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AMN TODAY

**2009 ASSEMBLY BILL 283**

ASA TO  
2009 AB-283

9-10-09  
by  
9-11-09

May 27, 2009 - Introduced by Representatives STASKUNAS, ZEPNICK, SMITH, ZIGMUNT, HINTZ, SHERIDAN, BLACK, TURNER, CLARK, MASON, NELSON, HIXSON, HEBL and BERCEAU, cosponsored by Senator CARPENTER. Referred to Committee on Public Safety.

X

regen

1 AN ACT *to repeal* 342.12 (4) (c) 1. b., 343.301 (1) (title), 343.301 (2), 346.65 (6),  
2 346.65 (8), 973.09 (1) (d) 1., 973.09 (1) (d) 2. and 973.09 (1) (d) 3.; *to renumber*  
3 *and amend* 343.301 (1) (c), 343.301 (1) (d) and 973.09 (1) (d) (intro.); *to*  
4 *consolidate, renumber and amend* 343.301 (1) (b) 1. and 2.; *to amend*  
5 165.755 (1) (b), 302.46 (1) (a), 340.01 (46m) (c), 342.12 (4) (c) 1. c., 342.13 (1),  
6 343.10 (2) (a) (intro.), 343.10 (5) (a) 3., 343.23 (2) (b), 343.30 (1q) (b) 5., 343.30  
7 (1q) (c) 1. (intro.), 343.301 (title), 343.305 (10) (b) 5., 343.31 (3) (bm) 5., 346.65  
8 (2) (am) 4., 346.65 (2) (am) 5., 346.65 (2) (am) 6., 346.65 (2) (am) 7., 346.65 (2)  
9 (bm), 346.65 (2) (cm), 346.65 (2) (f), 346.65 (2c), 346.65 (2g) (a), 346.65 (2g) (ag),  
10 346.65 (2j) (bm), 346.65 (2j) (cm), 346.65 (3m), 346.65 (3r), 346.65 (7), 346.655  
11 (1), 347.413 (title) and (1), 347.417 (1), 347.417 (2), 347.50 (1s), 757.05 (1) (a),  
12 814.63 (1) (c), 814.63 (2), 814.65 (1), 814.85 (1) (a), 814.86 (1) and 973.09 (2) (a)  
13 1. d.; *to repeal and recreate* 343.10 (2) (a) (intro.), 343.301 (1), 343.305 (10m),  
14 940.09 (1d) and 940.25 (1d); and *to create* 20.395 (5) (hj), 25.40 (1) (a) 17.,

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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.

2. Current law defines a "prohibited alcohol concentration" as an alcohol concentration of 0.08 or more if the person has two or fewer prior OWI-related convictions, suspensions, or revocations. If the person has three or more prior OWI-related convictions, suspensions, or revocations, the prohibited alcohol concentration is defined as an alcohol concentration of more than 0.02.

This bill adds a definition of a prohibited alcohol concentration as an alcohol concentration of more than 0.02 for the two-year period after a person has committed an OWI offense.

3. 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 OWI-related offense 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 OWI-related offense and who has a blood alcohol concentration between 0.08 and 0.099 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 OWI-related offense and who has a blood alcohol concentration between 0.08 and 0.099 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.

4. Under current law, a person who commits an OWI-related offense 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-related 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 \$2,000 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 \$2,000 and may be imprisoned for not less than 60 days nor more than one year.

✓  
substitute  
amendment

✓  
Insert  
analysis I

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1 340.01 (46m) (d), 343.10 (2) (f), 343.301 (1m), 343.301 (3) (b), 343.301 (5), 346.65  
 2 (2) (am) 4m., 346.65 (3p) and 347.50 (1t) of the statutes; **relating to:** operating  
 3 a vehicle while intoxicated, granting rule-making authority, <sup>✓</sup>making an  
 4 appropriation, and providing a penalty.

✓ Substitute  
amendment

**Analysis by the Legislative Reference Bureau**

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

1. Under current law, if a person is convicted of a second 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 one-half of the cost 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

Substitute  
amendment

in plain comma

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Upon committing a fifth or sixth OWI-related 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-related 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-related 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.

*Insert analysis 2* ~~This bill makes a fourth OWI-related offense committed within five years of a prior offense a Class H felony and requires a person who commits a fourth, fifth, or sixth OWI-related 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-related offense to serve a minimum of three years in prison under a bifurcated sentence and a person who commits a tenth or subsequent OWI-related offense to serve a minimum of four years in prison under a bifurcated sentence.~~ *substitute amendment*

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 \$2,000, 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.~~

6. 2005 Wisconsin Act 389 created a pilot program for sentencing persons in Winnebago County who are convicted of certain second or third OWI-related offenses. Under that act, the period of imprisonment for an OWI-related 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.~~

7. Under current law, a person who commits an 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 on which the person commits the OWI-related offense.

~~Under this bill, the period of revocation begins on the date on which 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 responsible for notifying DOT that he or she has been released from jail or prison.~~

8. 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

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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 OWI-related offense or three or fewer offenses related to operating a commercial vehicle 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.

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:**

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

20.395 (5) (hj) *Ignition interlock device administration and enforcement.* All moneys in the general fund received under s. 343.301 (5) for expenditures related to administering the ignition interlock device program under ss. 110.10 and 343.301.

**SECTION 2.** 25.40 (1) (a) 17. of the statutes is created to read:

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

**SECTION 3.** 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), (bm), (br), or (bv) or (5) (b), ~~for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1.,~~

use twice  
Substitute amendment

insert analysis  
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explain comma

**ASSEMBLY BILL 283****SECTION 3**

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

6 **SECTION 4.** 302.46 (1) (a) of the statutes is amended to read:

7 302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law  
8 or for a violation of a municipal or county ordinance except for a violation of s. 101.123  
9 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), ~~or for a first violation of s. 23.33 (4e) (a)~~  
10 ~~2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the~~  
11 ~~violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the~~  
12 ~~time of the violation,~~ or for a violation of state laws or municipal or county ordinances  
13 involving nonmoving traffic violations, violations under s. 343.51 (1m) (b), or safety  
14 belt use violations under s. 347.48 (2m), the court, in addition, shall impose a jail  
15 surcharge under ch. 814 in an amount of 1 percent of the fine or forfeiture imposed  
16 or \$10, whichever is greater. If multiple offenses are involved, the court shall  
17 determine the jail surcharge on the basis of each fine or forfeiture. If a fine or  
18 forfeiture is suspended in whole or in part, the court shall reduce the jail surcharge  
19 in proportion to the suspension.

