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ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2009 ASSEMBLY BILL 283

today

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repeal

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), 346.65 (2) (f) and 973.09 (1) (d)  
4 (intro.); *to consolidate, renumber and amend* 343.301 (1) (b) 1. and 2.; *to*  
5 *amend* 165.755 (1) (b), 302.46 (1) (a), 340.01 (46m) (c), 342.12 (4) (c) 1. c., 342.13  
6 (1), 343.10 (2) (a) (intro.), 343.10 (5) (a) 3., 343.23 (2) (b), 343.30 (1q) (b) 5.,  
7 343.30 (1q) (c) 1. (intro.), 343.30 (1z), 343.301 (title), 343.305 (10) (b) 5., 343.31  
8 (3) (bm) 5., 346.65 (2) (am) 4., 346.65 (2) (am) 6., 346.65 (2) (am) 7., 346.65 (2)  
9 (bm), 346.65 (2) (cm), 346.65 (2c), 346.65 (2g) (a), 346.65 (2g) (ag), 346.65 (2j)  
10 (bm), 346.65 (2j) (cm), 346.65 (2q), 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), 969.01 (2) (a),  
13 973.09 (2) (a) 1. d. and 973.15 (8) (a) 3.; *to repeal and recreate* 343.10 (2) (a)

1 (intro.), 343.23 (2) (b), 343.301 (1), 343.305 (10m), 814.65 (1), 814.85 (1) (a),  
2 814.86 (1), 940.09 (1d) and 940.25 (1d); and **to create** 20.395 (5) (hj), 20.410 (1)  
3 (bk), 20.475 (1) (j), 25.40 (1) (a) 17., 139.27, 340.01 (46m) (d), 343.10 (2) (f),  
4 343.301 (1m), 343.301 (3) (b), 343.301 (5), 346.65 (2) (am) 4m., 346.65 (2) (f) 1.,  
5 346.65 (3p), 346.657, 347.50 (1t), 814.75 (9m), 814.76 (7m), 814.78 (7m), 814.79  
6 (4r) and 978.05 (1m) of the statutes; **relating to:** operating a vehicle while  
7 intoxicated, granting rule-making authority, making an appropriation, and  
8 providing a penalty. ✓

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

This substitute amendment 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 substitute amendment eliminates the option of ordering the person's vehicle to be immobilized or seized and sold at auction. The substitute amendment 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 substitute amendment, 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 each ignition interlock device. Under the substitute amendment, 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 substitute amendment, 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 substitute amendment 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 substitute amendment 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 substitute amendment, 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 substitute amendment, DOT must keep a record of this offense permanently.

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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 first OWI-related offense is subject to a forfeiture between \$150 and \$300. 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.

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.

This substitute amendment makes a first OWI-related offense a crime if, at the time of the offense, a child under the age of 16 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 second OWI-related offense.

The substitute amendment 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 substitute amendment 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.

term of six months imprisonment

within five years to pay a minimum fine of \$600 and

period of confinement

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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 substitute amendment, 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.

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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

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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 substitute amendment 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 substitute amendment, 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 substitute amendment 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 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 substitute amendment, a trial court may place a person who commits any of those offenses on probation. Under the substitute amendment, 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.

9. Under current law, a person who is convicted of certain OWI-related offenses is required to pay a driver improvement surcharge of \$355 in addition to any applicable forfeiture or fine, assessments, and costs. The driver improvement surcharge is distributed between the county where the offense took place and the state.

This substitute amendment 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. The money generated from this surcharge will be used to pay for prosecution of OWI-related offenses.

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.

Under this substitute amendment, if a person has been convicted of a third or subsequent OWI-related offense, 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 substitute amendment, 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.

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

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

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

2           20.395 (5) (hj) *Ignition interlock device administration and enforcement.* All  
3 moneys in the general fund received under s. 343.301 (5) for expenditures related to  
4 administering the ignition interlock device program under ss. 110.10 and 343.301.

