



in 2/4

wants  
by 2/5  
at 10:30 AM  
if possible

RMR

2/4 - changes per  
H.C. w/ Rep. Zepnick

**2009 BILL**

Only changes - pp. 1, 4, and 5

Reger

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) (b) 2., 343.30 (1q) (b) 3., 343.30 (1q) (b) 4., 343.30  
5 (1q) (d), 343.301 (title), 343.305 (10) (d), 343.305 (10m) (a), 343.305 (10m) (b),  
6 346.65 (2) (am) 1., 346.65 (2) (am) 2., 346.65 (2) (am) 3., 346.65 (2) (am) 4., 346.65  
7 (2) (am) 5., 346.65 (2) (am) 6., 346.65 (2) (am) 7., 346.65 (6) (a) 1., 346.70 (3m)  
8 (b), 347.417 (1), 347.417 (2), 940.09 (1d) (a) 1., 940.09 (1d) (a) 2., 940.25 (1d) (a)  
9 1., 940.25 (1d) (a) 2. and 973.05 (3) (a); and **to create** 20.395 (5) (ds), 85.54,  
10 341.255 (6), 346.65 (2) (am) 1m. and 346.65 (2) (am) 5m. of the statutes;  
11 **relating to:** drunk driving penalties, consumption reports, <sup>and</sup> intoxicated driver  
12 deterrence, vehicle registration fees, and making an appropriation.

**Analysis by the Legislative Reference Bureau**

This bill makes numerous changes regarding the operation of a motor vehicle while intoxicated or under the influence of a controlled substance (OWI), including the following:

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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.

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, and the Department of Transportation (DOT). 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.

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 BAC 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.

4. Current law requires the 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 operating privilege restrictions and monetary and imprisonment penalties for OWI offenses as follows:

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	<i>Current law</i>	<i>Proposed</i>
First offense	<p>Forfeiture of: \$150-\$300</p> <p>No imprisonment</p> <p>6- to 9-month license revocation</p>	<p>If BAC is less than 0.12: \$500-\$2,500</p> <p>If BAC is greater than or equal to 0.12: \$500-\$2,500</p> <p>If BAC is less than 0.12: no imprisonment</p> <p>If BAC is greater than or equal to 0.12: 5 days to 6 months</p> <p>12- to 18-month license revocation</p>
Second offense	<p>Fine of: \$350-\$1,100</p> <p>Imprisonment of: 5 days to 6 months</p> <p>12- to 18-month license revocation</p>	<p>\$700-\$2,500</p> <p>15 days to 9 months</p> <p>2- to 3-year license revocation</p>
Third offense	<p>Fine of: \$600-\$2,000</p> <p>Imprisonment of: 30 days to 1 year</p> <p>2- to 3-year license revocation</p>	<p>\$1,000-\$2,500</p> <p>60 days to 1 year</p> <p>3- to 4-year license revocation</p>
Fourth offense	<p>Fine of: \$600-\$2,000</p> <p>Imprisonment of: 60 days to 1 year</p> <p>2- to 3-year license revocation</p>	<p>\$1,500-\$10,000</p> <p>1 year to 3-1/2 years</p> <p>3- to 4-year license revocation</p>
Fifth offense	<p>Fine of: \$600-\$10,000</p> <p>Imprisonment of: 6 months to 6 years</p> <p>2- to 3-year license revocation</p>	<p>\$2,000-\$10,000</p> <p>2 to 6 years</p> <p>3- to 4-year license revocation</p>

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	<i>Current law</i>	<i>Proposed</i>
Sixth offense	(Same as fifth offense)	\$2,500-\$25,000 3 to 10 years 3- to 4-year license revocation
Seventh-ninth offense	Fine of: not greater than \$25,000 Imprisonment of: not greater than 10 years 2- to 3-year license revocation	\$3,000-\$25,000 4 to 12-1/2 years 3- to 4-year license revocation
Tenth or more offenses	Fine of: not greater than \$25,000 Imprisonment of: not greater than 12-1/2 years 2- to 3-year license revocation	\$3,500-\$50,000 5 to 15 years 3- to 4-year license revocation

Under the bill, each time DOT receives a record of conviction from a court showing that a person has been convicted of 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 \$25 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.

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

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

1           **SECTION 1.** 20.395 (5) (ds) of the statutes is created to read:  
2           20.395 (5) (ds) *Intoxicated driver deterrence, state funds.* All moneys received  
3           under s. 341.255 (6) for the purposes specified in s. 85.54.