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

21 340.01 (46m) (c) If the person is subject to an order under s. 343.301 or if the  
22 person has 3 or more prior convictions, suspensions or revocations, as counted under  
23 s. 343.307 (1), an alcohol concentration of more than 0.02.

24 **SECTION 6.** 340.01 (46m) (d) of the statutes is created to read:

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1           340.01 (46m) (d) If the person has a prior conviction, suspension, or revocation,  
2 as counted under s. 343.307 (1), within 2 years of the current offense, an alcohol  
3 concentration of more than 0.02.

4           **SECTION 7.** 342.12 (4) (c) 1. b. of the statutes is repealed.

5           **SECTION 8.** 342.12 (4) (c) 1. c. of the statutes is amended to read:

6           342.12 (4) (c) 1. c. The person requesting the issuance of the certificate of title  
7 files an affidavit with the department attesting that the ~~conditions~~ condition under  
8 subd. 1. a. ~~and b.~~ is met.

9           **SECTION 9.** 342.13 (1) of the statutes is amended to read:

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

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

21           343.10 (2) (a) (intro.) Except as provided in pars. (b) to ~~(e)~~ (f), a person is eligible  
22 for an occupational license if the following conditions are satisfied:

23           **SECTION 11.** 343.10 (2) (a) (intro.) of the statutes, as affected by 2007 Wisconsin  
24 Act 20 and 2009 Wisconsin Act .... (this act), is repealed and recreated to read:

**ASSEMBLY BILL 283****SECTION 11**

1           343.10 (2) (a) (intro.) Except as provided in pars. (b) to (f), and subject to s.  
2           343.165 (5), a person is eligible for an occupational license if the following conditions  
3           are satisfied:

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

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

11          **SECTION 13.** 343.10 (5) (a) 3. of the statutes is amended to read:

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



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1 interlock device. If, or otherwise tampers with or circumvents the operation of the  
2 ignition interlock device. Except as provided in s. 343.301 (3) (b), if the occupational  
3 license restricts the applicant's operation to a vehicle that is equipped with an  
4 ignition interlock device, the applicant shall be liable for the reasonable costs of  
5 equipping the vehicle with the ignition interlock device.

6 SECTION 14. 343.23 (2) (b) of the statutes is amended to read:  
7 343.23 (2) (b) The information specified in pars. (a) and (am) must be filed by

8 the department so that the complete operator's record is available for the use of the  
9 secretary in determining whether operating privileges of such person shall be  
10 suspended, revoked, canceled, or withheld, or the person disqualified, in the interest  
11 of public safety. The record of suspensions, revocations, and convictions that would  
12 be counted under s. 343.307 (2) shall be maintained permanently, ~~except that the~~  
13 ~~department shall purge the record of a first violation of s. 23.33 (4c) (a) 2., 30.681 (1)~~  
14 ~~(b) 1., 346.63 (1) (b), or 350.101 (1) (b) after 10 years, if the person who committed the~~  
15 ~~violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the~~  
16 ~~time of the violation, if the person does not have a commercial driver license, if the~~  
17 ~~violation was not committed by a person operating a commercial motor vehicle, and~~  
18 ~~if the person has no other suspension, revocation, or conviction that would be counted~~  
19 ~~under s. 343.307 during that 10-year period.~~ The record of convictions for

20 disqualifying offenses under s. 343.315 (2) (h) shall be maintained for at least 10  
21 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (f) and  
22 (j), and all records specified in par. (am), shall be maintained for at least 3 years. The  
23 record of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall be  
24 maintained permanently, except that 5 years after a licensee transfers residency to  
25 another state such record may be transferred to another state of licensure of the

*was affected by 2009 Wisconsin Act 2923, NOCS -> SECTION 2923, plain l.c.*

*and (L)*

*plain comm*

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**SECTION 14**

1 licensee if that state accepts responsibility for maintaining a permanent record of  
 2 convictions for disqualifying offenses. Such reports and records may be cumulative  
 3 beyond the period for which a license is granted, but the secretary, in exercising the  
 4 power of suspension granted under s. 343.32 (2) may consider only those reports and  
 5 records entered during the 4-year period immediately preceding the exercise of such  
 6 power of suspension.

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**SECTION 15.** 343.30 (1q) (b) 5. of the statutes is amended to read:

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

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

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

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Insert  
11.1

1 SECTION 17. 343.301 (title) of the statutes is amended to read:  
2 **343.301 (title) Installation of ignition interlock device or**  
3 **immobilization of a motor vehicle.**

4 SECTION 18. 343.301 (1) (title) of the statutes is repealed.

5 SECTION 19. 343.301 (1) of the statutes is repealed and recreated to read:

6 343.301 (1) A court shall order a person's operating privilege for the operation  
7 of "Class D" vehicles be restricted to operating vehicles that are equipped with an  
8 ignition interlock device and, except as provided in sub. (1m), shall order that each  
9 motor vehicle in the person's household operated by the person be equipped with an  
10 ignition interlock device if either of the following applies:

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

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

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

16 2. The person has a total of one or more prior convictions, suspensions, or  
17 revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's  
18 lifetime and other convictions, suspensions, and revocations counted under s.  
19 343.307 (1).

20 SECTION 20. 343.301 (1) (b) 1. and 2. of the statutes are consolidated,  
21 renumbered 343.301 (2m) and amended to read:

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

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## SECTION 20

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

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

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

12 **SECTION 22.** 343.301 (1) (d) of the statutes is renumbered 343.301 (4) and  
13 amended to read:

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

22 **SECTION 23.** 343.301 (1m) of the statutes is created to read:

23 343.301 (1m) If equipping each motor vehicle with an ignition interlock device  
24 under sub. (1) would cause an undue financial hardship, the court may order that one  
25 or more vehicles described sub. (1) not be equipped with an ignition interlock device.

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1           **SECTION 24.** 343.301 (2) of the statutes is repealed.

2           **SECTION 25.** 343.301 (3) (b) of the statutes is created to read:

3           343.301 (3) (b) If the court finds that the person who is subject to an order under  
4 sub. (1) has a household income that is at or below 150 percent of the nonfarm federal  
5 poverty line for the continental United States, as defined by the federal department  
6 of labor under 42 USC 9902 (2), the court shall limit the person's liability under par.  
7 (a) to one-half of the cost of equipping each motor vehicle with an ignition interlock  
8 device and one-half of the cost per day per vehicle of maintaining the ignition  
9 interlock device.

