

2009 DRAFTING REQUEST

Bill

Received: **05/08/2009**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Anthony Staskunas (608) 266-0620**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Add. Drafters:

Subject: **Drunk Driving - alcohol level
Drunk Driving - other
Drunk Driving - penalties
Drunk Driving - refusals/testing**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Drunken driving omnibus

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 05/08/2009			_____			S&L Crime
/P1	phurley 05/12/2009	jdye 05/12/2009	jfrantze 05/12/2009	_____	sbasford 05/13/2009		S&L Crime
			jfrantze 05/13/2009	_____			

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/1	phurley 05/19/2009	jdye 05/20/2009	jfrantze 05/20/2009	_____	sbasford 05/20/2009	sbasford 05/20/2009	

FE Sent For:

↳ At Intro

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			jfrantze 05/13/2009	_____			

25/20 5/20

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Drunk Driving - refusals/testing**

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/?	phurley 05/08/2009	<i>P1 S 12 jld</i>		_____			S&L Crime
/P1	phurley		jfrantze 05/12/2009	_____			

FE Sent For:

*Jb
5/13* *5/13
phl/mo*

Hurley, Peggy

From: Ramirez, Adrienne
Sent: Tuesday, May 05, 2009 4:34 PM
To: Hurley, Peggy
Subject: Sorry another Bill drafting request

Peggy –

At the request of the Speaker's office, we have pulled together several bills that we would like rolled into one large proposal.

The fortunate thing is that most of these proposals have already been drafted.

Please include:

Assembly Bill 17, however, you should be receiving language from Legislative Council for a Substitute Amendment to the bill. Please incorporate this Leg Council language. 0933

AB 218 – Closing the .08 - .099 BAC loophole. 1424

Making the 4th OWI offense a felony if it occurs within a 5 year period. (Similar to language in SB 66)

AB 244 – Mandatory minimum sentencing. 0934

AB 191- AODA/OWI Courts. 1696

LRB 2173 - allowing probation for 2nd or 3rd OWI offenses. +1574

SB 102 – Extending the period of revocation 1372

Penalty Enhancer for convictions under 346.63(2). I know you are already working on this one. I believe there had been a question on the penalty scheme for simple injury, not great bodily harm offenses. We want to make sure there is a more severe penalty for a person convicted under 346.63(2) if they have prior OWI offenses.

If you could compose the initial proposal as a 'preliminary draft', that would be much appreciated.

Please don't hesitate to contact me if you have any questions.

Thanks!

Adrienne
Office of Rep. Tony Staskunas

only if starts

ASSEMBLY BILL 17

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

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

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

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

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

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

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

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

ASSEMBLY BILL 17

SECTION 25

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ASSEMBLY BILL 17**SECTION 32**

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

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

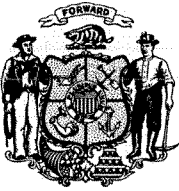
4 **SECTION 34. Initial applicability.**

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

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

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

13 (END)



2009 ASSEMBLY BILL 244

April 30, 2009 – Introduced by Representatives ZIGMUNT, STASKUNAS, STRACHOTA and BARCA, cosponsored by Senator PLALE. Referred to Committee on Public Safety.

1 **AN ACT to repeal** 346.65 (2) (am) 4.; and **to amend** 346.65 (2) (am) 5., 346.65 (2)
2 (am) 6., 346.65 (2) (am) 7., 346.65 (2) (f), 346.65 (2c), 346.65 (2g) (a), 346.65 (2g)
3 (ag) and 346.65 (7) of the statutes; **relating to:** fines and terms of
4 imprisonment for certain drunken driving offenses and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who commits an offense relating to operating a vehicle while intoxicated or under the influence of a controlled substance (OWI) is subject to a forfeiture or fine and, for a second or subsequent offense, a period of imprisonment. Currently, a person who commits a second OWI offense is subject to a fine between \$350 and \$1,100 and may be imprisoned for not less than five days nor more than six months, a person who commits a third offense is subject to a fine between \$600 and \$2000 and may be imprisoned for not less than 30 days nor more than one year, a person who commits a fourth offense may be fined between \$600 and \$2000 and may be imprisoned for not less than 60 days nor more than one year.

Upon committing a fifth or sixth OWI offense, a person is guilty of a Class H felony, and is subject to a minimum fine of \$600, a six month minimum term of imprisonment and a maximum term of imprisonment of six years. A seventh, eighth, or ninth OWI offense is a Class G felony, and the person is subject to a maximum fine of \$25,000 and a maximum term of imprisonment of ten years. A tenth or subsequent OWI offense is a Class F felony, and the person is subject to a maximum fine of \$25,000, and a maximum term of imprisonment of 12 years and six months.

ASSEMBLY BILL 244

Under current law, a person who is sentenced for a felony is sentenced to a bifurcated sentence, and the person serves a portion of his or her sentence confined in a prison and a portion under extended supervision outside of prison.

This bill makes a fourth OWI offense a Class H felony and requires a person who commits a fourth, fifth, or sixth OWI offense to serve a minimum of two years in prison under a bifurcated sentence. The bill requires a person who commits a seventh, eighth, or ninth OWI offense to serve a minimum of three years in prison under a bifurcated sentence and a person who commits a tenth or subsequent OWI offense to serve a minimum of four years in prison under a bifurcated sentence.

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.** 346.65 (2) (am) 4. of the statutes is repealed.

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

3 346.65 (2) (am) 5. Except as provided in pars. (f) and (g), is guilty of a Class H
4 felony and shall be fined not less than \$600 ~~and imprisoned for not less than 6 months~~
5 if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
6 plus the total number of suspensions, revocations and other convictions counted
7 under s. 343.307 (1), equals 4, 5, or 6, except that suspensions, revocations or
8 convictions arising out of the same incident or occurrence shall be counted as one.

9 The confinement portion of a bifurcated sentence imposed on the person under s.
10 973.01 shall be not less than 2 years.

11 **SECTION 3.** 346.65 (2) (am) 6. of the statutes is amended to read:

12 346.65 (2) (am) 6. Except as provided in par. (f), is guilty of a Class G felony if
13 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
14 plus the total number of suspensions, revocations, and other convictions counted
15 under s. 343.307 (1), equals 7, 8, or 9, except that suspensions, revocations, or
16 convictions arising out of the same incident or occurrence shall be counted as one.

ASSEMBLY BILL 244

1 The confinement portion of a bifurcated sentence imposed on the person under s.
2 973.01 shall be not less than 3 years.

3 **SECTION 4.** 346.65 (2) (am) 7. of the statutes is amended to read:

4 346.65 (2) (am) 7. Except as provided in par. (f), is guilty of a Class F felony if
5 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
6 plus the total number of suspensions, revocations, and other convictions counted
7 under s. 343.307 (1), equals 10 or more except that suspensions, revocations, or
8 convictions arising out of the same incident or occurrence shall be counted as one.
9 The confinement portion of a bifurcated sentence imposed on the person under s.
10 973.01 shall be not less than 4 years.

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

12 346.65 (2) (f) If there was a minor passenger under 16 years of age in the motor
13 vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (1),
14 the applicable minimum and maximum forfeitures, fines, or imprisonment under
15 par. (am) for the conviction are doubled. An offense under s. 346.63 (1) that subjects
16 a person to a penalty under par. (am) 3., ~~4.~~ 5., 6., or 7. when there is a minor
17 passenger under 16 years of age in the motor vehicle is a felony and the place of
18 imprisonment shall be determined under s. 973.02.