4           **SECTION 2.** 85.54 of the statutes is created to read:

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1           **85.54 Intoxicated driver deterrence.** (1) The department shall make  
2 efforts to deter the intoxicated operation of motor vehicles in this state. The  
3 department's efforts may include any program designed to provide high visibility of  
4 law enforcement on those highways where the department determines that drivers  
5 are most likely to operate motor vehicles while intoxicated.

6           (2) No later than the end of the 2nd month after receiving a record of conviction  
7 showing that a person has been convicted under s. 346.63 (1) or a local ordinance in  
8 conformity with s. 346.63 (1), the department shall cause a class 1 notice, under ch.  
9 985, to be published in a county where the conviction occurred or the person resides.  
10 This notice shall contain the person's name, age, and last-known residence address  
11 and the total number of times the person has been convicted under s. 346.63 (1) or  
12 a local ordinance in conformity with s. 346.63 (1).

13           ~~SECTION 3. 341.255 (6) of the statutes is created to read:~~

14           ~~341.255 (6) The department shall charge a fee of \$25, in addition to any other~~  
15 ~~applicable fee under this chapter, for the registration of any vehicle under this~~  
16 ~~chapter. All fees collected under this subsection shall be credited to the~~  
17 ~~appropriation under s. 20.395 (5) (ds).~~

18           SECTION 4. 343.10 (5) (a) 3. of the statutes is amended to read:

19           343.10 (5) (a) 3. ~~If the applicant has 2 or more prior convictions, suspensions,~~  
20 ~~or revocations, as counted under s. 343.307 (1), the~~ The occupational license of the  
21 applicant shall restrict the applicant's operation under the occupational license to  
22 vehicles that are equipped with a functioning ignition interlock device if the court  
23 has ordered under s. 343.301 (1) (a) ~~1. or 2.~~ that the person's operating privilege for  
24 Class D vehicles be restricted to operating vehicles that are equipped with an  
25 ignition interlock device or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the

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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.

11 **SECTION 5.** 343.30 (1q) (b) 2. of the statutes is amended to read:

12 343.30 (1q) (b) 2. Except as provided in subd. 3., 4. or 4m., for the first  
13 conviction, the court shall revoke the person's operating privilege for not less than  
14 ~~6 months~~ one year nor more than ~~9~~ 18 months. The person is eligible for an  
15 occupational license under s. 343.10 at any time.

16 **SECTION 6.** 343.30 (1q) (b) 3. of the statutes is amended to read:

17 343.30 (1q) (b) 3. Except as provided in subd. 4m., if the number of convictions  
18 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other  
19 convictions, suspensions, and revocations counted under s. 343.307 (1) within a  
20 10-year period, equals 2, the court shall revoke the person's operating privilege for  
21 not less than ~~one year~~ 2 years nor more than ~~18 months~~ 3 years. After the first 60  
22 days of the revocation period or, if the total number of convictions, suspensions, and  
23 revocations counted under this subdivision within any 5-year period equals 2 or  
24 more, after one year of the revocation period has elapsed, the person is eligible for

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1 an occupational license under s. 343.10 if he or she has completed the assessment and  
2 is complying with the driver safety plan ordered under par. (c).

3 **SECTION 7.** 343.30 (1q) (b) 4. of the statutes is amended to read:

4 343.30 (1q) (b) 4. Except as provided in subd. 4m., if the number of convictions  
5 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other  
6 convictions, suspensions, and revocations counted under s. 343.307 (1), equals 3 or  
7 more, the court shall revoke the person's operating privilege for not less than 2 3  
8 years nor more than 3 4 years. After the first 90 days of the revocation period or, if  
9 the total number of convictions, suspensions, and revocations counted under this  
10 subdivision within any 5-year period equals 2 or more, after one year of the  
11 revocation period has elapsed, the person is eligible for an occupational license under  
12 s. 343.10 if he or she has completed the assessment and is complying with the driver  
13 safety plan ordered under par. (c).

14 **SECTION 8.** 343.30 (1q) (d) of the statutes is amended to read:

15 343.30 (1q) (d) The assessment report shall order compliance with a driver  
16 safety plan. The report shall inform the person of the fee provisions under s. 46.03  
17 (18) (f). The driver safety plan may include a component that makes the person  
18 aware of the effect of his or her offense on a victim and a victim's family. The driver  
19 safety plan may include treatment for the person's misuse, abuse, or dependence on  
20 alcohol, controlled substances, or controlled substance analogs, or attendance at a  
21 school under s. 345.60, or both. If the person has a total of one or more prior  
22 convictions, suspensions, or revocations counted under s. 343.307 (1), the driver  
23 safety plan shall include treatment for the person's misuse, abuse, or dependence on  
24 alcohol, controlled substances, or controlled substance analogs, or attendance at a  
25 school under s. 345.60, or both. If the plan requires inpatient treatment, the

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



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

9 **SECTION 9.** 343.301 (title) of the statutes is amended to read:

10 **343.301 (title) Installation of ignition interlock device or**  
11 **immobilization of a motor vehicle.**

12 **SECTION 10.** 343.301 (1) (title) of the statutes is repealed.