10          **SECTION 26.** 343.301 (5) of the statutes is created to read:

11          343.301 (5) If the court enters an order under sub. (1), the court shall impose  
12 and the person shall pay to the court an interlock surcharge of \$50. The court shall  
13 transmit the surcharge to the county treasurer for the county in which the order is  
14 entered. The county treasurer shall retain \$40 of each surcharge and make payment  
15 of the remaining \$10 to the department.

16          **SECTION 27.** 343.305 (10) (b) 5. of the statutes is amended to read:

17          343.305 (10) (b) 5. The time period under this paragraph shall be measured  
18 from the dates of the refusals or violations which resulted in revocations or  
19 convictions, except that the time period shall be tolled whenever and for as long as  
20 the person is imprisoned. A person whose revocation period is tolled under this  
21 subdivision is responsible for notifying the department that he or she has been  
22 released from prison.

23          **SECTION 28.** 343.305 (10m) of the statutes is repealed and recreated to read:

**ASSEMBLY BILL 283****SECTION 28**

1           343.305 (10m) REFUSALS; IGNITION INTERLOCK OF A MOTOR VEHICLE. The  
2 requirements and procedures for installation of an ignition interlock device under s.  
3 343.301 apply when an operating privilege is revoked under sub (10).

4           **SECTION 29.** 343.31 (3) (bm) 5. of the statutes is amended to read:

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

11           **SECTION 30.** 346.65 (2) (am) 4. of the statutes is amended to read:

12           346.65 (2) (am) 4. Except as provided in subd. 4m. and pars. (f) and (g), shall  
13 be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than  
14 60 days nor more than one year in the county jail 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), equals  
17 4, except that suspensions, revocations or convictions arising out of the same  
18 incident or occurrence shall be counted as one.

19           **SECTION 31.** 346.65 (2) (am) 4m. of the statutes is created to read:

20           346.65 (2) (am) 4m. Except as provided in pars. (f) and (g), is guilty of a Class  
21 H felony and shall be fined not less than \$600 if the number of convictions under ss.  
22 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,  
23 revocations, and other convictions counted under s. 343.307 (1), equals 4 and the  
24 person committed an offense that resulted in a suspension, revocation, or other  
25 conviction counted under s. 343.307 (1) within 5 years prior to the current conviction,

**ASSEMBLY BILL 283**

1 except that suspensions, revocations, or convictions arising out of the same incident  
2 or occurrence shall be counted as one. The confinement portion of a bifurcated  
3 sentence imposed on the person under s. 973.01 shall be not less than 2 years

6 months

4 **SECTION 32.** 346.65 (2) (am) 5. of the statutes is amended to read:

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

stat

11 The confinement portion of a bifurcated sentence imposed on the person under s.  
12 973.01 shall be not less than 2 years. ✓

13 **SECTION 33.** 346.65 (2) (am) 6. of the statutes is amended to read:

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

19 The confinement portion of a bifurcated sentence imposed on the person under s.  
20 973.01 shall be not less than 3 years.

21 **SECTION 34.** 346.65 (2) (am) 7. of the statutes is amended to read:

22 346.65 (2) (am) 7. Except as provided in par. (f), is guilty of a Class F felony if  
23 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,  
24 plus the total number of suspensions, revocations, and other convictions counted  
25 under s. 343.307 (1), equals 10 or more except that suspensions, revocations, or

**ASSEMBLY BILL 283****SECTION 34**

1 convictions arising out of the same incident or occurrence shall be counted as one.  
2 The confinement portion of a bifurcated sentence imposed on the person under s.  
3 973.01 shall be not less than 4 years.

4 **SECTION 35.** 346.65 (2) (bm) of the statutes is amended to read:

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

17 **SECTION 36.** 346.65 (2) (cm) of the statutes is amended to read:

18 346.65 (2) (cm) In ~~Winnebago County~~ any county that opts to offer a reduced  
19 minimum period of imprisonment for the successful completion of a probation period  
20 that includes alcohol and other drug treatment, if the number of convictions under  
21 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of  
22 suspensions, revocations, and other convictions counted under s. 343.307 (1) within  
23 a 10-year period, equals 3, except that suspensions, revocations, or convictions  
24 arising out of the same incident or occurrence shall be counted as one, the fine shall  
25 be the same as under par. (am) 3., but the period of imprisonment shall be not less



## ASSEMBLY BILL 283

1 than 30 days, except that if the person successfully completes a period of probation  
2 that includes alcohol and other drug treatment, the period of imprisonment shall be  
3 not less than 10 days. A person may be sentenced under this paragraph or under par.  
4 (bm) or sub. (2j) (bm) or (cm) or (3r) once in his or her lifetime.

5 **SECTION 37.** 346.65 (2) (f) of the statutes is amended to read:

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

13 ~~\*~~**SECTION 38.** 346.65 (2c) of the statutes is amended to read:

14 346.65 (2c) In sub. (2) (am) 2., 3., ~~4.~~ 5., 6., and 7., the time period shall be  
15 measured from the dates of the refusals or violations that resulted in the revocation  
16 or convictions. If a person has a suspension, revocation, or conviction for any offense  
17 under a local ordinance or a state statute of another state that would be counted  
18 under s. 343.307 (1), that suspension, revocation, or conviction shall count as a prior  
19 suspension, revocation, or conviction under sub. (2) (am) 2., 3., ~~4.~~ 5., 6., and 7.

20 **SECTION 39.** 346.65 (2g) (a) of the statutes is amended to read:

21 346.65 (2g) (a) In addition to the authority of the court under s. 973.05 (3) (a)  
22 to provide that a defendant perform community service work for a public agency or  
23 a nonprofit charitable organization in lieu of part or all of a fine imposed under sub.  
24 (2) (am) 2., 3., ~~4.~~ and 5., (f), and (g) and except as provided in par. (ag), the court may  
25 provide that a defendant perform community service work for a public agency or a

Insert  
17.12

**ASSEMBLY BILL 283****SECTION 39**

1 nonprofit charitable organization in lieu of part or all of a forfeiture under sub. (2)  
2 (am) 1. or may require a person who is subject to sub. (2) to perform community  
3 service work for a public agency or a nonprofit charitable organization in addition  
4 to the penalties specified under sub. (2).

5 **SECTION 40.** 346.65 (2g) (ag) of the statutes is amended to read:

6 346.65 (2g) (ag) If the court determines that a person does not have the ability  
7 to pay a fine imposed under sub. (2) (am) 2., 3., ~~4.~~, or 5., (f), or (g), the court shall  
8 require the defendant to perform community service work for a public agency or a  
9 nonprofit charitable organization in lieu of paying the fine imposed or, if the amount  
10 of the fine was reduced under sub. (2e), in lieu of paying the remaining amount of the  
11 fine. Each hour of community service performed in compliance with an order under  
12 this paragraph shall reduce the amount of the fine owed by an amount determined  
13 by the court.