19 **SECTION 6.** 346.65 (2c) of the statutes is amended to read:

20 346.65 (2c) In sub. (2) (am) 2., 3., ~~4.~~ 5., 6., and 7., the time period shall be
21 measured from the dates of the refusals or violations that resulted in the revocation
22 or convictions. If a person has a suspension, revocation, or conviction for any offense
23 under a local ordinance or a state statute of another state that would be counted
24 under s. 343.307 (1), that suspension, revocation, or conviction shall count as a prior
25 suspension, revocation, or conviction under sub. (2) (am) 2., 3., ~~4.~~ 5., 6., and 7.

ASSEMBLY BILL 244

SECTION 7

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

2 346.65 **(2g)** (a) In addition to the authority of the court under s. 973.05 (3) (a)
3 to provide that a defendant perform community service work for a public agency or
4 a nonprofit charitable organization in lieu of part or all of a fine imposed under sub.
5 (2) (am) 2., 3., ~~4.~~, and 5., (f), and (g) and except as provided in par. (ag), the court may
6 provide that a defendant perform community service work for a public agency or a
7 nonprofit charitable organization in lieu of part or all of a forfeiture under sub. (2)
8 (am) 1. or may require a person who is subject to sub. (2) to perform community
9 service work for a public agency or a nonprofit charitable organization in addition
10 to the penalties specified under sub. (2).

11 **SECTION 8.** 346.65 (2g) (ag) of the statutes is amended to read:

12 346.65 **(2g)** (ag) If the court determines that a person does not have the ability
13 to pay a fine imposed under sub. (2) (am) 2., 3., ~~4.~~, or 5., (f), or (g), the court shall
14 require the defendant to perform community service work for a public agency or a
15 nonprofit charitable organization in lieu of paying the fine imposed or, if the amount
16 of the fine was reduced under sub. (2e), in lieu of paying the remaining amount of the
17 fine. Each hour of community service performed in compliance with an order under
18 this paragraph shall reduce the amount of the fine owed by an amount determined
19 by the court.

20 **SECTION 9.** 346.65 (7) of the statutes is amended to read:

21 346.65 **(7)** A person convicted under sub. (2) (am) 2., 3., ~~4.~~, 5., 6., or 7. or (2j)
22 (am) 2. or 3. shall be required to remain in the county jail for not less than a
23 48-consecutive-hour period.

24

(END)

2009 ASSEMBLY BILL 17

February 3, 2009 – Introduced by Representatives STASKUNAS, KAUFERT, SMITH, JORGENSEN, SHERMAN, ZIEGELBAUER, DAVIS, HEBL, BERCEAU, A. OTT, CULLEN, TOWNSEND, ROTH, SPANBAUER, RICHARDS, SHILLING, SOLETSKI, BARCA, GUNDERSON and TURNER, cosponsored by Senators PLALE, LEIBHAM, LEHMAN, CARPENTER, DARLING, HARSDORF, A. LASEE and SCHULTZ. Referred to Committee on Public Safety.

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

Analysis by the Legislative Reference Bureau

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

ASSEMBLY BILL 17

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

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

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

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

Under the bill, the judge must order that every motor vehicle the person owns be equipped with an ignition interlock device. If the judge determines that the person's income is at or below 150 percent of the federal poverty level, the person is required to pay a \$50 surcharge upon the installation of the first ignition interlock device and, for each ignition interlock device, half of the installation cost, and \$1 per day toward the cost of monitoring the ignition interlock device. A person whose income is above 150 percent of the federal poverty level is required to pay the surcharge and assume the full cost of installing and monitoring each ignition interlock device. Under the bill, if a person who is ordered to do so fails to pay the surcharge or fails to have an ignition interlock device installed, he or she may not obtain an occupational license.

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

ASSEMBLY BILL 17

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

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

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

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

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

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

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

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

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

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

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

ASSEMBLY BILL 17

SECTION 5

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

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

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

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

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

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

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

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

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

ASSEMBLY BILL 17

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

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

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

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

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

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

ASSEMBLY BILL 17

SECTION 12

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

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

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

ASSEMBLY BILL 17

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

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

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

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

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

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

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

22 343.301 (3) (b) If the court finds that the person who is subject to an order under
23 sub. (1) has a household income that is at or below 150 percent of the nonfarm federal
24 poverty line for the continental United States, as defined by the federal department
25 of labor under 42 USC 9902 (2), the court shall limit the person's liability under par.

ASSEMBLY BILL 17

SECTION 17

1 (a) to one-half of the cost of equipping each motor vehicle with an ignition interlock
2 device and \$1 per day per vehicle in which an ignition interlock device is installed.

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

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

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

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

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

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

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

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

1 (a) The person improperly refused to take a test under s. 343.305.

2 (b) The person violated s. 346.63 (1) or (2), 940.09 (1), or 940.25 and one of the
3 following applies:

4 1. The person had an alcohol concentration of 0.15 or more at the time of the offense.

5 2. The person has a total of one or more prior convictions, suspensions, or revocations,
6 counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and other
7 convictions, suspensions, and revocations counted under s. 343.307 (1)."

8 **SECTION 4. 343.01 (1m)** of the statutes is created to read:

9 **343.01 (1m)** If equipping each motor vehicle with an ignition interlock device under
10 sub. (1) would cause an undue financial hardship, the court may order that one or more
11 vehicles subject to sub. (1) not be equipped with an ignition interlock device.

12 **4.** Page 8, line 2: delete that line and substitute:

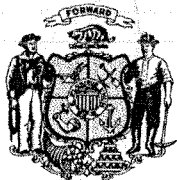
13 "~~\$1 one-half the cost per day per vehicle in which an of maintaining the~~ ignition
14 interlock device is installed."

15 **5.** Page 8, line 4: delete the material on lines 4 to 6 and substitute:

16 "**343.301 (5)** If the court enters an order under sub. (1), the court shall impose and the
17 person shall pay to the court an interlock surcharge of \$50. The court shall transmit the
18 surcharge to the county treasurer for the county in which the order is entered. The county
19 treasurer shall retain \$40 of the surcharge and make payment of the remaining \$10 to the
20 department."

21 **6.** Page 8, line 10: delete the material beginning on that line and ending on page 9, line
22 7, and substitute:

23 "**SECTION 20. 343.305 (10m)** of the statutes is repealed and recreated to read:



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2859/P1

PJH:jf

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jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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x

1 AN ACT *to repeal* 342.12 (4) (c) 1. b., 343.301 (1) (title), 343.301 (2), 346.65 (2)
2 (am) 4., 346.65 (6), 346.65 (8), 940.09 (1d) (b), 940.25 (1d) (b), 973.09 (1) (d) 1.,
3 973.09 (1) (d) 2. and 973.09 (1) (d) 3.; *to renumber and amend* 343.301 (1) (c),
4 343.301 (1) (d), 940.09 (1d) (a) 1., 940.09 (1d) (a) 2., 940.25 (1d) (a) 1., 940.25 (1d)
5 (a) 2. and 973.09 (1) (d) (intro.); *to consolidate, renumber and amend*
6 343.301 (1) (a) 1. and 2. and 343.301 (1) (b) 1. and 2.; *to amend* 165.755 (1) (b),
7 302.46 (1) (a), 340.01 (46m) (c), 342.12 (4) (c) 1. c., 342.13 (1), 343.10 (2) (a)
8 (intro.), 343.10 (5) (a) 3., 343.23 (2) (b), 343.30 (1q) (b) 5., 343.30 (1q) (c) 1.
9 (intro.), 343.301 (title), 343.305 (10) (b) 5., 343.305 (10m) (title), 343.305 (10m)
10 (a), 343.305 (10m) (b), 343.31 (3) (bm) 5., 346.65 (2) (am) 5., 346.65 (2) (am) 6.,
11 346.65 (2) (am) 7., 346.65 (2) (bm), 346.65 (2) (cm), 346.65 (2) (f), 346.65 (2c),
12 346.65 (2g) (a), 346.65 (2g) (ag), 346.65 (2j) (bm), 346.65 (2j) (cm), 346.65 (3r),
13 346.65 (7), 346.655 (1), 347.413 (title) and (1), 347.417 (1), 347.417 (2), 347.50
14 (1s), 757.05 (1) (a), 814.63 (1) (c), 814.63 (2), 814.65 (1), 814.85 (1) (a), 814.86 (1)
15 and 973.09 (2) (a) 1. d.; *to repeal and recreate* 343.10 (2) (a) (intro.); and *to*