13 **SECTION 11.** 343.301 (1) (a) 1. of the statutes is renumbered 343.301 (1) (a) and  
14 amended to read:

15 343.301 (1) (a) ~~Except as provided in subd. 2., if~~ If a person improperly refuses  
16 ~~to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25,~~  
17 and the person has ~~a total of one or more prior convictions, suspensions, or~~  
18 ~~revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's~~  
19 ~~lifetime and other convictions, suspensions, and revocations counted under s.~~  
20 343.307 (1) an alcohol concentration of less than 0.12 at the time of the offense, the  
21 court may order that the person's operating privilege for the operation of "Class D"  
22 vehicles be restricted to operating "Class D" vehicles that are equipped with an  
23 ignition interlock device.

24 **SECTION 12.** 343.301 (1) (a) 2. of the statutes is renumbered 343.301 (1) (bm)  
25 and amended to read:

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1           343.301 (1) (bm) ~~If Except as provided in par. (a), 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 2 or more convictions, suspensions, or revocations,~~  
4           ~~counted under s. 343.307 (1) within any 5-year period, the court shall order that the~~  
5           ~~person's operating privilege for the operation of "Class D" vehicles be restricted to~~  
6           ~~operating vehicles that are equipped with an ignition interlock device and shall order~~  
7           ~~that each motor vehicle for which the person's name appears on the vehicle's~~  
8           ~~certificate of title or registration be equipped with an ignition interlock device. If~~  
9           ~~equipping each motor vehicle with an ignition interlock device under this subdivision~~  
10           ~~paragraph would cause an undue financial hardship, the court may order that one~~  
11           ~~or more motor vehicles subject to this subdivision paragraph not be equipped with~~  
12           ~~an ignition interlock device. This subdivision paragraph does not apply if the court~~  
13           ~~enters an order under sub. (2) (a) 2. or, if the person has 2 or more prior convictions,~~  
14           ~~suspensions, or revocations for purposes of this subdivision paragraph, to the motor~~  
15           ~~vehicle owned by the person and used in the violation or refusal if the court orders~~  
16           ~~the vehicle to be seized and forfeited under s. 346.65 (6).~~

17           **SECTION 13.** 343.301 (1) (b) 1. <sup>✓</sup> and 2. of the statutes are consolidated,  
18           renumbered 343.301 (2m) and amended to read:

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

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1 ~~privilege revocation period begins on the date that the department issues any license~~  
2 ~~granted under this chapter. The court may order the installation of an ignition~~  
3 ~~interlock device under sub. (1) immediately upon issuing an order under sub. (1).~~

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

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

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

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

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

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

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

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1 convictions, suspensions, or revocations counted under s. 343.307 (1), the driver  
2 safety plan shall include treatment for the person's misuse, abuse, or dependence on  
3 alcohol, controlled substances, or controlled substance analogs, or attendance at a  
4 school under s. 345.60, or both. If the plan requires inpatient treatment, the  
5 treatment shall not exceed 30 days. A driver safety plan under this paragraph shall  
6 include a termination date consistent with the plan which shall not extend beyond  
7 one year. The county department under s. 51.42 shall assure notification of the  
8 department of transportation and the person of the person's compliance or  
9 noncompliance with assessment and treatment. The school under s. 345.60 shall  
10 notify the department, the county department under s. 51.42 and the person of the  
11 person's compliance or noncompliance with the requirements of the school.  
12 Nonpayment of the assessment fee or, if the person has the ability to pay,  
13 nonpayment of the driver safety plan fee is noncompliance with the court order. If  
14 the department is notified of noncompliance, other than for nonpayment of the  
15 assessment fee or driver safety plan fee, it shall revoke the person's operating  
16 privilege until the county department under s. 51.42 or the school under s. 345.60  
17 notifies the department that the person is in compliance with assessment or the  
18 driver safety plan. If the department is notified that a person has not paid the  
19 assessment fee, or that a person with the ability to pay has not paid the driver safety  
20 plan fee, the department shall suspend the person's operating privilege for a period  
21 of 2 years or until it receives notice that the person has paid the fee, whichever occurs  
22 first. The department shall notify the person of the suspension or revocation, the  
23 reason for the suspension or revocation and the person's right to a review. A person  
24 may request a review of a revocation based upon failure to comply with a driver safety  
25 plan within 10 days of notification. The review shall be handled by the subunit of

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

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

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

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

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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.