14 **SECTION 41.** 346.65 (2j) (bm) of the statutes is amended to read:

15 346.65 (2j) (bm) In ~~Winnebago County~~ any county that opts to offer a reduced  
16 minimum period of imprisonment for the successful completion of a probation period  
17 that includes alcohol and other drug treatment, if the number of convictions under  
18 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of  
19 suspensions, revocations, and other convictions counted under s. 343.307 (1) within  
20 a 10-year period, equals 2, except that suspensions, revocations, or convictions  
21 arising out of the same incident or occurrence shall be counted as one, the fine shall  
22 be the same as under par. (am) 2., but the period of imprisonment shall be not less  
23 than 5 days, except that if the person successfully completes a period of probation  
24 that includes alcohol and other drug treatment, the period of imprisonment shall be

**ASSEMBLY BILL 283**

1 not less than 5 nor more than 7 days. A person may be sentenced under this  
2 paragraph or under par. (cm) or sub. (2) (bm) or (cm) or (3r) once in his or her lifetime.

3 **SECTION 42.** 346.65 (2j) (cm) of the statutes is amended to read:

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

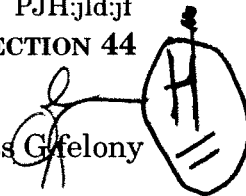
19.15  
Insert ✓

16 **SECTION 43.** 346.65 (3m) of the statutes is amended to read:

17 346.65 (3m) Except as provided in sub. (3p) or (3r), any person violating s.  
18 346.63 (2) or (6) shall be fined not less than \$300 nor more than \$2,000 and may be  
19 imprisoned for not less than 30 days nor more than one year in the county jail. If  
20 there was a minor passenger under 16 years of age in the motor vehicle at the time  
21 of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense  
22 is a felony, the applicable minimum and maximum fines or periods of imprisonment  
23 for the conviction are doubled and the place of imprisonment shall be determined  
24 under s. 973.02.

25 **SECTION 44.** 346.65 (3p) of the statutes is created to read:

ASSEMBLY BILL 283



1

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 and the applicable maximum fines or periods of imprisonment for the conviction are doubled.

SECTION 45. 346.65 (3r) of the statutes is amended to read:

346.65 (3r) In Winnebago County any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, 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. <sup>✓</sup> ~~This section~~ <sup>subsection ← SCORE</sup> does not apply to a person sentenced under sub. (3p).

20

SECTION 46. 346.65 (6) of the statutes is repealed.

SECTION 47. 346.65 (7) of the statutes is amended to read:

## ASSEMBLY BILL 283

1           346.65 (7) A person convicted under sub. (2) (am) 2., 3., ~~4.~~, 5., 6., or 7. or (2j)  
2 (am) 2. or 3. shall be required to remain in the county jail for not less than a  
3 48-consecutive-hour period.

4           **SECTION 48.** 346.65 (8) of the statutes is repealed.

5           **SECTION 49.** 346.655 (1) of the statutes is amended to read:

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

14           **SECTION 50.** 347.413 (title) and (1) of the statutes are amended to read:

15           **347.413 (title) Ignition interlock device tampering; failure to install.**  
16 (1) No person may remove, disconnect, tamper with, or otherwise circumvent the  
17 operation of an ignition interlock device installed in response to the court order under  
18 s. 346.65 (6), 1999 stats., or s. 343.301 (1), or fail to have the ignition interlock device  
19 installed as ordered by the court. This subsection does not apply to the removal of  
20 an ignition interlock device upon the expiration of the order requiring the motor  
21 vehicle to be so equipped or to necessary repairs to a malfunctioning ignition  
22 interlock device by a person authorized by the department.

23           **SECTION 51.** 347.417 (1) of the statutes is amended to read:

24           347.417 (1) No person may remove, disconnect, tamper with, or otherwise  
25 circumvent the operation of any immobilization device installed in response to a

✓  
Insert  
21.13

**ASSEMBLY BILL 283****SECTION 51**

1 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. This  
2 subsection does not apply to the removal of an immobilization device pursuant to a  
3 court order or to necessary repairs to a malfunctioning immobilization device.

4 **SECTION 52.** 347.417 (2) of the statutes is amended to read:

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

10 **SECTION 53.** 347.50 (1s) of the statutes is amended to read:

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

16 **SECTION 54.** 347.50 (1t) of the statutes is created to read:

17 347.50 (1t) In addition to the penalty under sub. (1s), if a person who is subject  
18 to an order under s. 343.301 violates s. 347.413, the court shall extend the order  
19 under s. 343.301 (1) or (2m) for 6 months for each violation.

20 **SECTION 55.** 757.05 (1) (a) of the statutes is amended to read:

21 757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of  
22 state law or for a violation of a municipal or county ordinance except for a violation  
23 of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), ~~or for a first violation of s.~~  
24 ~~23.33 (4e) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who~~  
25 ~~committed the violation had a blood alcohol concentration of 0.08 or more but less~~

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1 than 0.1 at the time of the violation, or for a violation of state laws or municipal or  
2 county ordinances involving nonmoving traffic violations, violations under s. 343.51  
3 (1m) (b), or safety belt use violations under s. 347.48 (2m), there shall be imposed in  
4 addition a penalty surcharge under ch. 814 in an amount of 26 percent of the fine or  
5 forfeiture imposed. If multiple offenses are involved, the penalty surcharge shall be  
6 based upon the total fine or forfeiture for all offenses. When a fine or forfeiture is  
7 suspended in whole or in part, the penalty surcharge shall be reduced in proportion  
8 to the suspension.

9 **SECTION 56.** 814.63 (1) (c) of the statutes is amended to read:

10 814.63 (1) (c) This subsection does not apply to an action for a violation of s.  
11 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), ~~for a first violation of s. 23.33~~  
12 ~~(4e) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who~~  
13 ~~committed the violation had a blood alcohol concentration of 0.08 or more but less~~  
14 ~~than 0.1 at the time of the violation, or for a violation under s. 343.51 (1m) (b), or a~~  
15 ~~safety belt use violation under s. 347.48 (2m).~~

16 **SECTION 57.** 814.63 (2) of the statutes is amended to read:

17 814.63 (2) Upon the disposition of a forfeiture action in circuit court for  
18 violation of a county, town, city, village, town sanitary district or public inland lake  
19 protection and rehabilitation district ordinance, except for an action ~~for a first~~  
20 ~~violation of s. 23.33 (4e) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the~~  
21 ~~person who committed the violation had a blood alcohol concentration of 0.08 or more~~  
22 ~~but less than 0.1 at the time of the violation, or for a violation under s. 343.51 (1m)~~  
23 ~~(b) or a safety belt use violation under s. 347.48 (2m), the county, town, city, village,~~  
24 ~~town sanitary district or public inland lake protection and rehabilitation district~~  
25 shall pay a nonrefundable fee of \$5 to the clerk of circuit court.