1 **create** 20.395 (5) (hs), 343.10 (2) (f), 343.301 (3) (b), 343.301 (5) and 347.50 (1t)
 2 of the statutes; **relating to:** requiring ignition interlock devices for certain
 3 motor vehicle violations; penalty surcharges, court fees, drivers' records, and
 4 drug and alcohol assessment for persons who commit certain offenses relating
 5 to driving while intoxicated; fines and terms of imprisonment for certain
 6 drunken driving offenses; drunken driving and creating a penalty; periods of
 7 revocation of driving privileges after committing certain offenses related to
 8 operating a vehicle while intoxicated; allowing probation after certain
 9 convictions related to drunken driving granting rule-making authority;
 10 making an appropriation and providing a penalty.

operating a vehicle while intoxicated

Insert Analysis

Analysis by the Legislative Reference Bureau

***** ANALYSIS FROM -0933/2 *****

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

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

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

This bill eliminates the option of ordering the person's vehicle to be immobilized or seized and sold at auction. The bill makes it mandatory for a judge to require that the person's operating privilege be limited, for a minimum of one year, to operating

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vehicles that are equipped with an ignition interlock device if either of the following are true: 1) the person commits a first OWI-related offense with an alcohol concentration of 0.15 or more; or 2) the person commits a second OWI-related offense.

Under the bill, the judge must order that every motor vehicle the person owns be equipped with an ignition interlock device. If the judge determines that the person's income is at or below 150 percent of the federal poverty level, the person is required to pay a \$50 surcharge upon the installation of the first ignition interlock device and, for each ignition interlock device, half of the installation cost, and \$1 per day toward the cost of monitoring the ignition interlock device. A person whose income is above 150 percent of the federal poverty level is required to pay the surcharge and assume the full cost of installing and monitoring each ignition interlock device. Under the bill, if a person who is ordered to do so fails to pay the surcharge or fails to have an ignition interlock device installed, he or she may not obtain an occupational license.

one-half of the cost

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

***** ANALYSIS FROM -1424/1 *****

Under current law, a person who is subject to a forfeiture or a fine for violating most state laws or local ordinances is also liable for a variety of penalty surcharges and court fees. In addition, a person who commits an offense relating to driving while intoxicated is liable for a penalty surcharge for driver improvement programs and is required to comply with an alcohol and other drug assessment before he or she is eligible for reinstatement of his or her driving privileges.

Currently, a person who commits his or her first offense related to driving while intoxicated and who has a blood alcohol concentration between 0.08 and 0.99 at the time of the offense is not liable for the surcharges or fees and does not need to comply with an alcohol or other drug assessment program. Further, the Department of Transportation (DOT) must purge its records of a first offense related to driving while intoxicated after ten years; the department keeps all other records of offenses related to driving while intoxicated permanently.

Under this bill, a person who commits his or her first offense related to driving while intoxicated and who has a blood alcohol concentration between 0.08 and 0.99 at the time of the violation is liable for the surcharges or fees and must comply with an alcohol or other drug assessment program before his or her driving privileges may be reinstated. Under this bill, DOT must keep a record of this offense permanently.

***** ANALYSIS FROM -0934/1 *****

Under current law, a person who commits an offense relating to operating a vehicle while intoxicated or under the influence of a controlled substance (OWI) is subject to a forfeiture or fine and, for a second or subsequent offense, a period of imprisonment. Currently, a person who commits a second OWI offense is subject to

✓
Q2. Insert RPN analysis

OWI related

OWI related

OWI-related

-related

* a fine between \$350 and \$1,100 and may be imprisoned for not less than five days nor more than six months, a person who commits a third offense is subject to a fine between \$600 and \$2000 and may be imprisoned for not less than 30 days nor more than one year, a person who commits a fourth offense may be fined between \$600 and \$2000 and may be imprisoned for not less than 60 days nor more than one year.

Upon committing a fifth or sixth OWI offense, a person is guilty of a Class H felony, and is subject to a minimum fine of \$600, a six-month minimum term of imprisonment, and a maximum term of imprisonment of six years. A seventh, eighth, or ninth OWI offense is a Class G felony, and the person is subject to a maximum fine of \$25,000 and a maximum term of imprisonment of ten years. A tenth or subsequent OWI offense is a Class F felony, and the person is subject to a maximum fine of \$25,000, and a maximum term of imprisonment of 12 years and six months.

Under current law, a person who is sentenced for a felony is sentenced to a bifurcated sentence, and the person serves a portion of his or her sentence confined in a prison and a portion under extended supervision outside of prison.

This bill makes a fourth OWI offense a Class H felony and requires a person who commits a fourth, fifth, or sixth OWI offense to serve a minimum of two years in prison under a bifurcated sentence. The bill requires a person who commits a seventh, eighth, or ninth OWI offense to serve a minimum of three years in prison under a bifurcated sentence and a person who commits a tenth or subsequent OWI offense to serve a minimum of four years in prison under a bifurcated sentence.

***** ANALYSIS FROM -1696/1 *****

¶ 6. 2005 Wisconsin Act 389 created a pilot program for sentencing persons in Winnebago county who are convicted of certain second or third offenses involving operating a motor vehicle with a prohibited alcohol concentration, or under the influence of an intoxicant, a controlled substance or its analog, or any combination thereof (OWI). Under that act, the period of imprisonment for an OWI offense in Winnebago county may be reduced if the violator successfully completes a period of probation that includes alcohol and other drug treatment. A person may complete a treatment program and receive a reduced period of imprisonment only once.

This bill expands the sentencing option to any county that opts to allow a violator to successfully complete a period of probation that includes alcohol and other drug treatment in exchange for a shorter period of imprisonment.

***** ANALYSIS FROM -1372/1 *****

¶ 7. Under current law, a person who commits an offense related to operating a vehicle while under the influence of a drug or intoxicant, operating a vehicle with a prohibited blood alcohol concentration, or refusing to take a test for intoxication (OWI-related offense) has his or her operating privileges revoked for a specified period. The period of revocation lengthens with each subsequent OWI-related offense, and generally begins on the date the person commits the OWI-related offense.

Under this bill, the period of revocation begins on the date the person commits the OWI-related offense, but is tolled for any time period that the person spends in jail or in prison. The bill makes the person whose operating privileges are revoked

-related

-related

Insert PIV analysis

* committed within five years of a prior offense

-related

OWI-related

-related

OWI-related

on which

responsible for notifying the Department of Transportation that he or she has been released from jail or prison.

DOT

***** ANALYSIS FROM -2173/1 *****

48. Under current law, after a person is convicted of most crimes, the trial court may withhold the person's sentence, or impose a sentence of imprisonment but stay the imposition of imprisonment, and place the person on probation for a period of time. If the crime carries a mandatory minimum period of incarceration of one year or less, the person must be incarcerated for at least the mandatory minimum period as a condition of his or her probation.

Under current law, a trial court may not place a person on probation if the person has committed a second or third violation related to operating a vehicle while intoxicated or with a prohibited alcohol concentration, or three or fewer violations related to operating a commercial vehicle while intoxicated or with a prohibited alcohol concentration or causing injury while operating a vehicle while intoxicated or with a prohibited alcohol concentration. A trial court may place a person who commits more than three of these offenses on probation under current law.