12           **SECTION 20.** 346.65 (2) (am) 1. <sup>✓</sup> of the statutes is amended to read:

13           346.65 (2) (am) 1. ~~Shall~~ If the person had an alcohol concentration of less than  
14          0.12, shall forfeit not less than \$150 \$500 nor more than ~~\$300~~ \$2,500, except as  
15          provided in subds. 2. to ~~5.~~ 7. and par. (f).

16           **SECTION 21.** 346.65 (2) (am) 1m. <sup>✓</sup> of the statutes is created to read:

17           346.65 (2) (am) 1m. If the person had an alcohol concentration of 0.12 or more,  
18          shall be fined not less than \$500 nor more than \$2,500 and imprisoned for not less  
19          than 5 days nor more than 6 months, except as provided in subds. 2. to 7. and par.  
20          (f).

21           **SECTION 22.** 346.65 (2) (am) 2. <sup>✓</sup> of the statutes is amended to read:

22           346.65 (2) (am) 2. Except as provided in pars. (bm) and (f), shall be fined not  
23          less than ~~\$350~~ \$700 nor more than ~~\$1,100~~ \$2,500 and imprisoned for not less than  
24          5 15 days nor more than ~~6 9~~ months if the number of convictions under ss. 940.09 (1)  
25          and 940.25 in the person's lifetime, plus the total number of suspensions,

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1 revocations, and other convictions counted under s. 343.307 (1) within a 10-year  
2 period, equals 2, except that suspensions, revocations, or convictions arising out of  
3 the same incident or occurrence shall be counted as one.

4 **SECTION 23.** 346.65 (2) (am) 3. of the statutes is amended to read:

5 346.65 (2) (am) 3. Except as provided in pars. (cm), (f), and (g), shall be fined  
6 not less than ~~\$600~~ \$1000 nor more than ~~\$2,000~~ \$2,500 and imprisoned for not less  
7 than ~~30~~ 60 days nor more than one year in the county jail if the number of convictions  
8 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of  
9 suspensions, revocations, and other convictions counted under s. 343.307 (1), equals  
10 3, except that suspensions, revocations, or convictions arising out of the same  
11 incident or occurrence shall be counted as one.

12 **SECTION 24.** 346.65 (2) (am) 4. of the statutes is amended to read:

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

20 **SECTION 25.** 346.65 (2) (am) 5. of the statutes is amended to read:

21 346.65 (2) (am) 5. Except as provided in pars. (f) and (g), is guilty of a Class H  
22 felony and shall be fined not less than ~~\$600~~ \$2,000 and imprisoned for not less than  
23 ~~6 months~~ 2 years if the number of convictions under ss. 940.09 (1) and 940.25 in the  
24 person's lifetime, plus the total number of suspensions, revocations and other  
25 convictions counted under s. 343.307 (1), equals 5 ~~or 6~~, except that suspensions,

**BILL****SECTION 25**

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

3 **SECTION 26.** 346.65 (2) (am) 5m. of the statutes is created to read:

4 346.65 (2) (am) 5m. Except as provided in pars. (f) and (g), is guilty of a Class  
5 G felony and shall be fined not less than \$2,500 and imprisoned for not less than 3  
6 years if the number of convictions under ss. 940.09 (1) and 940.25 in the person's  
7 lifetime, plus the total number of suspensions, revocations, and other convictions  
8 counted under s. 343.307 (1), equals 6, except that suspensions, revocations, or  
9 convictions arising out of the same incident or occurrence shall be counted as one.

10 **SECTION 27.** 346.65 (2) (am) 6. of the statutes is amended to read:

11 346.65 (2) (am) 6. Except as provided in par. (f), is guilty of a Class G F felony  
12 and shall be fined not less than \$3,000 and imprisoned for not less than 4 years if the  
13 number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus  
14 the total number of suspensions, revocations, and other convictions counted under  
15 s. 343.307 (1), equals 7, 8, or 9, except that suspensions, revocations, or convictions  
16 arising out of the same incident or occurrence shall be counted as one.