ASSEMBLY BILL 283

SECTION 58

1 SECTION 58. 814.65 (1) of the statutes is amended to read:

2 814.65 (1) COURT COSTS. In a municipal court action, except for an action for  
 3 ~~a first violation of s. 23.33 (4e) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1)~~  
 4 ~~(b), if the person who committed the violation had a blood alcohol concentration of~~  
 5 ~~0.08 or more but less than 0.1 at the time of the violation, or~~ ✓ for a violation of an  
 6 ordinance in conformity with s. 343.51 (1m) (b) or 347.48 (2m), the municipal judge  
 7 shall collect a fee of not less than \$15 nor more than \$28 on each separate matter,  
 8 whether it is on default of appearance, a plea of guilty or no contest, on issuance of  
 9 a warrant or summons, or the action is tried as a contested matter. Of each fee  
 10 received by the judge under this subsection, the municipal treasurer shall pay  
 11 monthly \$5 to the secretary of administration for deposit in the general fund and  
 12 shall retain the balance for the use of the municipality.

INSERT ✓  
 PJH 24.12A

Insert ✓  
 PJH 24.12B

13 SECTION 59. 814.85 (1) (a) of the statutes is amended to read:

14 814.85 (1) (a) Except for an action for ~~a first violation of s. 23.33 (4e) (a) 2.,~~  
 15 ~~30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the~~  
 16 ~~violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the~~  
 17 ~~time of the violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use~~  
 18 violation under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$68  
 19 court support services surcharge from any person, including any governmental unit  
 20 as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am) or  
 21 814.63 (1).

Insert ✓  
 PJH 24.21

as affected by 2009  
 Wisconsin Act 28, section  
 3240, ✓

22 SECTION 60. 814.86 (1) of the statutes is amended to read:

23 814.86 (1) Except for an action for ~~a first violation of s. 23.33 (4e) (a) 2., 30.681~~  
 24 ~~(1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation~~  
 25 ~~had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the~~

22



ASSEMBLY BILL 283

1 violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under  
 2 s. 347.48 (2m), the clerk of circuit court shall charge and collect a ~~(\$12)~~ <sup>e \$21.50</sup> justice  
 3 information system surcharge from any person, including any governmental unit, as  
 4 defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62  
 5 (1), (2), or (3) (a) or (b), or 814.63 (1). The justice information system surcharge is in  
 6 addition to the surcharge listed in sub. (1m).

↑  
plain

Insert  
PSH 25.8 ✓

7 **SECTION 61.** 940.09 (1d) of the statutes is repealed and recreated to read:  
 8 940.09 (1d) A person who violates sub. (1) is subject to the requirements and  
 9 procedures for installation of an ignition interlock device under s. 343.301.

10 **SECTION 62.** 940.25 (1d) of the statutes is repealed and recreated to read:  
 11 940.25 (1d) A person who violates sub. (1) is subject to the requirements and  
 12 procedures for installation of an ignition interlock device under s. 343.301.

Insert  
25.8 ✓

13 **SECTION 63.** 973.09 (1) (d) (intro.) of the statutes is renumbered 973.09 (1) (d)  
 14 and amended to read:  
 15 973.09 (1) (d) If a person is convicted of an offense that provides a mandatory  
 16 or presumptive minimum period of one year or less of imprisonment, a court may  
 17 place the person on probation under par. (a) if the court requires, as a condition of  
 18 probation, that the person be confined under sub. (4) for at least that mandatory or  
 19 presumptive minimum period. The person is eligible to earn good time credit  
 20 calculated under s. 302.43 regarding the period of confinement. ~~This paragraph does~~  
 21 ~~not apply if the conviction is for any of the following:~~

22 **SECTION 64.** 973.09 (1) (d) 1. of the statutes is repealed.

23 **SECTION 65.** 973.09 (1) (d) 2. of the statutes is repealed.

24 **SECTION 66.** 973.09 (1) (d) 3. of the statutes is repealed.

25 **SECTION 67.** 973.09 (2) (a) 1. d. of the statutes is amended to read:

**ASSEMBLY BILL 283**

insert  
26.3 ✓

1 973.09 (2) (a) 1. d. A misdemeanor under s. 23.33 (4c) or (4p) (e), 30.681, 30.684  
2 (5), 350.101, 350.104 (5), or 350.17 or a misdemeanor under s. 346.63 to which s.  
3 973.09 (1) (d) applies.

**SECTION 68. Initial applicability.**

(1) This act first applies to violations that are committed or refusals that occur on the effective date of this subsection, 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.

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

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

and ✓  
343.23 (2) (b) ✓

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insert 28.16

(END)

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

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INSERT PJH 10.7:

SECTION 1. 343.23 (2) (b) of the statutes, as affected by 2007 Wisconsin Act 20,  
2009 Wisconsin Act 28, ~~by SECTION 2924~~ and 2009 Wisconsin Act (this act), is  
repealed and recreated to read:

343.23 (2) (b) (The information specified in pars. (a) and (am) must be filed by  
the department so that the complete operator's record is available for the use of the  
secretary in determining whether operating privileges of such person shall be  
suspended, revoked, canceled, or withheld, or the person disqualified, in the interest  
of public safety. The record of suspensions, revocations, and convictions that would  
be counted under s. 343.307 (2) shall be maintained permanently. The record of  
convictions for disqualifying offenses under s. 343.315 (2) (h) shall be maintained for  
at least 10 years. The record of convictions for disqualifying offenses under s.  
343.315 (2) (f), (j), and (L), and all records specified in par. (am), shall be maintained  
for at least 3 years. The record of convictions for disqualifying offenses under s.  
343.315 (2) (a) to (e) shall be maintained permanently, except that 5 years after a  
licensee transfers residency to another state such record may be transferred to  
another state of licensure of the licensee if that state accepts responsibility for  
maintaining a permanent record of convictions for disqualifying offenses. Such  
reports and records may be cumulative beyond the period for which a license is  
granted, but the secretary, in exercising the power of suspension granted under s.  
343.32 (2) may consider only those reports and records entered during the 4-year  
period immediately preceding the exercise of such power of suspension.