OWI-related offense

offense

Under this bill, a trial court may place a person who commits any of those offenses on probation. Under the bill, a person who commits an offense that carries a mandatory minimum period of incarceration of one year or less must be incarcerated for at least the mandatory minimum period as a condition of his or her probation.

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:

in the general fund

-0933/2.1 SECTION 1. 20.395 (5) (b) of the statutes is created to read:

20.395 (5) (b) Ignition interlock device administration and enforcement. All

moneys received under s. 343.301 (5) for expenditures related to administering and

enforcing the ignition interlock device program under s. 343.301. 110.10 and

-1424/1.1 SECTION 2. 165.755 (1) (b) of the statutes is amended to read:

165.755 (1) (b) A court may not impose the crime laboratories and drug law

enforcement surcharge under par. (a) for a violation of s. 101.123 (2) (a), (am) 1., (ar),

insert 5.4

1 (bm), (br), or (bv) or (5) (b), ~~for a first violation of s. 23.33 (4e) (a) 2., 30.681 (1) (b) 1.,~~
2 ~~346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood~~
3 ~~alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation,~~
4 or for a violation of a state law or municipal or county ordinance involving a
5 nonmoving traffic violation, a violation under s. 343.51 (1m) (b), or a safety belt use
6 violation under s. 347.48 (2m).

7 ***-1424/1.2* SECTION 3.** 302.46 (1) (a) of the statutes is amended to read:

8 302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law
9 or for a violation of a municipal or county ordinance except for a violation of s. 101.123
10 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), ~~or for a first violation of s. 23.33 (4e) (a)~~
11 ~~2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the~~
12 ~~violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the~~
13 ~~time of the violation,~~ or for a violation of state laws or municipal or county ordinances
14 involving nonmoving traffic violations, violations under s. 343.51 (1m) (b), or safety
15 belt use violations under s. 347.48 (2m), the court, in addition, shall impose a jail
16 surcharge under ch. 814 in an amount of 1 percent of the fine or forfeiture imposed
17 or \$10, whichever is greater. If multiple offenses are involved, the court shall
18 determine the jail surcharge on the basis of each fine or forfeiture. If a fine or
19 forfeiture is suspended in whole or in part, the court shall reduce the jail surcharge
20 in proportion to the suspension.

21 ***-0933/2.2* SECTION 4.** 340.01 (46m) (c) of the statutes is amended to read:

22 340.01 (46m) (c) If the person is subject to an order under s. 343.301 or if the
23 person has 3 or more prior convictions, suspensions or revocations, as counted under
24 s. 343.307 (1), an alcohol concentration of more than 0.02.

25 ***-0933/2.3* SECTION 5.** 342.12 (4) (c) 1. b. of the statutes is repealed.

Insert RPN ✓

1 ***-0933/2.4*** SECTION 6. 342.12 (4) (c) 1. c. of the statutes is amended to read:

2 342.12 (4) (c) 1. c. The person requesting the issuance of the certificate of title
3 files an affidavit with the department attesting that the ~~conditions~~ condition under
4 subd. 1. a. ~~and b.~~ is met.

5 ***-0933/2.5*** SECTION 7. 342.13 (1) of the statutes is amended to read:

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

16 ***-0933/2.6*** SECTION 8. 343.10 (2) (a) (intro.) of the statutes is amended to read:

17 343.10 (2) (a) (intro.) Except as provided in pars. (b) to ~~(e)~~ (f), a person is eligible
18 for an occupational license if the following conditions are satisfied:

19 ***-0933/2.7*** SECTION 9. 343.10 (2) (a) (intro.)[✓] of the statutes, as affected by 2007
20 Wisconsin Act⁹ 20 and 2009 Wisconsin Act ... (this act)[✓], is repealed and recreated to
21 read:

22 343.10 (2) (a) (intro.) Except as provided in pars. (b) to (f), and subject to s.
23 343.165 (5), a person is eligible for an occupational license if the following conditions
24 are satisfied:

25 ***-0933/2.8*** SECTION 10. 343.10 (2) (f) of the statutes is created to read:

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

7 *-0933/2.9* SECTION 11. 343.10 (5) (a) 3. of the statutes is amended to read:

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

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

3 ***-1424/1.3* SECTION 12.** 343.23 (2) (b) of the statutes is amended to read:

4 343.23 (2) (b) The information specified in pars. (a) and (am) must be filed by
5 the department so that the complete operator's record is available for the use of the
6 secretary in determining whether operating privileges of such person shall be
7 suspended, revoked, canceled, or withheld, or the person disqualified, in the interest
8 of public safety. The record of suspensions, revocations, and convictions that would
9 be counted under s. 343.307 (2) shall be maintained permanently, ~~except that the~~
10 ~~department shall purge the record of a first violation of s. 23.33 (4c) (a) 2., 30.681 (1)~~
11 ~~(b) 1., 346.63 (1) (b), or 350.101 (1) (b) after 10 years, if the person who committed the~~
12 ~~violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the~~
13 ~~time of the violation, if the person does not have a commercial driver license, if the~~
14 ~~violation was not committed by a person operating a commercial motor vehicle, and~~
15 ~~if the person has no other suspension, revocation, or conviction that would be counted~~
16 ~~under s. 343.307 during that 10-year period.~~ The record of convictions for
17 disqualifying offenses under s. 343.315 (2) (h) shall be maintained for at least 10
18 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (f) and
19 (j), and all records specified in par. (am), shall be maintained for at least 3 years. The
20 record of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall be
21 maintained permanently, except that 5 years after a licensee transfers residency to
22 another state such record may be transferred to another state of licensure of the
23 licensee if that state accepts responsibility for maintaining a permanent record of
24 convictions for disqualifying offenses. Such reports and records may be cumulative
25 beyond the period for which a license is granted, but the secretary, in exercising the

1 power of suspension granted under s. 343.32 (2) may consider only those reports and
2 records entered during the 4-year period immediately preceding the exercise of such
3 power of suspension.

4 ***-1372/1.1* SECTION 13.** 343.30 (1q) (b) 5. of the statutes is amended to read:

5 343.30 (1q) (b) 5. The time period under this paragraph shall be measured from
6 the dates of the refusals or violations which resulted in the suspensions, revocations
7 or convictions, except that the time period shall be tolled whenever and for as long
8 as the person is imprisoned. A person whose revocation period is tolled under this
9 subdivision is responsible for notifying the department that he or she has been
10 released from prison.

11 ***-1424/1.4* SECTION 14.** 343.30 (1q) (c) 1. (intro.) of the statutes is amended
12 to read:

13 343.30 (1q) (c) 1. (intro.) Except as provided in subd. 1. a. or b., ~~and except for~~
14 ~~a first violation of s. 346.63 (1) (b), if the person who committed the violation had a~~
15 ~~blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the~~
16 ~~violation,~~ the court shall order the person to submit to and comply with an
17 assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for
18 examination of the person's use of alcohol, controlled substances or controlled
19 substance analogs and development of a driver safety plan for the person. The court
20 shall notify the department of transportation of the assessment order. The court
21 shall notify the person that noncompliance with assessment or the driver safety plan
22 will result in revocation of the person's operating privilege until the person is in
23 compliance. The assessment order shall:

24 ***-0933/2.10* SECTION 15.** 343.301 (title) of the statutes is amended to read:

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

3 *~~0933/2.11~~* SECTION 16. 343.301 (1) (title) of the statutes is repealed. ✓

4 *~~0933/2.12~~* SECTION 17. 343.301 (1) (a) 1. and 2. of the statutes are
5 consolidated, renumbered 343.301 (1) and amended to read:

6 ~~343.301 (1) Except as provided in subd. 2., if if a person improperly refuses to~~
7 ~~take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and~~
8 ~~the person either had an alcohol concentration of 0.15 or more at the time of the~~
9 ~~offense or has a total of one or more prior convictions, suspensions, or revocations,~~
10 ~~counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and~~
11 ~~other convictions, suspensions, and revocations counted under s. 343.307 (1), 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. 2. If a person improperly refuses to take a test under s.~~
15 ~~343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total~~
16 ~~of 2 or more convictions, suspensions, or revocations, counted under s. 343.307 (1)~~
17 ~~within any 5-year period, the court shall order that the person's operating privilege~~
18 ~~for the operation of "Class D" vehicles be restricted to operating vehicles that are~~
19 ~~equipped with an ignition interlock device and shall order that each motor vehicle~~
20 ~~for which the person's name appears on the vehicle's certificate of title or registration~~
21 ~~be equipped with an ignition interlock device. If equipping each motor vehicle with~~
22 ~~an ignition interlock device under this subdivision would cause an undue financial~~
23 ~~hardship, the court may order that one or more motor vehicles subject to this~~
24 ~~subdivision not be equipped with an ignition interlock device. This subdivision does~~
25 ~~not apply if the court enters an order under sub. (2) (a) 2. or, if the person has 2 or~~

✓ Insert
12.3

1 ~~more prior convictions, suspensions, or revocations for purposes of this subdivision,~~
2 ~~to the motor vehicle owned by the person and used in the violation or refusal if the~~
3 ~~court orders the vehicle to be seized and forfeited under s. 346.65 (6).~~

4 ~~§~~^{*}~~0933/2.13~~^{*} SECTION 18. 343.301 (1) (b) 1. and 2. of the statutes are
5 consolidated, renumbered 343.301 (2m) and amended to read:

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

16 ~~§~~^{*}~~0933/2.14~~^{*} SECTION 19. 343.301 (1) (c) [✓] of the statutes is renumbered 343.301
17 (3) (a) and amended to read:

18 343.301 (3) (a) If Except as provided in par. (b), if the court enters an order
19 under ~~par. (a) sub. (1)~~ [✓], the person shall be liable for the reasonable cost of equipping
20 and maintaining any ignition interlock device installed on his or her motor vehicle.

21 ~~§~~^{*}~~0933/2.15~~^{*} SECTION 20. 343.301 (1) (d) of the statutes is renumbered 343.301
22 (4) and amended to read:

23 343.301 (4) A person to whom an order under ~~par. (a) sub. (1)~~ [✓] applies violates
24 that order if he or she fails to have an ignition interlock device installed as ordered,
25 removes or disconnects an ignition interlock device, requests or permits another to

1 blow into an ignition interlock device or to start a motor vehicle equipped with an
2 ignition interlock device for the purpose of providing the person an operable motor
3 vehicle without the necessity of first submitting a sample of his or her breath to
4 analysis by the ignition interlock device, or otherwise tampers with or circumvents
5 the operation of the ignition interlock device.

6 *-0933/2.16* SECTION 21. 343.301 (2) of the statutes is repealed.

7 *-0933/2.17* SECTION 22. 343.301 (3) (b) of the statutes is created to read:

8 343.301 (3) (b) If the court finds that the person who is subject to an order under
9 sub. (1) has a household income that is at or below 150 percent of the nonfarm federal
10 poverty line for the continental United States, as defined by the federal department
11 of labor under 42 USC 9902 (2), the court shall limit the person's liability under par.

12 (a) to one-half of the cost of equipping each motor vehicle with an ignition interlock
13 device and [✓] \$1 per day per vehicle [✓] in which an ignition interlock device is installed.
one-half of the cost of maintaining the

14 *-0933/2.18* SECTION 23. 343.301 (5) of the statutes is created to read:

15 343.301 (5) In addition to the the costs under sub. (3), the person shall pay to
16 the department a surcharge of \$50 upon the installation of the first ignition interlock
17 device.

18 *-1372/1.2* SECTION 24. 343.305 (10) (b) 5. of the statutes is amended to read:

19 343.305 (10) (b) 5. The time period under this paragraph shall be measured
20 from the dates of the refusals or violations which resulted in revocations or
21 convictions, except that the time period shall be tolled whenever and for as long as
22 the person is imprisoned. A person whose revocation period is tolled under this
23 subdivision is responsible for notifying the department that he or she has been
24 released from prison.

Insert
13/17 ✓

1 ~~*-0933/2.19* SECTION 25. 343.305 (10m) (title) of the statutes is amended to~~
2 ~~read:~~

3 ~~343.305 (10m) (title) REFUSALS; SEIZURE, IMMOBILIZATION OR IGNITION INTERLOCK~~
4 ~~OF A MOTOR VEHICLE.~~

5 ~~*-0933/2.20* SECTION 26. 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 operating~~
7 ~~privilege is revoked under sub. (10) has one or more prior convictions, suspensions,~~
8 ~~or revocations, as counted under s. 343.307 (1), the procedure under s. 343.301 shall~~
9 ~~be followed if the court enters an order regarding operating privilege restriction or~~
10 ~~enters an order regarding immobilization. If the number of convictions under ss.~~
11 ~~940.09 (1) and 940.25 in the lifetime of the person whose operating privilege is~~
12 ~~revoked under sub. (10), plus the total number of other convictions, suspensions, and~~
13 ~~revocations counted under s. 343.307 (1), equals 2 or more, the procedure under s.~~
14 ~~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 ~~*-0933/2.21* SECTION 27. 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~~

Insert 15.2 ✓

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

3 ***-1372/1.3*** SECTION 28. 343.31 (3) (bm) 5. of the statutes is amended to read:

4 343.31 (3) (bm) 5. The time period under this paragraph shall be measured
5 from the dates of the refusals or violations which resulted in the suspensions,
6 revocations or convictions, except that the time period shall be tolled whenever and
7 for as long as the person is imprisoned. A person whose revocation period is tolled
8 under this subdivision is responsible for notifying the department that he or she has
9 been released from prison.

Insert 15.10 ✓

10 ***-0934/1.1*** SECTION 29. 346.65 (2) (am) 4. of the statutes is repealed.

11 ***-0934/1.2*** SECTION 30. 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 and imprisoned for not less than 6 months
14 if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
15 plus the total number of suspensions, revocations and other convictions counted
16 under s. 343.307 (1), equals 4, 5, or 6, except that suspensions, revocations or
17 convictions arising out of the same incident or occurrence shall be counted as one.
18 The confinement portion of a bifurcated sentence imposed on the person under s.
19 973.01 shall be not less than 2 years.

20 ***-0934/1.3*** SECTION 31. 346.65 (2) (am) 6. of the statutes is amended to read:

21 346.65 (2) (am) 6. Except as provided in par. (f), is guilty of a Class G felony if
22 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
23 plus the total number of suspensions, revocations, and other convictions counted
24 under s. 343.307 (1), equals 7, 8, or 9, except that suspensions, revocations, or
25 convictions arising out of the same incident or occurrence shall be counted as one.

1 The confinement portion of a bifurcated sentence imposed on the person under s.
2 973.01 shall be not less than 3 years.

3 ***-0934/1.4* SECTION 32.** 346.65 (2) (am) 7. of the statutes is amended to read:

4 346.65 (2) (am) 7. Except as provided in par. (f), is guilty of a Class F felony if
5 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
6 plus the total number of suspensions, revocations, and other convictions counted
7 under s. 343.307 (1), equals 10 or more except that suspensions, revocations, or
8 convictions arising out of the same incident or occurrence shall be counted as one.

9 The confinement portion of a bifurcated sentence imposed on the person under s.
10 973.01 shall be not less than 4 years.