17 **SECTION 28.** 346.65 (2) (am) 7. of the statutes is amended to read:

18 346.65 (2) (am) 7. Except as provided in par. (f), is guilty of a Class F E felony  
19 and shall be fined not less than \$3,500 and imprisoned for not less than 5 years if the  
20 number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus  
21 the total number of suspensions, revocations, and other convictions counted under  
22 s. 343.307 (1), equals 10 or more except that suspensions, revocations, or convictions  
23 arising out of the same incident or occurrence shall be counted as one.

24 **SECTION 29.** 346.65 (6) (a) 1. of the statutes is amended to read:



**BILL**

1           346.65 (6) (a) 1. The court may order a law enforcement officer to seize the  
2 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 or if seizure would result  
12 in undue hardship or extreme inconvenience or would endanger the health and  
13 safety of a person.

14           **SECTION 30.** 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 31.** 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

**BILL****SECTION 31**

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 32.** 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 33.** 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 34.** 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.~~

**BILL**

1           **SECTION 35.** 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 36.** 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 37.** 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) 1m. to 7., (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

**BILL****SECTION 37**

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 BILL

(see:  
p 3  
p 19)

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) (b) 2., 343.30 (1q) (b) 3., 343.30 (1q) (b) 4., 343.30  
5             (1q) (d), 343.301 (title), 343.305 (10) (d), 343.305 (10m) (a), 343.305 (10m) (b),  
6             346.65 (2) (am) 1., 346.65 (2) (am) 2., 346.65 (2) (am) 3., 346.65 (2) (am) 4., 346.65  
7             (2) (am) 5., 346.65 (2) (am) 6., 346.65 (2) (am) 7., 346.65 (6) (a) 1., 346.70 (3m)  
8             (b), 347.417 (1), 347.417 (2), 940.09 (1d) (a) 1., 940.09 (1d) (a) 2., 940.25 (1d) (a)  
9             1., 940.25 (1d) (a) 2. and 973.05 (3) (a); and **to create** 85.54, 346.65 (2) (am) 1m.  
10            and 346.65 (2) (am) 5m. of the statutes; **relating to:** drunk driving penalties,  
11            consumption reports, and intoxicated driver deterrence.

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### ***Analysis by the Legislative Reference Bureau***

This bill makes numerous changes regarding the operation of a motor vehicle while intoxicated or under the influence of a controlled substance (OWI), including the following:

**BILL**

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.

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, and the Department of Transportation (DOT). 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.

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 BAC 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.

4. Current law requires the 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 operating privilege restrictions and monetary and imprisonment penalties for OWI offenses as follows:

**BILL**

*Forfeiture of*

	<u>Current law</u>	<u>Proposed</u>
First offense	<p>Forfeiture of: \$150-\$300</p> <p>No imprisonment</p> <p>6- to 9-month license revocation</p>	<p>If BAC is less than 0.12: <del>\$500-\$2,500</del></p> <p>If BAC is greater than or equal to 0.12: \$500-\$2,500</p> <p>If BAC is less than 0.12: no imprisonment</p> <p>If BAC is greater than or equal to 0.12: <sup>imprisonment of</sup> 5 days to 6 months</p> <p>12- to 18-month license revocation</p>
Second offense	<p>Fine of: \$350-\$1,100</p> <p>Imprisonment of: 5 days to 6 months</p> <p>12- to 18-month license revocation</p>	<p>\$700-\$2,500</p> <p>15 days to 9 months</p> <p>2- to 3-year license revocation</p>
Third offense	<p>Fine of: \$600-\$2,000</p> <p>Imprisonment of: 30 days to 1 year</p> <p>2- to 3-year license revocation</p>	<p>\$1,000-\$2,500</p> <p>60 days to 1 year</p> <p>3- to 4-year license revocation</p>
Fourth offense	<p>Fine of: \$600-\$2,000</p> <p>Imprisonment of: 60 days to 1 year</p> <p>2- to 3-year license revocation</p>	<p>\$1,500-\$10,000</p> <p>1 year to 3-1/2 years</p> <p>3- to 4-year license revocation</p>
Fifth offense	<p>Fine of: \$600-\$10,000</p> <p>Imprisonment of: 6 months to 6 years</p> <p>2- to 3-year license revocation</p>	<p>\$2,000-\$10,000</p> <p>2 to 6 years</p> <p>3- to 4-year license revocation</p>

*fine of*

**BILL**

	<i>Current law</i>	<i>Proposed</i>
Sixth offense	(Same as fifth offense)	\$2,500-\$25,000 3 to 10 years 3- to 4-year license revocation
Seventh-ninth offense	Fine of: not greater than \$25,000 Imprisonment of: not greater than 10 years 2- to 3-year license revocation	\$3,000-\$25,000 4 to 12-1/2 years 3- to 4-year license revocation
Tenth or more offenses	Fine of: not greater than \$25,000 Imprisonment of: not greater than 12-1/2 years 2- to 3-year license revocation	\$3,500-\$50,000 5 to 15 years 3- to 4-year license revocation

Under the bill, each time DOT receives a record of conviction from a court showing that a person has been convicted of 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.