NOTE: NOTE: Par. (b) is shown as amended eff. 1-1-10 by 2009 Wis. Act 28, s. 2923. Prior to 1-1-10, except as provided in the following note, it reads:NOTE:

(b) The information specified in pars. (a) and (am) must be filed by the department so that the complete operator's record is available for the use of the secretary in determining whether operating privileges of such person shall be suspended, revoked, canceled, or withheld, or the person disqualified, in the interest of public safety.



The record of suspensions, revocations, and convictions that would be counted under s. 343.307 (2) shall be maintained permanently, except that the department shall purge the record of a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b) after 10 years, if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, if the person does not have a commercial driver license, if the violation was not committed by a person operating a commercial motor vehicle, and if the person has no other suspension, revocation, or conviction that would be counted under s. 343.307 during that 10-year period. The record of convictions for disqualifying offenses under s. 343.315 (2) (m) shall be maintained for at least 10 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (f) and (j), and all records specified in par. (am), shall be maintained for at least 3 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall be maintained permanently, except that 5 years after a licensee transfers residency to another state such record may be transferred to another state of licensure of the licensee if that state accepts responsibility for maintaining a permanent record of convictions for disqualifying offenses. Such reports and records may be cumulative beyond the period for which a license is granted, but the secretary, in exercising the power of suspension granted under s. 343.32 (2) may consider only those reports and records entered during the 4-year period immediately preceding the exercise of such power of suspension.

NOTE: NOTE: Par. (b) is amended by 2007 Wis. Act 20 eff. the date stated in the notice provided by the secretary of transportation and published in the Wisconsin Administrative Register under section 85.515 (2) (b) of the statutes to read as follows if the notice is published prior to 1-1-10. NOTE:

(b) The information specified in pars. (a) and (am) must be filed by the department so that the complete operator's record is available for the use of the secretary in determining whether operating privileges of such person shall be suspended, revoked, canceled, or withheld, or the person disqualified, in the interest of public safety. The record of suspensions, revocations, and convictions that would be counted under s. 343.307 (2) shall be maintained permanently, except that the department shall purge the record of a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b) after 10 years, if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, if the person does not have a commercial driver license, if the violation was not committed by a person operating a commercial motor vehicle, and if the person has no other suspension, revocation, or conviction that would be counted under s. 343.307 during that 10-year period. The record of convictions for disqualifying offenses under s. 343.315 (2) (h) shall be maintained for at least 10 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (f) and (j), and all records specified in par. (am), shall be maintained for at least 3 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall be maintained permanently, except that 5 years after a licensee transfers residency to another state such record may be transferred to another state of licensure of the licensee if that state accepts responsibility for maintaining a permanent record of convictions for disqualifying offenses. Such reports and records may be cumulative beyond the period for which a license is granted, but the secretary, in exercising the power of suspension granted under s. 343.32 (2) may consider only those reports and records entered during the 4-year period immediately preceding the exercise of such power of suspension. The department shall maintain the digital images of documents specified in s. 343.165 (2) (a) for at least 10 years.

NOTE: NOTE: Par. (b) is repealed and recreated by 2009 Wis. Act 28, s. 2924, eff. the later of 1-1-10 or the date stated in the notice provided by the secretary of transportation and published in the Wisconsin Administrative Register under section 85.515 (2) (b) of the statutes to read: NOTE:

(b) The information specified in pars. (a) and (am) must be filed by the department so that the complete operator's record is available for the use of the secretary in determining whether operating privileges of such person shall be suspended, revoked, canceled, or withheld, or the person disqualified, in the interest of public safety. The record of suspensions, revocations, and convictions that would be counted under s. 343.307 (2) shall be maintained permanently, except that the department shall purge the record of a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b) after 10 years, if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, if the person does not have a commercial driver license, if the violation was not committed by a person operating a commercial motor vehicle, and if the person has no other suspension, revocation, or conviction that would be counted under s. 343.307 during that 10-year period. The record of convictions for disqualifying offenses under s. 343.315 (2) (h) shall be maintained for at least 10 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (f), (j), and (L), and all records specified in par. (am), shall be maintained for at least 3 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall be maintained permanently, except that 5 years after a licensee transfers residency to another state such record may be transferred to another state of licensure of the licensee if that state accepts responsibility for maintaining a permanent record of convictions for disqualifying offenses. Such reports and records may be cumulative beyond the period for which a license is granted, but the secretary, in exercising the power of suspension granted under s. 343.32 (2) may consider only those reports and records entered during the 4-year period immediately preceding the exercise of such power of suspension. The department shall maintain the digital images of documents specified in s. 343.165 (2) (a) for at least 10 years.

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Cross Reference: Cross Reference: See also ch. Trans 100, Wis. adm. code Cross Reference:

History: 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1979 c. 331; 1981 c. 178; 1983 a. 74; 1987 s. 3; 1989 a. 31, 105, 133, 359; 1991 a. 277; 1993 a. 65; 1995 a. 113, 184, 338; 1997 a. 35, 84, 237; 1999 a. 32, 109; 2001 a. 38, 100; 2003 a. 30, 33, 280, 320; 2007 a. 20, 130; 2009 a. 28.

INSERT PJH 24.21 & 24.12 A

SECTION 2. 814.65 (1) of the statutes, as affected by 2009 Wisconsin Act 28 and

SECTION 923.31 and 2009 Wisconsin Act 28 (this act), is repealed and recreated to read:

814.65 (1) COURT COSTS. In a municipal court action, for a financial responsibility violation under s. 344.62 (2) or for a violation of an ordinance in conformity with s. 343.51 (1m) (b) or 347.48 (2m), the municipal judge shall collect a fee of not less than \$15 nor more than \$28 on each separate matter, whether it is on default of appearance, a plea of guilty or no contest, on issuance of a warrant or summons, or the action is tried as a contested matter. Of each fee received by the judge under this subsection, the municipal treasurer shall pay monthly \$5 to the

secretary of administration for deposit in the general fund and shall retain the balance for the use of the municipality. (end ins)

NOTE: NOTE: Sub. (1) is shown as amended eff. 6-1-10 by 2009 Wis. Act 28. Prior to 6-1-10 it reads: NOTE: (1) COURT COSTS. In a municipal court action, except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b) or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a violation of an ordinance in conformity with s. 343.51 (1m) (b) or 347.48 (2m), the municipal judge shall collect a fee of not less than \$18 nor more than \$28 on each separate matter, whether it is on default of appearance, a plea of guilty or no contest, an issuance of a warrant or summons, or the action is tried as a contested matter. Of each fee received by the judge under this subsection, the municipal treasurer shall pay monthly \$5 to the secretary of administration for deposit in the general fund and shall retain the balance for the use of the municipality.