5           **SECTION 2.** 20.410 (1) (bk) of the statutes is created to read:

6           20.410 (1) (bk) *Services for community corrections; fermented malt beverages*  
7 *tax receipts.* All moneys received under s. 139.27 to provide services related to  
8 probation, extended supervision and parole, the intensive sanctions program under  
9 s. 301.048, the community residential confinement program under s. 301.046,  
10 programs of intensive supervision of adult offenders and minimum security  
11 correctional institutions established under s. 301.13. No payments may be made  
12 under this paragraph for payments in accordance with other states party to the  
13 interstate corrections compact under s. 302.25.

14           **SECTION 3.** 20.475 (1) (j) of the statutes is created to read:

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

4           **SECTION 4.** 25.40 (1) (a) 17. of the statutes is created to read:

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

7           **SECTION 5.** 139.27 of the statutes is created to read:

8           **139.27 Revenue distribution.** All moneys received under s. 139.02 shall be  
9 credited to the appropriation account under s. 20.410 (1) (bk).

10          **SECTION 6.** 165.755 (1) (b) of the statutes is amended to read:

11          165.755 (1) (b) A court may not impose the crime laboratories and drug law  
12 enforcement surcharge under par. (a) for a violation of s. 101.123 (2) (a), (am) 1., (ar),  
13 (bm), (br), or (bv) or (5) (b), ~~for a first violation of s. 23.33 (4e) (a) 2., 30.681 (1) (b) 1.,~~  
14 ~~346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood~~  
15 ~~alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation,~~  
16 or for a violation of a state law or municipal or county ordinance involving a  
17 nonmoving traffic violation, a violation under s. 343.51 (1m) (b), or a safety belt use  
18 violation under s. 347.48 (2m).

19          **SECTION 7.** 302.46 (1) (a) of the statutes is amended to read:

20          302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law  
21 or for a violation of a municipal or county ordinance except for a violation of s. 101.123  
22 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), ~~or for a first violation of s. 23.33 (4e) (a)~~  
23 ~~2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the~~  
24 ~~violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the~~  
25 ~~time of the violation,~~ or for a violation of state laws or municipal or county ordinances

1 involving nonmoving traffic violations, violations under s. 343.51 (1m) (b), or safety  
2 belt use violations under s. 347.48 (2m), the court, in addition, shall impose a jail  
3 surcharge under ch. 814 in an amount of 1 percent of the fine or forfeiture imposed  
4 or \$10, whichever is greater. If multiple offenses are involved, the court shall  
5 determine the jail surcharge on the basis of each fine or forfeiture. If a fine or  
6 forfeiture is suspended in whole or in part, the court shall reduce the jail surcharge  
7 in proportion to the suspension.

8 **SECTION 8.** 340.01 (46m) (c) of the statutes is amended to read:

9 340.01 (46m) (c) If the person is subject to an order under s. 343.301 or if the  
10 person has 3 or more prior convictions, suspensions or revocations, as counted under  
11 s. 343.307 (1), an alcohol concentration of more than 0.02.

✓ 12 **SECTION 9.** 340.01 (46m) (d) of the statutes is created to read:

13 340.01 (46m) (d) If the person has a prior conviction, suspension, or revocation,  
14 as counted under s. 343.307 (1), within 2 years of the current offense, an alcohol  
15 concentration of more than 0.02.

16 **SECTION 10.** 342.12 (4) (c) 1. b. of the statutes is repealed.

17 **SECTION 11.** 342.12 (4) (c) 1. c. of the statutes is amended to read:

18 342.12 (4) (c) 1. c. The person requesting the issuance of the certificate of title  
19 files an affidavit with the department attesting that the ~~conditions~~ condition under  
20 subd. 1. a. ~~and b.~~ are is met.

21 **SECTION 12.** 342.13 (1) of the statutes is amended to read:

22 342.13 (1) If a certificate of title is lost, stolen, mutilated, or destroyed, or  
23 becomes illegible, the owner or legal representative of the owner named in the  
24 certificate, as shown by the records of the department, shall promptly make  
25 application for and may obtain a replacement upon furnishing information



1 satisfactory to the department. The replacement certificate of title shall contain a  
2 notation, in a form determined by the department, identifying the certificate as a  
3 replacement certificate that may be subject to the rights of a person under the  
4 original certificate. ~~If applicable under s. 346.65 (6), the replacement certificate of~~  
5 ~~title shall include the notation “Per section 346.65 (6) of the Wisconsin statutes,~~  
6 ~~ownership of this motor vehicle may not be transferred without prior court approval”.~~