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.** 85.54 of the statutes is created to read:

2           **85.54 Intoxicated driver deterrence.** (1) The department shall make  
3 efforts to deter the intoxicated operation of motor vehicles in this state. The  
4 department's efforts may include any program designed to provide high visibility of



**BILL**

1 law enforcement on those highways where the department determines that drivers  
2 are most likely to operate motor vehicles while intoxicated.

3 (2) No later than the end of the 2nd month after receiving a record of conviction  
4 showing that a person has been convicted under s. 346.63 (1) or a local ordinance in  
5 conformity with s. 346.63 (1), the department shall cause a class 1 notice, under ch.  
6 985, to be published in a county where the conviction occurred or the person resides.  
7 This notice shall contain the person's name, age, and last-known residence address  
8 and the total number of times the person has been convicted under s. 346.63 (1) or  
9 a local ordinance in conformity with s. 346.63 (1).

10 **SECTION 2.** 343.10 (5) (a) 3. of the statutes is amended to read:

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

**BILL****SECTION 2**

1 the applicant shall be liable for the reasonable costs of equipping the vehicle with the  
2 ignition interlock device.

3 **SECTION 3.** 343.30 (1q) (b) 2. of the statutes is amended to read:

4 343.30 (1q) (b) 2. Except as provided in subd. 3., 4. or 4m., for the first  
5 conviction, the court shall revoke the person's operating privilege for not less than  
6 ~~6 months~~ one year nor more than ~~9~~ 18 months. The person is eligible for an  
7 occupational license under s. 343.10 at any time.

8 **SECTION 4.** 343.30 (1q) (b) 3. of the statutes is amended to read:

9 343.30 (1q) (b) 3. Except as provided in subd. 4m., if the number of convictions  
10 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other  
11 convictions, suspensions, and revocations counted under s. 343.307 (1) within a  
12 10-year period, equals 2, the court shall revoke the person's operating privilege for  
13 not less than ~~one year~~ 2 years nor more than ~~18 months~~ 3 years. After the first 60  
14 days of the revocation period or, if the total number of convictions, suspensions, and  
15 revocations counted under this subdivision within any 5-year period equals 2 or  
16 more, after one year of the revocation period has elapsed, the person is eligible for  
17 an occupational license under s. 343.10 if he or she has completed the assessment and  
18 is complying with the driver safety plan ordered under par. (c).

19 **SECTION 5.** 343.30 (1q) (b) 4. of the statutes is amended to read:

20 343.30 (1q) (b) 4. Except as provided in subd. 4m., if the number of convictions  
21 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other  
22 convictions, suspensions, and revocations counted under s. 343.307 (1), equals 3 or  
23 more, the court shall revoke the person's operating privilege for not less than ~~2~~ 3  
24 years nor more than ~~3~~ 4 years. After the first 90 days of the revocation period or, if  
25 the total number of convictions, suspensions, and revocations counted under this

**BILL**

1 subdivision within any 5-year period equals 2 or more, after one year of the  
2 revocation period has elapsed, the person is eligible for an occupational license under  
3 s. 343.10 if he or she has completed the assessment and is complying with the driver  
4 safety plan ordered under par. (c).

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

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

**BILL****SECTION 6**

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

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

**BILL**

1           **343.301** (title)   **Installation of ignition interlock device or**  
2   ~~**immobilization of a motor vehicle.**~~

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

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

6           343.301 (1) (a) ~~Except as provided in subd. 2., if~~ If a person improperly refuses  
7 ~~to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25,~~  
8 ~~and the person has a total of one or more prior convictions, suspensions, or~~  
9 ~~revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's~~  
10 ~~lifetime and other convictions, suspensions, and revocations counted under s.~~  
11 ~~343.307 (1) an alcohol concentration of less than 0.12 at the time of the offense, the~~  
12 court may order that the person's operating privilege for the operation of "Class D"  
13 vehicles be restricted to operating "Class D" vehicles that are equipped with an  
14 ignition interlock device.