11 ***-1696/1.1* SECTION 33.** 346.65 (2) (bm) of the statutes is amended to read:

12 346.65 (2) (bm) In ~~Winnebago County~~, any county that opts to offer a reduced
13 minimum period of imprisonment for the successful completion of a probation period
14 that includes alcohol and other drug treatment, if the number of convictions under
15 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
16 suspensions, revocations, and other convictions counted under s. 343.307 (1) within
17 a 10-year period, equals 2, except that suspensions, revocations, or convictions
18 arising out of the same incident or occurrence shall be counted as one, the fine shall
19 be the same as under par. (am) 2., but the period of imprisonment shall be not less
20 than 5 days, except that if the person successfully completes a period of probation
21 that includes alcohol and other drug treatment, the period of imprisonment shall be
22 not less than 5 nor more than 7 days. A person may be sentenced under this
23 paragraph or under par. (cm) or sub. (2j) (bm) or (cm) or (3r) once in his or her lifetime.

24 ***-1696/1.2* SECTION 34.** 346.65 (2) (cm) of the statutes is amended to read:

1 346.65 (2) (cm) In ~~Winnebago County~~ any county that opts to offer a reduced
2 minimum period of imprisonment for the successful completion of a probation period
3 that includes alcohol and other drug treatment, if the number of convictions under
4 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
5 suspensions, revocations, and other convictions counted under s. 343.307 (1) within
6 a 10-year period, equals 3, except that suspensions, revocations, or convictions
7 arising out of the same incident or occurrence shall be counted as one, the fine shall
8 be the same as under par. (am) 3., but the period of imprisonment shall be not less
9 than 30 days, except that if the person successfully completes a period of probation
10 that includes alcohol and other drug treatment, the period of imprisonment shall be
11 not less than 10 days. A person may be sentenced under this paragraph or under par.
12 (bm) or sub. (2j) (bm) or (cm) or (3r) once in his or her lifetime.

13 ***-0934/1.5* SECTION 35.** 346.65 (2) (f) of the statutes is amended to read:

14 346.65 (2) (f) If there was a minor passenger under 16 years of age in the motor
15 vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (1),
16 the applicable minimum and maximum forfeitures, fines, or imprisonment under
17 par. (am) for the conviction are doubled. An offense under s. 346.63 (1) that subjects
18 a person to a penalty under par. (am) 3., ~~4.~~, 5., 6., or 7. when there is a minor
19 passenger under 16 years of age in the motor vehicle is a felony and the place of
20 imprisonment shall be determined under s. 973.02.

21 ***-0934/1.6* SECTION 36.** 346.65 (2c) of the statutes is amended to read:

22 346.65 (2c) In sub. (2) (am) 2., 3., ~~4.~~, 5., 6., and 7., the time period shall be
23 measured from the dates of the refusals or violations that resulted in the revocation
24 or convictions. If a person has a suspension, revocation, or conviction for any offense
25 under a local ordinance or a state statute of another state that would be counted

1 under s. 343.307 (1), that suspension, revocation, or conviction shall count as a prior
2 suspension, revocation, or conviction under sub. (2) (am) 2., 3., ~~4.~~ 5., 6., and 7.

3 ***-0934/1.7* SECTION 37.** 346.65 (2g) (a) of the statutes is amended to read:

4 346.65 (2g) (a) In addition to the authority of the court under s. 973.05 (3) (a)
5 to provide that a defendant perform community service work for a public agency or
6 a nonprofit charitable organization in lieu of part or all of a fine imposed under sub.
7 (2) (am) 2., 3., ~~4.~~ and 5., (f), and (g) and except as provided in par. (ag), the court may
8 provide that a defendant perform community service work for a public agency or a
9 nonprofit charitable organization in lieu of part or all of a forfeiture under sub. (2)
10 (am) 1. or may require a person who is subject to sub. (2) to perform community
11 service work for a public agency or a nonprofit charitable organization in addition
12 to the penalties specified under sub. (2).

13 ***-0934/1.8* SECTION 38.** 346.65 (2g) (ag) of the statutes is amended to read:

14 346.65 (2g) (ag) If the court determines that a person does not have the ability
15 to pay a fine imposed under sub. (2) (am) 2., 3., ~~4.~~ or 5., (f), or (g), the court shall
16 require the defendant to perform community service work for a public agency or a
17 nonprofit charitable organization in lieu of paying the fine imposed or, if the amount
18 of the fine was reduced under sub. (2e), in lieu of paying the remaining amount of the
19 fine. Each hour of community service performed in compliance with an order under
20 this paragraph shall reduce the amount of the fine owed by an amount determined
21 by the court.

22 ***-1696/1.3* SECTION 39.** 346.65 (2j) (bm) of the statutes is amended to read:

23 346.65 (2j) (bm) In ~~Winnebago County~~ any county that opts to offer a reduced
24 minimum period of imprisonment for the successful completion of a probation period
25 that includes alcohol and other drug treatment, if the number of convictions under

1 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
2 suspensions, revocations, and other convictions counted under s. 343.307 (1) within
3 a 10-year period, equals 2, except that suspensions, revocations, or convictions
4 arising out of the same incident or occurrence shall be counted as one, the fine shall
5 be the same as under par. (am) 2., but the period of imprisonment shall be not less
6 than 5 days, except that if the person successfully completes a period of probation
7 that includes alcohol and other drug treatment, the period of imprisonment shall be
8 not less than 5 nor more than 7 days. A person may be sentenced under this
9 paragraph or under par. (cm) or sub. (2) (bm) or (cm) or (3r) once in his or her lifetime.

10 ***-1696/1.4*** SECTION 40. 346.65 (2j) (cm) of the statutes is amended to read:

11 346.65 (2j) (cm) In ~~Winnebago County~~ any county that opts to offer a reduced
12 minimum period of imprisonment for the successful completion of a probation period
13 that includes alcohol and other drug treatment, if the number of convictions under
14 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
15 suspensions, revocations, and other convictions counted under s. 343.307 (1) within
16 a 10-year period, equals 3 or more, except that suspensions, revocations, or
17 convictions arising out of the same incident or occurrence shall be counted as one, the
18 fine shall be the same as under par. (am) 3., but the period of imprisonment shall be
19 not less than 30 days, except that if the person successfully completes a period of
20 probation that includes alcohol and other drug treatment, the period of
21 imprisonment shall be not less than 10 days. A person may be sentenced under this
22 paragraph or under par. (bm) or sub. (2) (bm) or (cm) or (3r) once in his or her lifetime.

23 ***-1696/1.5*** SECTION 41. 346.65 (3r) of the statutes is amended to read:

24 346.65 (3r) In ~~Winnebago County~~ any county that opts to offer a reduced
25 minimum period of imprisonment for the successful completion of a probation period

1 that includes alcohol and other drug treatment, any person violating s. 346.63 (2) or
2 (6) shall be fined the same as under sub. (3m), but the period of imprisonment shall
3 be not less than 30 days, except that if the person successfully completes a period of
4 probation that includes alcohol and other drug treatment, the period of
5 imprisonment shall be not less than 15 days. If there was a minor passenger under
6 16 years of age in the motor vehicle at the time of the violation that gave rise to the
7 conviction under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum
8 and maximum fines or periods of imprisonment for the conviction are doubled and
9 the place of imprisonment shall be determined under s. 973.02. A person may be
10 sentenced under this subsection or under sub. (2) (bm) or (cm) or (2j) (bm) or (cm) once
11 in his or her lifetime. *This section does not apply to a person
sentenced under sub. (3p).*

12 *-0933/2.22* SECTION 42. 346.65 (6) of the statutes is repealed.

13 *-0934/1.9* SECTION 43. 346.65 (7) of the statutes is amended to read:

14 346.65 (7) A person convicted under sub. (2) (am) 2., 3., 4., 5., 6., or 7. or (2j)
15 (am) 2. or 3. shall be required to remain in the county jail for not less than a
16 48-consecutive-hour period.