History: 1981 c. 317; 1983 a. 107; 1987 a. 181, 389, 399, 403; 1989 a. 22; 1991 a. 26; 1997 a. 27; 2003 a. 30, 33, 320; 2005 a. 54, 455; 2007 a. 96; 2009 a. 28.

SECTION 3. 814.85 (1) (a) of the statutes, as affected by 2009 Wisconsin Act 28

(by SECTION 3239m and 2009 Wisconsin Act . . . (this act), is repealed and recreated to read:

INS PJH 24.21

814.85 (1) (a) Except for an action for a financial responsibility violation under s. 344.62 (2), or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$68 court support services surcharge from any person, including any governmental unit as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am) or 814.63 (1).

NOTE: NOTE: Par. (a) is shown as amended eff. 6-1-10 by 2009 Wis. Act 28. Prior to 6-1-10 it reads: NOTE:

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

History: 1997 a. 16; 1995 a. 27, 201, 417; 2001 a. 109; 2003 a. 30, 33; 2003 a. 159 ss. 197 to 200; Stats. 2003 s. 814.85; 2003 a. 326 ss. 122 to 125; 2005 a. 455; 2009 a. 28.

INSERT PJH 25.8:

L.C. plain

SECTION 4. 814.86 (1) of the statutes, as affected by 2009 Wisconsin Act 28, (by SECTION 3240m and 2009 Wisconsin Act . . . (this act), is repealed and recreated to read:

814.86 (1) Except for an action for a financial responsibility violation under s. 344.62 (2), or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$21.50 justice information system surcharge from any person, including any governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62



(1), (2), or (3) (a) or (b), or 814.63 (1). The justice information system surcharge is in addition to the surcharge listed in sub. (1m).

NOTE: NOTE: Sub. (1) is shown as amended eff. 6-1-10 by 2009 Wis. Act 28. Prior to 6-1-10 it reads:NOTE:

(1) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$71.50 justice information system surcharge from any person, including any governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62 (1), (2), or (3) (a) or (b), or 814.63 (1). The justice information system surcharge is in addition to the surcharge listed in sub. (1m).

History: 1987 a. 27; 1989 a. 27; 1991 a. 26, 39; 1993 a. 16; 1995 a. 27, 201; 1997 a. 27; 1999 a. 9; 2003 a. 30, 33; 2003 a. 139 s. 201; Stats. 2003 s. 814.86; 2003 a. 326; 2005 a. 27, 455; 2009 a. 28.

(end ins)

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2009-2010 DRAFTING INSERT  
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INSERT ANALYSIS 1:

~~#0~~ <sup>NO</sup> first OWI-related <sup>NO</sup> offense is subject to a forfeiture between <sup>✓</sup>\$150 and <sup>✓</sup>\$300. A person who commits

INSERT ANALYSIS 2:

This substitute amendment <sup>✓</sup>makes a first OWI-related <sup>✓</sup>offense a crime if, at the time of the offense, a child under the age of 16 <sup>✓</sup>was present in the vehicle involved in the offense. Under the substitute amendment, the penalties for committing this crime are the same as for committing a <sup>✓</sup>second OWI-related offense. <sup>✓</sup>

INSERT ANALYSIS 3:

9. <sup>✓</sup>Under current law, a person <sup>✓</sup>is convicted of certain OWI-related <sup>✓</sup>offenses is required to pay a driver improvement <sup>✓</sup>surcharge of \$355 in addition to any applicable forfeiture or fine, assessments, and costs. <sup>✓</sup>The driver improvement surcharge is distributed between the county where the offense took place and the state. <sup>✓</sup>  
This substitute amendment <sup>✓</sup>creates a district attorney surcharge of \$100 that a person who commits an OWI-related offense must pay in addition to the driver improvement surcharge and any other forfeiture or fine, assessment, and costs. <sup>✓</sup>The money generated from this surcharge will be used to pay for prosecution of OWI-related offenses. <sup>✓</sup>

INSERT ANALYSIS 5:

11. Under current law, revenue from the tax on fermented malt beverages is deposited into the general fund. Under the substitute amendment, <sup>✓</sup>beginning on July 1, 2011, <sup>✓</sup>revenue from the fermented malt beverages tax will be used to fund community-based <sup>✓</sup>corrections programs.

INSERT 5.4:

SECTION 1. 20.410 (1) (bk) <sup>✓</sup>of the statutes is created to read:

20.410 (1) (bk) *Services for community corrections; fermented malt beverages tax receipts.* <sup>✓</sup>All moneys received under s. 139.27 <sup>✓</sup>to provide services related to probation, extended supervision and parole, <sup>✓</sup>the intensive sanctions program under

s. 301.048, ✓ the community residential confinement program under s. ✓ 301.046, programs of intensive supervision of adult offenders and minimum security correctional institutions established under s. 301.13. ✓ No payments may be made under this paragraph ✓ for payments in accordance with other states party to the interstate corrections compact ✓ under s. 302.25. ✓

SECTION 2. 20.475 (1) (j) ✗ of the statutes is created to read:

20.475 (1) (j) *Prosecutions related to operating while intoxicated.* All moneys received from the penalty surcharge on court fines and forfeitures under s. 346.657 to be used for prosecutions under s. 978.05 (1m). ✓

INSERT 5.7:

SECTION 3. 139.27 ✗ of the statutes is created to read:

**139.27 Revenue distribution.** All moneys received under s. 139.02 shall be credited to the appropriation account under s. 20.410 (1) (bk). ✓

INSERT 11.1:

SECTION 4. 343.30 (1z) ✗ of the statutes is amended to read:

343.30 (1z) If a court imposes a driver improvement surcharge under s. 346.655 and a district attorney surcharge under s. 346.657 ✓ and the person fails to pay the surecharge surcharges ✓ within 60 days after the date by which the court ordered the surecharge surcharges ✓ to be paid, the court may suspend the person's operating privilege until the person pays the surecharge both surcharges, ✓ except that the suspension period may not exceed 2 years.

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

INSERT 19.15:

SECTION 5. 346.65 (2q) ✗ of the statutes is amended to read:





346.65 (2q) Any person violating s. 346.63 (2m) shall forfeit \$200. 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 346.63 (2m), the forfeiture is person shall be fined \$400.

(end ins)

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 21.13:

SECTION 6. 346.657 of the statutes is created to read:

\*

346.657 District Attorney surcharge. (1) If a court imposes a fine or a forfeiture for a violation of s. 346.63 (1) or (5), or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall impose a district attorney surcharge under ch. 814 in an amount of \$100 in addition to the fine or forfeiture, plus costs, fees, and other surcharges imposed under ch. 814.