7 **SECTION 13.** 343.10 (2) (a) (intro.) of the statutes is amended to read:

8 343.10 (2) (a) (intro.) Except as provided in pars. (b) to ~~(e)~~ (f), a person is eligible  
9 for an occupational license if the following conditions are satisfied:

10 **SECTION 14.** 343.10 (2) (a) (intro.) of the statutes, as affected by 2007 Wisconsin  
11 Act 20 and 2009 Wisconsin Act .... (this act), is repealed and recreated to read:

12 343.10 (2) (a) (intro.) Except as provided in pars. (b) to (f), and subject to s.  
13 343.165 (5), a person is eligible for an occupational license if the following conditions  
14 are satisfied:

15 **SECTION 15.** 343.10 (2) (f) of the statutes is created to read:

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

22 **SECTION 16.** 343.10 (5) (a) 3. of the statutes is amended to read:

23 343.10 (5) (a) 3. ~~If the applicant has 2 or more prior convictions, suspensions,~~  
24 ~~or revocations, as counted under s. 343.307 (1), the The occupational license of the~~  
25 applicant shall restrict the applicant’s operation under the occupational license to

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

17 **SECTION 17.** 343.23 (2) (b) of the statutes, as affected by 2009 Wisconsin Act 28,  
18 section 2923, is amended to read:

19 343.23 (2) (b) The information specified in pars. (a) and (am) must be filed by  
20 the department so that the complete operator's record is available for the use of the  
21 secretary in determining whether operating privileges of such person shall be  
22 suspended, revoked, canceled, or withheld, or the person disqualified, in the interest  
23 of public safety. The record of suspensions, revocations, and convictions that would  
24 be counted under s. 343.307 (2) shall be maintained permanently, ~~except that the~~  
25 ~~department shall purge the record of a first violation of s. 23.33 (4c) (a) 2., 30.681 (1)~~

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

19 **SECTION 18.** 343.23 (2) (b) of the statutes, as affected by 2009 Wisconsin Act 28,  
20 section 2924, and 2009 Wisconsin Act ... (this act), is repealed and recreated to read:

21 343.23 (2) (b) The information specified in pars. (a) and (am) must be filed by  
22 the department so that the complete operator's record is available for the use of the  
23 secretary in determining whether operating privileges of such person shall be  
24 suspended, revoked, canceled, or withheld, or the person disqualified, in the interest  
25 of public safety. The record of suspensions, revocations, and convictions that would

1 be counted under s. 343.307 (2) shall be maintained permanently. The record of  
2 convictions for disqualifying offenses under s. 343.315 (2) (h) shall be maintained for  
3 at least 10 years. The record of convictions for disqualifying offenses under s.  
4 343.315 (2) (f), (j), and (L), and all records specified in par. (am), shall be maintained  
5 for at least 3 years. The record of convictions for disqualifying offenses under s.  
6 343.315 (2) (a) to (e) shall be maintained permanently, except that 5 years after a  
7 licensee transfers residency to another state such record may be transferred to  
8 another state of licensure of the licensee if that state accepts responsibility for  
9 maintaining a permanent record of convictions for disqualifying offenses. Such  
10 reports and records may be cumulative beyond the period for which a license is  
11 granted, but the secretary, in exercising the power of suspension granted under s.  
12 343.32 (2) may consider only those reports and records entered during the 4-year  
13 period immediately preceding the exercise of such power of suspension. The  
14 department shall maintain the digital images of documents specified in s. 343.165  
15 (2) (a) for at least 10 years.