17 *-1696/1.6* SECTION 44. 346.65 (8) of the statutes is repealed.

18 *-1424/1.5* SECTION 45. 346.655 (1) of the statutes is amended to read:

19 346.655 (1) If a court imposes a fine or a forfeiture for a violation of s. 346.63
20 (1) or (5), ~~except for a first violation of s. 346.63 (1) (b), if the person who committed~~
21 ~~the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at~~
22 ~~the time of the violation~~, or a local ordinance in conformity therewith, or s. 346.63
23 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall
24 impose a driver improvement surcharge under ch. 814 in an amount of \$365 in

1 addition to the fine or forfeiture, plus costs, fees, and other surcharges imposed under
2 ch. 814.

3 ***-0933/2.23* SECTION 46.** 347.413 (title) and (1) of the statutes are amended
4 to read:

5 **347.413 (title) Ignition interlock device tampering; failure to install.**

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

13 ***-0933/2.24* SECTION 47.** 347.417 (1) of the statutes is amended to read:

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

19 ***-0933/2.25* SECTION 48.** 347.417 (2) of the statutes is amended to read:

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

25 ***-0933/2.26* SECTION 49.** 347.50 (1s) of the statutes is amended to read:

Fined

Strike

1 347.50 (1s) Any person violating s. 347.413 (1) or 347.417 (1) may be ~~required~~
 2 ~~to forfeit~~ not less than \$150 nor more than \$600, or may be imprisoned for not more
 3 than 6 months, or both for the first offense. For a 2nd or subsequent conviction within
 4 5 years, the person may be fined not less than \$300 nor more than \$1,000, or
 5 imprisoned for not more than 6 months, or both.

6 ***-0933/2.27* SECTION 50.** 347.50 (1t) of the statutes is created to read:

7 347.50 (1t) In addition to the penalty under sub. (1s), if a person who is subject
 8 to an order under s. 343.301 violates s. 347.413, the court shall extend the order
 9 under s. 343.301 (1) or (2m) for 6 months for each violation.

10 ***-1424/1.6* SECTION 51.** 757.05 (1) (a) of the statutes is amended to read:

11 757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of
 12 state law or for a violation of a municipal or county ordinance except for a violation
 13 of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), ~~or for a first violation of s.~~
 14 ~~23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who~~
 15 ~~committed the violation had a blood alcohol concentration of 0.08 or more but less~~
 16 ~~than 0.1 at the time of the violation,~~ or for a violation of state laws or municipal or
 17 county ordinances involving nonmoving traffic violations, violations under s. 343.51
 18 (1m) (b), or safety belt use violations under s. 347.48 (2m), there shall be imposed in
 19 addition a penalty surcharge under ch. 814 in an amount of 26 percent of the fine or
 20 forfeiture imposed. If multiple offenses are involved, the penalty surcharge shall be
 21 based upon the total fine or forfeiture for all offenses. When a fine or forfeiture is
 22 suspended in whole or in part, the penalty surcharge shall be reduced in proportion
 23 to the suspension.

24 ***-1424/1.7* SECTION 52.** 814.63 (1) (c) of the statutes is amended to read:

1 814.63 (1) (c) This subsection does not apply to an action for a violation of s.
2 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), ~~for a first violation of s. 23.33~~
3 ~~(4e) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who~~
4 ~~committed the violation had a blood alcohol concentration of 0.08 or more but less~~
5 ~~than 0.1 at the time of the violation, or for a violation under s. 343.51 (1m) (b), or a~~
6 safety belt use violation under s. 347.48 (2m).

7 *~~1424/1.8~~* SECTION 53. 814.63 (2) of the statutes is amended to read:

8 814.63 (2) Upon the disposition of a forfeiture action in circuit court for
9 violation of a county, town, city, village, town sanitary district or public inland lake
10 protection and rehabilitation district ordinance, except for an action ~~for a first~~
11 ~~violation of s. 23.33 (4e) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the~~
12 ~~person who committed the violation had a blood alcohol concentration of 0.08 or more~~
13 ~~but less than 0.1 at the time of the violation, or for a violation under s. 343.51 (1m)~~
14 (b) or a safety belt use violation under s. 347.48 (2m), the county, town, city, village,
15 town sanitary district or public inland lake protection and rehabilitation district
16 shall pay a nonrefundable fee of \$5 to the clerk of circuit court.

17 *~~1424/1.9~~* SECTION 54. 814.65 (1) of the statutes is amended to read:

18 814.65 (1) COURT COSTS. In a municipal court action, except for an action for
19 ~~a first violation of s. 23.33 (4e) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1)~~
20 ~~(b), if the person who committed the violation had a blood alcohol concentration of~~
21 ~~0.08 or more but less than 0.1 at the time of the violation, or for a violation of an~~
22 ordinance in conformity with s. 343.51 (1m) (b) or 347.48 (2m), the municipal judge
23 shall collect a fee of not less than \$15 nor more than \$28 on each separate matter,
24 whether it is on default of appearance, a plea of guilty or no contest, on issuance of
25 a warrant or summons, or the action is tried as a contested matter. Of each fee

1 received by the judge under this subsection, the municipal treasurer shall pay
2 monthly \$5 to the secretary of administration for deposit in the general fund and
3 shall retain the balance for the use of the municipality.

4 ***-1424/1.10* SECTION 55.** 814.85 (1) (a) of the statutes is amended to read:

5 814.85 (1) (a) Except for an action for ~~a first violation of s. 23.33 (4e) (a) 2.,~~
6 ~~30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the~~
7 ~~violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the~~
8 ~~time of the violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use~~
9 ~~violation under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$68~~
10 ~~court support services surcharge from any person, including any governmental unit~~
11 ~~as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am) or~~
12 ~~814.63 (1).~~

13 ***-1424/1.11* SECTION 56.** 814.86 (1) of the statutes is amended to read:

14 814.86 (1) Except for an action for ~~a first violation of s. 23.33 (4e) (a) 2., 30.681~~
15 ~~(1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation~~
16 ~~had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the~~
17 ~~violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under~~
18 ~~s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$12 justice~~
19 ~~information system surcharge from any person, including any governmental unit, as~~
20 ~~defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62~~
21 ~~(1), (2), or (3) (a) or (b), or 814.63 (1). The justice information system surcharge is in~~
22 ~~addition to the surcharge listed in sub. (1m).~~

23 ***-0933/2.28* SECTION 57.** 940.09 (1d) (a) 1. of the statutes is renumbered
24 940.09 (1d) (ac) and amended to read:

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

8 ~~*-0933/2.29* SECTION 58. 940.09 (1d) (a) 2 of the statutes is renumbered~~
 9 ~~940.09 (1d) (bc) and amended to read:~~

10 ~~940.09 (1d) (bc) Notwithstanding par. (b), if 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 ~~the procedure under s. 343.301 shall be followed if the court enters an order~~
 14 ~~regarding operating privilege restriction and the installation of an ignition interlock~~
 15 ~~device or enters an order regarding immobilization.~~

Insert
2515 ✓

16 ~~*-0933/2.30* SECTION 59. 940.09 (1d) (b) of the statutes is repealed.~~

17 ~~*-0933/2.31* SECTION 60. 940.25 (1d) (a) 1. of the statutes is renumbered~~
 18 ~~940.25 (1d) (ac) and amended to read:~~

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

1 ~~*-0933/2.32* SECTION 61. 940.25 (1d) (a) 2. of the statutes is renumbered~~
2 940.25 (1d) (bc) and amended to read:

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

In Sect 26.9 ✓

9 ~~*-0933/2.33* SECTION 62. 940.25 (1d) (b) of the statutes is repealed.~~

10 *-2173/1.1* SECTION 63. 973.09 (1) (d) (intro.) of the statutes is renumbered
11 973.09 (1) (d) and amended to read:

12 973.09 (1) (d) If a person is convicted of an offense that provides a mandatory
13 or presumptive minimum period of one year or less of imprisonment, a court may
14 place the person on probation under par. (a) if the court requires, as a condition of
15 probation, that the person be confined under sub. (4) for at least that mandatory or
16 presumptive minimum period. The person is eligible to earn good time credit
17 calculated under s. 302.43 regarding the period of confinement. ~~This paragraph does~~
18 ~~not apply if the conviction is for any of the following:~~

19 *-2173/1.2* SECTION 64. 973.09 (1) (d) 1. of the statutes is repealed.