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

17           343.301 (1) (bm) ~~If~~ Except as provided in par. (a), if a person improperly refuses  
18 to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25,  
19 ~~and the person has a total of 2 or more convictions, suspensions, or revocations,~~  
20 ~~counted under s. 343.307 (1) within any 5-year period, the court shall order that the~~  
21 person's operating privilege for the operation of "Class D" vehicles be restricted to  
22 operating vehicles that are equipped with an ignition interlock device and shall order  
23 that each motor vehicle for which the person's name appears on the vehicle's  
24 certificate of title or registration be equipped with an ignition interlock device. If  
25 equipping each motor vehicle with an ignition interlock device under this subdivision

**BILL****SECTION 10**

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

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

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

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

22 343.301 (3) If the court enters an order under ~~par. (a) sub. (1)~~, the person shall  
23 be liable for the reasonable cost of equipping and maintaining any ignition interlock  
24 device installed on his or her motor vehicle.

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

3           343.301 (4) A person to whom an order under ~~par. (a)~~ sub. (1) applies violates  
4 that order if he or she requests or permits another to blow into an ignition interlock  
5 device or to start a motor vehicle equipped with an ignition interlock device for the  
6 purpose of providing the person an operable motor vehicle without the necessity of  
7 first submitting a sample of his or her breath to analysis by the ignition interlock  
8 device.

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

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

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

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



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1 department shall reinstate the person's operating privilege. If there is no decision  
2 within the 10-day period, the department shall issue an order reinstating the  
3 person's operating privilege until the review is completed, unless the delay is at the  
4 request of the person seeking the review.

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

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

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

17 343.305 (10m) (b) If the person whose operating privilege is revoked under sub.  
18 (10) has 2 or more convictions, suspensions, or revocations, as counted under s.  
19 343.307 (1) within any 5-year period, the procedure under s. 343.301 shall be  
20 followed if the court enters an order regarding operating privilege restriction and the  
21 installation of an ignition interlock device ~~or enters an order regarding~~  
22 ~~immobilization.~~ If the number of convictions under ss. 940.09 (1) and 940.25 in the  
23 lifetime of the person whose operating privilege is revoked under sub. (10), plus the  
24 total number of other convictions, suspensions, and revocations counted under s.  
25 343.307 (1), equals 2 or more, the procedure under s. 346.65 (6) shall be followed if

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1 the court orders seizure and forfeiture of the motor vehicle used in the improper  
2 refusal and owned by the person.

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

4 346.65 (2) (am) 1. Shall If the person had an alcohol concentration of less than  
5 0.12, shall forfeit not less than ~~\$150~~ \$500 nor more than ~~\$300~~ \$2,500, except as  
6 provided in subds. 2. to ~~5.~~ 7. and par. (f).

7 **SECTION 19.** 346.65 (2) (am) 1m. of the statutes is created to read:

8 346.65 (2) (am) 1m. If the person had an alcohol concentration of 0.12 or more,  
9 shall be fined not less than \$500 nor more than \$2,500 and imprisoned for not less  
10 than 5 days nor more than 6 months, except as provided in subds. 2. to 7. and par.  
11 (f).

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

13 346.65 (2) (am) 2. Except as provided in pars. (bm) and (f), shall be fined not  
14 less than ~~\$350~~ \$700 nor more than ~~\$1,100~~ \$2,500 and imprisoned for not less than  
15 ~~5~~ 15 days nor more than ~~6~~ 9 months if the number of convictions under ss. 940.09 (1)  
16 and 940.25 in the person's lifetime, plus the total number of suspensions,  
17 revocations, and other convictions counted under s. 343.307 (1) within a 10-year  
18 period, equals 2, except that suspensions, revocations, or convictions arising out of  
19 the same incident or occurrence shall be counted as one.

20 **SECTION 21.** 346.65 (2) (am) 3. of the statutes is amended to read:

21 346.65 (2) (am) 3. Except as provided in pars. (cm), (f), and (g), shall be fined  
22 not less than ~~\$600~~ \$1000 nor more than ~~\$2,000~~ \$2,500 and imprisoned for not less  
23 than ~~30~~ 60 days nor more than one year in the county jail if the number of convictions  
24 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of  
25 suspensions, revocations, and other convictions counted under s. 343.307 (1), equals

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1 3, except that suspensions, revocations, or convictions arising out of the same  
2 incident or occurrence shall be counted as one.

3 **SECTION 22.** 346.65 (2) (am) 4. of the statutes is amended to read:

4 346.65 (2) (am) 4. Except as provided in pars. (f) and (g), is guilty of a Class I  
5 felony and shall be fined not less than ~~\$600 nor more than \$2,000~~ \$1,500 and  
6 imprisoned for not less than ~~60 days nor more than one year in the county jail~~ if the  
7 number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus  
8 the total number of suspensions, revocations and other convictions counted under s.  
9 343.307 (1), equals 4, except that suspensions, revocations or convictions arising out  
10 of the same incident or occurrence shall be counted as one.