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

17 343.30 (1q) (b) 5. The time period under this paragraph shall be measured from  
18 the dates of the refusals or violations which resulted in the suspensions, revocations  
19 or convictions, except that the time period shall be tolled whenever and for as long  
20 as 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 20.** 343.30 (1q) (c) 1. (intro.) of the statutes is amended to read:

24 343.30 (1q) (c) 1. (intro.) Except as provided in subd. 1. a. or b., ~~and except for~~  
25 ~~a first violation of s. 346.63 (1) (b), if the person who committed the violation had a~~

1 ~~blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the~~  
2 ~~violation~~, the court shall order the person to submit to and comply with an  
3 assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for  
4 examination of the person's use of alcohol, controlled substances or controlled  
5 substance analogs and development of a driver safety plan for the person. The court  
6 shall notify the department of transportation of the assessment order. The court  
7 shall notify the person that noncompliance with assessment or the driver safety plan  
8 will result in revocation of the person's operating privilege until the person is in  
9 compliance. The assessment order shall:

10 **SECTION 21.** 343.30 (1z) of the statutes is amended to read:

11 343.30 (1z) If a court imposes a driver improvement surcharge under s. 346.655  
12 and a district attorney surcharge under s. 346.657 and the person fails to pay the  
13 surecharge surcharges within 60 days after the date by which the court ordered the  
14 surecharge surcharges to be paid, the court may suspend the person's operating  
15 privilege until the person pays ~~the surecharge~~ both surcharges, except that the  
16 suspension period may not exceed 2 years.

17 **SECTION 22.** 343.301 (title) of the statutes is amended to read:

18 **343.301** (title) **Installation of ignition interlock device ~~or~~**  
19 **~~immobilization of a motor vehicle.~~**

20 **SECTION 23.** 343.301 (1) (title) of the statutes is repealed.

21 **SECTION 24.** 343.301 (1) of the statutes is repealed and recreated to read:

22 343.301 (1) A court shall order a person's operating privilege for the operation  
23 of "Class D" vehicles be restricted to operating vehicles that are equipped with an  
24 ignition interlock device and, except as provided in sub. (1m), shall order that each

1 motor vehicle in the person's household operated by the person be equipped with an  
2 ignition interlock device if either of the following applies:

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

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

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

8 2. The person has a total of one or more prior convictions, suspensions, or  
9 revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's  
10 lifetime and other convictions, suspensions, and revocations counted under s.  
11 343.307 (1).

12 **SECTION 25.** 343.301 (1) (b) 1. and 2. of the statutes are consolidated,  
13 renumbered 343.301 (2m) and amended to read:

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

24 **SECTION 26.** 343.301 (1) (c) of the statutes is renumbered 343.301 (3) (a) and  
25 amended to read:

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

4           **SECTION 27.** 343.301 (1) (d) of the statutes is renumbered 343.301 (4) and  
5 amended to read:

6           343.301 (4) A person to whom an order under ~~par. (a) sub. (1)~~ applies violates  
7 that order if he or she fails to have an ignition interlock device installed as ordered,  
8 removes or disconnects an ignition interlock device, requests or permits another to  
9 blow into an ignition interlock device or to start a motor vehicle equipped with an  
10 ignition interlock device for the purpose of providing the person an operable motor  
11 vehicle without the necessity of first submitting a sample of his or her breath to  
12 analysis by the ignition interlock device, or otherwise tampers with or circumvents  
13 the operation of the ignition interlock device.

14           **SECTION 28.** 343.301 (1m) of the statutes is created to read:

15           343.301 (1m) If equipping each motor vehicle with an ignition interlock device  
16 under sub. (1) would cause an undue financial hardship, the court may order that one  
17 or more vehicles described sub. (1) not be equipped with an ignition interlock device.

18           **SECTION 29.** 343.301 (2) of the statutes is repealed.

19           **SECTION 30.** 343.301 (3) (b) of the statutes is created to read:

20           343.301 (3) (b) If the court finds that the person who is subject to an order under  
21 sub. (1) has a household income that is at or below 150 percent of the nonfarm federal  
22 poverty line for the continental United States, as defined by the federal department  
23 of labor under 42 USC 9902 (2), the court shall limit the person's liability under par.  
24 (a) to one-half of the cost of equipping each motor vehicle with an ignition interlock

1 device and one-half of the cost per day per vehicle of maintaining the ignition  
2 interlock device.

3 **SECTION 31.** 343.301 (5) of the statutes is created to read:

4 343.301 (5) If the court enters an order under sub. (1), the court shall impose  
5 and the person shall pay to the court an interlock surcharge of \$50. The court shall  
6 transmit the surcharge to the county treasurer for the county in which the order is  
7 entered. The county treasurer shall retain \$40 of each surcharge and make payment  
8 of the remaining \$10 to the department.

