, suspensions, or revocations counted~~  
6 ~~under s. 343.307 (1) had an alcohol concentration of less than 0.12 or more at the time~~  
7 ~~of the offense,~~ the procedure under s. 343.301 (1) (a) shall be followed if the court  
8 enters an order regarding operating privilege restriction ~~or enters an order~~  
9 regarding immobilization.

10           **SECTION 29.** 940.25 (1d) (a) 2. of the statutes is amended to read:

11           940.25 (1d) (a) 2. Notwithstanding par. (b), if the person who committed an  
12 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more convictions,~~  
13 ~~suspensions, or revocations counted under s. 343.307 (1) within any 5-year period~~  
14 ~~had an alcohol concentration of 0.12 or more at the time of the offense,~~ the procedure  
15 under s. 343.301 (1) (bm) shall be followed if the court enters an order regarding  
16 operating privilege restriction and the installation of an ignition interlock device ~~or~~  
17 ~~enters an order regarding immobilization.~~

18           **SECTION 30.** 973.05 (3) (a) of the statutes is amended to read:

19           973.05 (3) (a) In lieu of part or all of a fine imposed by a court, the court may  
20 stay the execution of part or all of the sentence and provide that the defendant  
21 perform community service work under pars. (b) and (c). If the defendant's fine was  
22 imposed under s. 346.65 (2) (am) <sup>im. 2</sup> 2., 3., 4., and 5. <sup>im. to 7.</sup> (f), and (g), the court may stay the  
23 execution of part or all of the sentence and shall provide that the defendant perform  
24 community service work under pars. (b) and (c). Any applicable driver improvement  
25 surcharge under s. 346.655 or any domestic abuse surcharge under s. 973.055 shall

1 be imposed under ch. 814 regardless of whether part or all of the sentence has been  
2 stayed. If the defendant fails to comply with the community service order, the court  
3 shall order the defendant brought before the court for imposition of sentence. If the  
4 defendant complies with the community service order, he or she has satisfied that  
5 portion of the sentence.

6

**(END)**

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0914/P3insrn  
RPN&ARG:kjf:rs

insert anl-rn:

*the following*, including

X This bill makes numerous changes regarding the operation of a motor vehicle while intoxicated or under the influence of a controlled substance (OWI).

1. Currently, an occupational license is issued for limited purposes to persons who do not have a regular license to operate a motor vehicle because that license is suspended or revoked. Under current law, if an occupational license applicant's suspension or revocation is because of an OWI offense and the OWI offense is the person's second OWI offense, the occupational license restricts the person to operating a vehicle equipped with an ignition interlock device. This bill requires the occupational license to restrict the person to operating a vehicle equipped with an ignition interlock device after the first OWI offense.

X 2. Currently, a person who commits an OWI offense is required to submit to an assessment of the offender's use of an intoxicant. If the assessing facility determines that the offender needs treatment, it submits a report of the assessment and driver safety plan to the offender, the county agency involved in alcohol treatment, ~~the~~ department of transportation. *and* The driver safety plan may require treatment for the offender's misuse of intoxicants or controlled substances and attendance at a traffic safety school. This bill requires the driver safety plan to include treatment for the offender's misuse of intoxicants or controlled substances or attendance at a traffic safety school, or both, if the offender has more than one OWI offense.

BAC X 3. Under current law, if a person who commits an OWI offense, including a refusal to submit to a test to determine his or her blood alcohol concentration (BAC), has one or more previous OWI offenses, the court may order that the vehicle used during the offense be immobilized or that the offender's operating privilege be limited to driving a vehicle equipped with an ignition interlock device. This bill removes the option of immobilization of the motor vehicle. Instead, the bill allows the court, as part of the penalty for a first OWI offense in which the offender had a ~~blood alcohol concentration~~ of 0.12 or more, to restrict the offender's operating privilege to driving a vehicle equipped with an ignition interlock device. The bill also requires the court to restrict the offender's operating privilege to driving a vehicle equipped with an ignition interlock device if the person has one or more previous OWI offenses.

X 4. Current law requires the department of transportation (DOT) to tabulate and analyze all accident reports and not less than annually publish statistical information about the number and circumstances of traffic accidents. This bill requires DOT to publish that information at least monthly and requires that the information include the number of accidents in which the consumption of intoxicants or controlled substances were contributing factors and the amount of intoxicants or

controlled substances that were in the blood of the drivers involved in those accidents.

5. The bill changes the monetary and imprisonment penalties for OWI offenses as follows:

	<u>Current law</u>	<u>Proposed</u>
First offense:	Forfeit of: \$150-\$300 No imprisonment	If BAC < 0.12: \$500-\$2500 If BAC ≥ 0.12, fine of: \$500-\$2500 If BAC < 0.12: no imprisonment If BAC ≥ 0.12: 5 days to 6 months
Second offense:	Fine of: \$350-\$1,100 Imprisonment of: 5 days to 6 months	\$700-\$2,500 15 days to 9 months
Third offense:	Fine of: \$600-\$2,000 Imprisonment of: 30 days to 1 year	\$1,000-\$2,500 60 days to 1 year
Fourth offense:	Fine of: \$600-\$2,000 Imprisonment of: 60 days to 1 year	\$1,500-\$10,000 1 to 3 1/2 years
Fifth offense:	Fine of: \$600-\$10,000 Imprisonment of: 6 months to 6 years	\$2,000-\$10,000 2 to 6 years
Sixth offense:	(Same as fifth offense) (Same as fifth offense)	\$2,500-\$25,000 3 to 10 years
Seventh-ninth offense:	Fine of: not greater than \$25,000 Imprisonment of: not greater than 10 years	\$3,000-\$25,000 4 to 12 1/2 years
Tenth or more offenses:	Fine of: not greater than \$25,000 Imprisonment of: not greater than 12 1/2 years	\$3,500-\$50,000 5 to 15 years