11 **SECTION 23.** 346.65 (2) (am) 5. of the statutes is amended to read:

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

19 **SECTION 24.** 346.65 (2) (am) 5m. of the statutes is created to read:

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

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1           **SECTION 25.** 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.

8           **SECTION 26.** 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.

15          **SECTION 27.** 346.65 (6) (a) 1. of the statutes is amended to read:

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

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1 or equip the motor vehicle with an ignition interlock device or if seizure would result  
2 in undue hardship or extreme inconvenience or would endanger the health and  
3 safety of a person.

4 **SECTION 28.** 346.70 (3m) (b) of the statutes is amended to read:

5 346.70 (3m) (b) The department shall tabulate and may analyze all accident  
6 reports and shall publish ~~annually~~ monthly or at more frequent intervals statistical  
7 information ~~based thereon~~ as to the number and circumstances of traffic accidents.  
8 The reports shall include a tabulation of the number of accidents in which the  
9 consumption of intoxicants or other drugs were contributing factors to the accidents  
10 and information as to the amounts of intoxicants or other drugs that were in the blood  
11 of the drivers involved in the accidents.

12 **SECTION 29.** 347.417 (1) of the statutes is amended to read:

13 347.417 (1) No person may remove, disconnect, tamper with, or otherwise  
14 circumvent the operation of any immobilization device installed in response to a  
15 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. This  
16 subsection does not apply to the removal of an immobilization device pursuant to a  
17 court order or to necessary repairs to a malfunctioning immobilization device.

18 **SECTION 30.** 347.417 (2) of the statutes is amended to read:

19 347.417 (2) The department shall design a warning label which shall be affixed  
20 by the owner of each immobilization device before the device is used to immobilize  
21 any motor vehicle under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. The  
22 label shall provide notice of the penalties for removing, disconnecting, tampering  
23 with, or otherwise circumventing the operation of the immobilization device.

24 **SECTION 31.** 940.09 (1d) (a) 1. of the statutes is amended to read:

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

9           **SECTION 32.** 940.09 (1d) (a) 2. of the statutes is amended to read:

10           940.09 (1d) (a) 2. Notwithstanding par. (b), if the person who committed an  
11 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more convictions,~~  
12 ~~suspensions, or revocations counted under s. 343.307 (1) within any 5-year period~~  
13 ~~had an alcohol concentration of 0.12 or more at the time of the offense~~, the procedure  
14 under s. 343.301 (1) (bm) shall be followed if the court enters an order regarding  
15 operating privilege restriction and the installation of an ignition interlock device ~~or~~  
16 ~~enters an order regarding immobilization.~~

17           **SECTION 33.** 940.25 (1d) (a) 1. of the statutes is amended to read:

18           940.25 (1d) (a) 1. Except as provided in subd. 2., if the person who committed  
19 an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more prior convictions,~~  
20 ~~suspensions, or revocations, counting convictions under sub. (1) and s. 940.09 (1) in~~  
21 ~~the person's lifetime, plus other convictions, suspensions, or revocations counted~~  
22 ~~under s. 343.307 (1) had an alcohol concentration of less than 0.12 or more at the time~~  
23 ~~of the offense~~, the procedure under s. 343.301 (1) (a) shall be followed if the court  
24 enters an order regarding operating privilege restriction ~~or enters an order~~  
25 ~~regarding immobilization.~~

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1           **SECTION 34.** 940.25 (1d) (a) 2. of the statutes is amended to read:

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

9           **SECTION 35.** 973.05 (3) (a) of the statutes is amended to read:

10          973.05 **(3)** (a) In lieu of part or all of a fine imposed by a court, the court may  
11 stay the execution of part or all of the sentence and provide that the defendant  
12 perform community service work under pars. (b) and (c). If the defendant's fine was  
13 imposed under s. 346.65 (2) (am) 1m. to 7., (f), and (g), the court may stay the  
14 execution of part or all of the sentence and shall provide that the defendant perform  
15 community service work under pars. (b) and (c). Any applicable driver improvement  
16 surcharge under s. 346.655 or any domestic abuse surcharge under s. 973.055 shall  
17 be imposed under ch. 814 regardless of whether part or all of the sentence has been  
18 stayed. If the defendant fails to comply with the community service order, the court  
19 shall order the defendant brought before the court for imposition of sentence. If the  
20 defendant complies with the community service order, he or she has satisfied that  
21 portion of the sentence.

22

(END)

insert  
19-21