9 **SECTION 32.** 343.305 (10) (b) 5. of the statutes is amended to read:

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

16 **SECTION 33.** 343.305 (10m) of the statutes is repealed and recreated to read:

17 343.305 (10m) REFUSALS; IGNITION INTERLOCK OF A MOTOR VEHICLE. The  
18 requirements and procedures for installation of an ignition interlock device under s.  
19 343.301 apply when an operating privilege is revoked under sub (10).

20 **SECTION 34.** 343.31 (3) (bm) 5. of the statutes is amended to read:

21 343.31 (3) (bm) 5. The time period under this paragraph shall be measured  
22 from the dates of the refusals or violations which resulted in the suspensions,  
23 revocations or convictions, except that the time period shall be tolled whenever and  
24 for as long as the person is imprisoned. A person whose revocation period is tolled



1 under this subdivision is responsible for notifying the department that he or she has  
2 been released from prison.

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

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

*and imprisoned for not less than 6 months*

11 **SECTION 36.** 346.65 (2) (am) 4m. of the statutes is created to read:

12 346.65 (2) (am) 4m. Except as provided in pars. (f) and (g), is guilty of a Class  
13 H felony and shall be fined not less than \$600 if the number of convictions under ss.  
14 940.09 (1) and 940.25 in the person’s lifetime, plus the total number of suspensions,  
15 revocations, and other convictions counted under s. 343.307 (1), equals 4 and the  
16 person committed an offense that resulted in a suspension, revocation, or other  
17 conviction counted under s. 343.307 (1) within 5 years prior to the current conviction,  
18 except that suspensions, revocations, or convictions arising out of the same incident  
19 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 6 months.

21 **SECTION 37.** 346.65 (2) (am) 6. of the statutes is amended to read:

22 346.65 (2) (am) 6. Except as provided in par. (f), is guilty of a Class G 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 7, 8, or 9, except that suspensions, revocations, or

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 3 years.

4 **SECTION 38.** 346.65 (2) (am) 7. of the statutes is amended to read:

5 346.65 (2) (am) 7. Except as provided in par. (f), is guilty of a Class F felony if  
6 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,  
7 plus the total number of suspensions, revocations, and other convictions counted  
8 under s. 343.307 (1), equals 10 or more except that suspensions, revocations, or  
9 convictions arising out of the same incident or occurrence shall be counted as one.  
10 The confinement portion of a bifurcated sentence imposed on the person under s.  
11 973.01 shall be not less than 4 years.

12 **SECTION 39.** 346.65 (2) (bm) of the statutes is amended to read:

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

25 **SECTION 40.** 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           **SECTION 41.** 346.65 (2) (f) of the statutes is renumbered 346.65 (2) (f) 2. and  
 14          amended to read:

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

22           **SECTION 42.** 346.65 (2) (f) 1. of the statutes is created to read:

23           346.65 (2) (f) 1. If there was a minor passenger under 16 years of age in the  
 24          motor vehicle at the time of the violation that gave rise to the conviction under s.  
 25          346.63 (1), the person shall be fined not less than \$350 nor more than \$1,100 and

*MSA  
LARA*

1 imprisoned for not less than 5 days nor more than 6 months, except as provided in  
2 subd. 2.

3 **SECTION 43.** 346.65 (2c) of the statutes is amended to read:

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

*4m.1  
do not strike  
plain*

*do not strike  
4m.1  
↑ scored comma*

10 **SECTION 44.** 346.65 (2g) (a) of the statutes is amended to read:

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

*do not strike  
4m.1  
plain*

20 **SECTION 45.** 346.65 (2g) (ag) of the statutes is amended to read:

21 346.65 (2g) (ag) If the court determines that a person does not have the ability  
22 to pay a fine imposed under sub. (2) (am) 2., 3., ~~4.~~ or 5., (f), or (g), the court shall  
23 require the defendant to perform community service work for a public agency or a  
24 nonprofit charitable organization in lieu of paying the fine imposed or, if the amount  
25 of the fine was reduced under sub. (2e), in lieu of paying the remaining amount of the

*do not strike  
4m.1  
plain*

1 fine. Each hour of community service performed in compliance with an order under  
2 this paragraph shall reduce the amount of the fine owed by an amount determined  
3 by the court.