20 *-2173/1.3* SECTION 65. 973.09 (1) (d) 2. of the statutes is repealed.

21 *-2173/1.4* SECTION 66. 973.09 (1) (d) 3. of the statutes is repealed.

22 *-2173/1.5* SECTION 67. 973.09 (2) (a) 1. d. of the statutes is amended to read:
23 973.09 (2) (a) 1. d. A misdemeanor under s. 23.33 (4c) or (4p) (e), 30.681, 30.684
24 (5), 350.101, 350.104 (5), or 350.17 ~~or a misdemeanor under s. 346.63 to which s.~~
25 973.09 (1) (d) applies.

1 **SECTION 68. Initial applicability.**

2 ***-1372/1.4*** (1) This act first applies to offenses that are committed on the
 3 effective date of this subsection.

4 ***-0933/2.34*** [#](~~2~~) This act first applies to offenses that are committed on the
 5 effective date of this subsection. ^{violations} ^{or refusals that occur}

6 ***-0933/2.35*** **SECTION 69. Effective dates.** This act takes effect on first day
 7 of the 3rd month beginning after publication, except as follows:

8 (1) The repeal and recreation of s. 343.10 (2) (a) (intro) ^o of the statutes takes
 9 effect on the first day of the 3rd month beginning after publication, or on the date on
 10 which the creation of section 343.165 of the statutes by 2007 Wisconsin Act 20 takes
 11 effect, whichever is later. ^{insert 27.5} ✓

12

(END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB
PJH:.....

INSERT ANALYSIS:

Ⓜ This bill makes a number of changes relating to operating a vehicle under the influence of an intoxicant (OWI-related offense), including the following:

INSERT PJH ANALYSIS:

5. Under current law, a person who commits an OWI-related offense and causes injury to another is subject to a fine of not less than \$300, nor more than \$2000, imprisonment for not less than 30 days nor more than one year, or both. *

Under this bill, a person who commits a second or subsequent OWI-related offense and causes injury to another person is guilty of a Class H felony, and is subject to a fine up to \$10,000, imprisonment for not more than six years, or both. *

INSERT 5.4:

SECTION 1. 25.40 (1) (a) 17. of the statutes is created to read:

25.40 (1) (a) 17. Fees collected under s. 343.301 (5) that are deposited into the general fund and credited to the appropriation under s. 20.395 (5) (hj).

INSERT 12.3:

SECTION 2. 343.301 (1) (a) of the statutes is repealed and recreated to read:

343.301 (1) (a) A court shall order a person's operating privilege for the operation of "Class D" vehicles be restricted to operating vehicles that are equipped with an ignition interlock device and, except as provided in sub. (1m), shall order that each motor vehicle in the person's household operated by the person be equipped with an ignition interlock device if either of the following applies:

(a) 1. The person improperly refused to take a test under s. 343.305.

(b) 2. The person violated s. 346.63 (1) or (2), 940.09 (1), or 940.25 and either of the following applies:

(a) 1. The person had an alcohol concentration of 0.15 or more at the time of the offense.

* 2. ^o b. The person ^h ^s has a total of one or more prior convictions, suspensions, or revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and other convictions, suspensions, and revocations counted under s. 343.307 (1).

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

343.301 (1m) If equipping each motor vehicle with an ignition interlock device under sub. (1) would cause an undue financial hardship, the court may order that one or more vehicles described sub. (1) not be equipped with an ignition interlock device.

INSERT 13.17:

343.301 (5) If the court enters an order under sub. (1), the court shall impose and the person shall pay to the court an interlock surcharge of \$50. The court shall transmit the surcharge to the county treasurer for the county in which the order is entered. The county treasurer shall retain \$40 of each surcharge and make payment of the remaining \$10 to the department.

INSERT 15.2:

SECTION 4. 343.305 (10m) of the statutes is repealed and recreated to read:

343.305 (10m) The requirements and procedures for installation of an ignition interlock device under s. 343.301 apply when an operating privilege is revoked under sub (10).

CS → **REFUSALS;
IGNITION INTERLOCK OF A MOTOR VEHICLE.**

INSERT 15.10:

SECTION 5. 346.65 (2) (am) 4. of the statutes is amended to read:

346.65 (2) (am) 4. Except as provided in subd. 4m. and pars. (f) and (g) and subd. 4m., shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 60 days nor more than one year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of



suspensions, revocations and other convictions counted under s. 343.307 (1), equals 4, except that suspensions, revocations or convictions 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.

SECTION 6. 346.65 (2) (am) 4m. of the statutes is created to read:

346.65 (2) (am) 4m. Except as provided in pars. (f) and (g), is guilty of a Class H felony and shall be fined not less than \$600 if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307 (1), equals 4 and the person committed an offense that resulted in a suspension, revocation, or other conviction counted under s. 343.307 (1) within 5 years prior to the current conviction, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one. The confinement portion of a bifurcated sentence imposed on the person under s. 973.01 shall be not less than 2 years.

INSERT 19.22:

SECTION 7. 346.65 (3m) of the statutes is amended to read:

346.65 (3m) Except as provided in sub. (3p) or (3r), any person violating s. 346.63 (2) or (6) shall be fined not less than \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more than one year in the county jail. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum and maximum fines or periods of imprisonment



for the conviction are doubled[✓] and the place of imprisonment shall be determined under s. 973.02.

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.

SECTION 8. 346.65 (3p) of the statutes is created to read:

346.65 (3p) Any person violating s. 346.63 (2) or (6) is guilty of a Class G felony if the person has one or more prior convictions, suspensions, or revocations, as counted under s. 343.307 (1). If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense is a felony^{of and} the applicable maximum fines or periods of imprisonment for the conviction are doubled.

*

SECTION 9. 346.65 (3r) of the statutes is amended to read:

~~346.65 (3r) In Winnebago County, any person violating s. 346.63 (2) or (6) shall be fined the same as under sub. (3m), but the period of imprisonment shall be not less than 30 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 15 days. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum and maximum fines or periods of imprisonment for the conviction are doubled and the place of imprisonment shall be determined under s. 973.02. A person may be sentenced under this subsection or under sub. (2) (bm) or (cm) or (2j) (bm) or (cm) once in his or her lifetime. This section does not apply to a person sentenced under sub. (3p).~~

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.

INSERT 25.15:

SECTION 10. 940.09 (1d) of the statutes is repealed and recreated to read:



940.09 (1d) A person who violates sub. (1) is subject to the requirements and procedures for installation of an ignition interlock device under s. 343.301.

INSERT 26.8:

SECTION 11. 940.25 (1d) of the statutes is repealed and recreated to read:

940.25 (1d) A person who violates sub. (1) is subject to the requirements and procedures for installation of an ignition interlock device under s. 343.301.

INSERT 27.5:

~~NO~~ # , but does not preclude the counting of other convictions, suspensions, or revocations as prior convictions, suspensions, or revocations for purposes of administrative action by the department of transportation, sentencing by a court, or revocation or suspension of motor vehicle operating privileges. ~~NO~~ #