*CPS: make into a 3 column table please. I'd like to review this. See attached table for sample.*

*greater than or equal to*  
*less than*  
*to*  
*use 8 times*

**BILL**

*Sample only*

<u>Crime</u>	<u>Maximum Fine</u>	<u>Maximum Imprisonment</u> (Includes term of extended supervision)
Class A misdemeanor	\$10,000	Nine months
Class I felony	\$10,000	Three and one-half years
Class H felony	\$10,000	Six years

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

---

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

1 SECTION 1. 946.417 of the statutes is created to read:

2 **946.417 Injuring officer while evading stop or resisting arrest.** (1) In  
3 this section, "officer" has the meaning given in s. 946.41 (2) (b).

4 (2) Whoever causes bodily harm to an officer while knowingly evading an  
5 investigative stop under s. 968.24 or knowingly resisting arrest is guilty of a Class  
6 I felony.

7 (END)



1 **INSERT AG ANAL:**

X Under the bill, each time the Department of Transportation (DOT) receives a record of conviction from a court showing that a person has been convicted of operating while intoxicated (OWI), DOT must publish a notice in the official newspaper of the county where the conviction occurred or the person resides containing the person's name, age, and last-known residence address and the person's total number of OWI convictions. The bill creates an additional \$5 vehicle registration fee which DOT must use to pay for these newspaper publications and to fund DOT's efforts to deter the intoxicated operation of motor vehicles.

FE S+L →

2 **INSERT AG 2-12:**

3 (1) The department shall make efforts to deter the intoxicated operation of  
4 motor vehicles in this state. The department's efforts may include any program  
5 designed to provide high visibility to law enforcement on those highways where the  
6 department determines that drivers are most likely to operate motor vehicles while  
7 intoxicated.

8

**2009-2010 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0914/P2ins  
RPN&ARG:kjf:rs

1 insert 11-1:

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

3 346.65 (2) (am) 1m. If the person had an alcohol concentration of 0.12 or more,  
4 shall be fined not less than \$500 nor more than \$2,500 and imprisoned for not less  
5 than 5 days nor more than 6 months, except as provided in subds. 2. to 7. and par.  
6 (f).

7 insert 11-24:

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

9 346.65 (2) (am) 5. Except as provided in pars. (f) and (g), is guilty of a Class H  
10 felony and shall be fined not less than \$600 \$2,000 and imprisoned for not less than  
11 ~~6 months~~ 2 years if the number of convictions under ss. 940.09 (1) and 940.25 in the  
12 person's lifetime, plus the total number of suspensions, revocations and other  
13 convictions counted under s. 343.307 (1), equals 5 ~~or 6~~, except that suspensions,  
14 revocations or convictions arising out of the same incident or occurrence shall be  
15 counted as one.

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.

16 **SECTION 3.** 346.65 (2) (am) 5m. of the statutes is created to read:

17 346.65 (2) (am) 5m. Except as provided in pars. (f) and (g), is guilty of a Class  
18 G felony and shall be fined not less than \$2,500 and imprisoned for not less than 3  
19 years if the number of convictions under ss. 940.09 (1) and 940.25 in the person's  
20 lifetime, plus the total number of suspensions, revocations, and other convictions  
21 counted under s. 343.307 (1), equals 6, except that suspensions, revocations, or  
22 convictions arising out of the same incident or occurrence shall be counted as one.

1           **SECTION 4.** 346.65 (2) (am) 6. of the statutes is amended to read:

2           346.65 (2) (am) 6. Except as provided in par. (f), is guilty of a Class ~~G~~ F felony  
3           and shall be fined not less than \$3,000 and imprisoned for not less than 4 years if the  
4           number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus  
5           the total number of suspensions, revocations, and other convictions counted under  
6           s. 343.307 (1), equals 7, 8, or 9, except that suspensions, revocations, or convictions  
7           arising out of the same incident or occurrence shall be counted as one.

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.

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

9           346.65 (2) (am) 7. Except as provided in par. (f), is guilty of a Class ~~F~~ E felony  
10           and shall be fined not less than \$3,500 and imprisoned for not less than 5 years if the  
11           number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus  
12           the total number of suspensions, revocations, and other convictions counted under  
13           s. 343.307 (1), equals 10 or more except that suspensions, revocations, or convictions  
14           arising out of the same incident or occurrence shall be counted as one.

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.

*end of  
insert 11-24*

1/8

LRB-0914

Mc w/ Ryan - 6-1707

two changes

① change \$5 to \$25 at 5-1

② For suspension/revocation period,

move period duration "up one" →

eg new suspension/rev period for 1<sup>st</sup> offense would be same as existing period for 2<sup>nd</sup> offense; new for 2<sup>nd</sup> offense would be existing for 3<sup>rd</sup> offense; etc.

• same for period of IID

• also, wants this to be ~~sp~~ included in the chart in the analysis as well