4 **SECTION 46.** 346.65 (2j) (bm) of the statutes is amended to read:

5 346.65 (2j) (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. (2) (bm) or (cm) or (3r) once in his or her lifetime.

17 **SECTION 47.** 346.65 (2j) (cm) of the statutes is amended to read:

18 346.65 (2j) (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 or more, except that suspensions, revocations, or  
24 convictions arising out of the same incident or occurrence shall be counted as one, the  
25 fine shall be the same as under par. (am) 3., but the period of imprisonment shall be

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

→ INSERT 22-4 ✓

5 SECTION 48. 346.65 (2q) of the statutes is amended to read:

6 346.65 (2q) Any person violating s. 346.63 (2m) shall forfeit \$200. If there was  
7 a minor passenger under 16 years of age in the motor vehicle at the time of the  
8 violation that gave rise to the conviction under 346.63 (2m), the ~~forfeiture is~~ person  
9 shall be fined \$400.

10 SECTION 49. 346.65 (3m) of the statutes is amended to read:

11 346.65 (3m) Except as provided in sub. (3p) or (3r), any person violating s.  
12 346.63 (2) or (6) shall be fined not less than \$300 nor more than \$2,000 and may be  
13 imprisoned for not less than 30 days nor more than one year in the county jail. If  
14 there was a minor passenger under 16 years of age in the motor vehicle at the time  
15 of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense  
16 is a felony, the applicable minimum and maximum fines or periods of imprisonment  
17 for the conviction are doubled and the place of imprisonment shall be determined  
18 under s. 973.02.

19 SECTION 50. 346.65 (3p) of the statutes is created to read:

20 346.65 (3p) Any person violating s. 346.63 (2) or (6) is guilty of a Class H felony  
21 if the person has one or more prior convictions, suspensions, or revocations, as  
22 counted under s. 343.307 (1). If there was a minor passenger under 16 years of age  
23 in the motor vehicle at the time of the violation that gave rise to the conviction under  
24 s. 346.63 (2) or (6), the offense is a felony and the applicable maximum fines or  
25 periods of imprisonment for the conviction are doubled.

1 SECTION 51. 346.65 (3r) of the statutes is amended to read:

2 346.65 (3r) In ~~Winnebago County~~ any county that opts to offer a reduced  
3 minimum period of imprisonment for the successful completion of a probation period  
4 that includes alcohol and other drug treatment, any person violating s. 346.63 (2) or  
5 (6) shall be fined the same as under sub. (3m), but the period of imprisonment shall  
6 be not less than 30 days, except that if the person successfully completes a period of  
7 probation that includes alcohol and other drug treatment, the period of  
8 imprisonment shall be not less than 15 days. If there was a minor passenger under  
9 16 years of age in the motor vehicle at the time of the violation that gave rise to the  
10 conviction under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum  
11 and maximum fines or periods of imprisonment for the conviction are doubled and  
12 the place of imprisonment shall be determined under s. 973.02. A person may be  
13 sentenced under this subsection or under sub. (2) (bm) or (cm) or (2j) (bm) or (cm) once  
14 in his or her lifetime. This subsection does not apply to a person sentenced under sub.  
15 (3p).

16 SECTION 52. 346.65 (6) of the statutes is repealed.

17 SECTION 53. 346.65 (7) of the statutes is amended to read:

18 346.65 (7) A person convicted under sub. (2) (am) 2., 3., ~~4.~~ (5., 6., or 7. or (2j)  
19 (am) 2. or 3. shall be required to remain in the county jail for not less than a  
20 48-consecutive-hour period.

21 SECTION 54. 346.65 (8) of the statutes is repealed.

22 SECTION 55. 346.655 (1) of the statutes is amended to read:

23 346.655 (1) If a court imposes a fine or a forfeiture for a violation of s. 346.63  
24 (1) or (5), ~~except for a first violation of s. 346.63 (1) (b), if the person who committed~~  
25 ~~the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at~~

Handwritten notes: "do not strike" with an arrow pointing to the circled number 4 in the text above; "score" with an arrow pointing to a circled "4m." in the text above; "plain" with an arrow pointing to the circled number 4 in the text above.