(2) (a) Except as provided in par. (b), the clerk of court shall collect and transmit the amount under sub. (1) to the county treasurer as provided in s. 59.40 (2) (m). The county treasurer shall then make payment of the amount to the secretary of administration as provided in s. 59.25 (3) (f) 2.

(b) If the forfeiture is imposed by a municipal court, the court shall transmit the amount to the treasurer of the county, city, town, or village, and that treasurer shall make payment of the amount to the secretary of administration as provided in s. 66.0114 (1) (bm).

(3) Any person who fails to pay a district attorney surcharge imposed under sub. (1) is subject to s. 343.30 (1z).

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

(end ins)

INSERT 24.12<sup>B</sup>

SECTION 7. 814.75 (9m) of the statutes is created to read:

814.75 (9m) The district attorney surcharge under s. 346.657.

SECTION 8. 814.76 (7m) of the statutes is created to read:

814.76 (7m) The district attorney surcharge under s. 346.657.

SECTION 9. 814.78 (7m) of the statutes is created to read:

814.78 (7m) The district attorney surcharge under s. 346.657.

SECTION 10. 814.79 (4r) of the statutes is created to read:

814.79 (4r) The district attorney surcharge under s. 346.657.

INSERT 25.12:

SECTION 11. 969.01 (2) (a) of the statutes is amended to read:

969.01 (2) (a) Release pursuant to s. 969.02 or 969.03 may be allowed in the discretion of the trial court after conviction and prior to sentencing or the granting of probation. This paragraph does not apply to a person if his or her 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 3 or more until after the person has served at least the minimum term of confinement for the violation.

History: 1977 c. 187; 1979 c. 112; 1981 c. 183; 1993 a. 486; 1995 a. 77; 1997 a. 232, 283.

INSERT 26.3:

SECTION 12. 973.15 (8) (a) 3. of the statutes is amended to read:

973.15 (8) (a) 3. For not more than 60 days, except that the court may not stay execution of a person's sentence of imprisonment or to the intensive sanctions program under this subdivision if the person's 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 3 or more until after the person has served at least the minimum term of confinement for the violation.

History: 1973 c. 90; 1977 c. 347, 353, 447; 1981 c. 50, 292; 1983 c. 628; 1989 a. 31, 85; 1991 a. 39; 1993 a. 79; 1995 a. 390; 1997 a. 283; 2001 a. 109.

**SECTION 13. 978.05 (1m) of the statutes is created to read:**

**978.05 (1m) INTOXICATED AND DRUGGED DRIVING ACTIONS.** The district attorney of any prosecutorial unit shall use funds from the appropriation under s. 20.475 (1) (j) to prosecute offenses relating to operating a motor vehicle while under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination of an intoxicant, a controlled substance and a controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug or operating a motor vehicle with a prohibited alcohol concentration or a detectable amount of a restricted controlled substance in his or her blood.

INSERT 28:16:

~~(1)~~ The repeal of sections 342.12 (4) (c) 1. b., 343.301 (1) (title), 343.301 (2), and 346.65 (6) *of the statutes,* the renumbering and amendment of sections 343.301 (1) (c) and 343.301 (1) (d) *the amendment of sections* 340.01 (46m) (c), 342.12 (4) (c) 1. c., 342.13 (1), 343.10 (2) (a) (intro.), 343.10 (5) (a) 3., 343.301 (title), 347.413 (title) and (1), 347.417 (1), 347.417 (2), and 347.50 (1s) *of the statutes,* the repeal and recreation of sections 343.301 (1), 343.305 (10m), 940.09 (1d), and 940.25 (1d) and the creation of sections 20.395 (5) (hj), 343.10 (2) (f), 343.301 (3) (b), 343.301 (5) and 347.50 (1t) of the statutes take effect on the first day of the 9th month beginning after publication.



Amendment creation

1 and 978.05(1m)

(3) The treatment of sections 20.410 (1) (bk) and 139.27 (1) of the statutes takes effect on July 1, 2011.

comma

(#) The repeal and recreation of sections 814.65(1), 814.65(1), 814.85(1) and 814.86(1) of the statutes takes effect July 1, 2010.

(a)

on

(end insert)



2009 BILL

Insert analysis 4

DWI-related offense

1 AN ACT to amend 969.01 (2) (a) and 973.15 (8) (a) 3. of the statutes; relating to  
2 releasing a person after conviction for a violation related to drunken driving.

*Analysis by the Legislative Reference Bureau*

4/10. Under current law, a trial court may, at its discretion, release a person who has been convicted of a crime from imprisonment until the time of sentencing. Current law also allows a sentencing court to delay the execution of a sentence of imprisonment for up to 60 days, unless the court finds that there is legal cause to delay the execution of the sentence for a longer period or unless the court places the person on probation. ✓ substitute amendment

Under this bill, if a person has been convicted of operating a motor vehicle while intoxicated or with a prohibited alcohol concentration or of causing injury by the intoxicated use of a vehicle, and the conviction carries a minimum period of imprisonment, a court may not release the person after conviction but before sentencing until after the person has served at least the minimum period of imprisonment. Under the bill, a court may not delay the execution of a sentence of imprisonment unless the court finds that there is legal cause to delay the execution of the sentence or unless the court places the person on probation. a third or subsequent offense

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:*

Substitute Amendment

**BILL**

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:*

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**SECTION 1.** 346.65 (2) (f) of the statutes is renumbered 346.65 (2) (f) 2. and amended to read:

346.65 (2) (f) 2. 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 (1), the applicable minimum and maximum forfeitures, fines, ~~or~~ and imprisonment under par. (am) 2. to 5. for the conviction are doubled. An offense under s. 346.63 (1) that subjects a person to a penalty under par. (am) 3., 4., ~~or~~ 5. when there is a minor passenger under 16 years of age in the motor vehicle is a felony and the place of imprisonment shall be determined under s. 973.02.

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

346.65 (2) (f) 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 (1), the person shall be fined not less than \$300, nor more than \$600, and imprisoned for not less than 5 days nor more than 6 months, except as provided in subd. 2. (end ins)

\$1,100

\$350

\$100

**SECTION 3.** 346.65 (2j) (d) of the statutes is renumbered 346.65 (2j) (d) 2. and amended to read:

346.65 (2j) (d) 2. If there was a minor passenger under 16 years of age in the commercial motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (5), the applicable minimum and maximum forfeitures, fines, ~~or~~ and imprisonment under par. (am) 1., 2., or 3. for the conviction are doubled. An offense