1 ~~the time of the violation~~, or a local ordinance in conformity therewith, or s. 346.63  
2 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall  
3 impose a driver improvement surcharge under ch. 814 in an amount of \$365 in  
4 addition to the fine or forfeiture, plus costs, fees, and other surcharges imposed under  
5 ch. 814.

6 **SECTION 56.** 346.657 of the statutes is created to read:

7 **346.657 District attorney surcharge.** (1) If a court imposes a fine or a  
8 forfeiture for a violation of s. 346.63 (1) or (5), or a local ordinance in conformity  
9 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the  
10 use of a vehicle, it shall impose a district attorney surcharge under ch. 814 in an  
11 amount of \$100 in addition to the fine or forfeiture, plus costs, fees, and other  
12 surcharges imposed under ch. 814.

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

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

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

23 **SECTION 57.** 347.413 (title) and (1) of the statutes are amended to read:

24 **347.413 (title) Ignition interlock device tampering; failure to install.**

25 (1) No person may remove, disconnect, tamper with, or otherwise circumvent the



1 operation of an ignition interlock device installed in response to the court order under  
2 s. 346.65 (6), 1999 stats., or s. 343.301 (1), or fail to have the ignition interlock device  
3 installed as ordered by the court. This subsection does not apply to the removal of  
4 an ignition interlock device upon the expiration of the order requiring the motor  
5 vehicle to be so equipped or to necessary repairs to a malfunctioning ignition  
6 interlock device by a person authorized by the department.

7 **SECTION 58.** 347.417 (1) of the statutes is amended to read:

8 347.417 (1) No person may remove, disconnect, tamper with, or otherwise  
9 circumvent the operation of any immobilization device installed in response to a  
10 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. This  
11 subsection does not apply to the removal of an immobilization device pursuant to a  
12 court order or to necessary repairs to a malfunctioning immobilization device.

13 **SECTION 59.** 347.417 (2) of the statutes is amended to read:

14 347.417 (2) The department shall design a warning label which shall be affixed  
15 by the owner of each immobilization device before the device is used to immobilize  
16 any motor vehicle under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. The  
17 label shall provide notice of the penalties for removing, disconnecting, tampering  
18 with, or otherwise circumventing the operation of the immobilization device.

19 **SECTION 60.** 347.50 (1s) of the statutes is amended to read:

20 347.50 (1s) Any person violating s. 347.413 (1) or 347.417 (1) may be ~~required~~  
21 ~~to forfeit~~ fined not less than \$150 nor more than \$600, or may be imprisoned for not  
22 more than 6 months, or both for the first offense. For a 2nd or subsequent conviction  
23 within 5 years, the person may be fined not less than \$300 nor more than \$1,000, or  
24 imprisoned for not more than 6 months, or both.

25 **SECTION 61.** 347.50 (1t) of the statutes is created to read:

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

4           **SECTION 62.** 757.05 (1) (a) of the statutes is amended to read:

5           757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of  
6 state law or for a violation of a municipal or county ordinance except for a violation  
7 of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), ~~or for a first violation of s.~~  
8 ~~23.33 (4e) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who~~  
9 ~~committed the violation had a blood alcohol concentration of 0.08 or more but less~~  
10 ~~than 0.1 at the time of the violation,~~ or for a violation of state laws or municipal or  
11 county ordinances involving nonmoving traffic violations, violations under s. 343.51  
12 (1m) (b), or safety belt use violations under s. 347.48 (2m), there shall be imposed in  
13 addition a penalty surcharge under ch. 814 in an amount of 26 percent of the fine or  
14 forfeiture imposed. If multiple offenses are involved, the penalty surcharge shall be  
15 based upon the total fine or forfeiture for all offenses. When a fine or forfeiture is  
16 suspended in whole or in part, the penalty surcharge shall be reduced in proportion  
17 to the suspension.

*Insert 26.17*

18           **SECTION 63.** 814.63 (1) (c) of the statutes is amended to read:

19           814.63 (1) (c) This subsection does not apply to an action for a violation of s.  
20 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), ~~for a first violation of s. 23.33~~  
21 ~~(4e) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who~~  
22 ~~committed the violation had a blood alcohol concentration of 0.08 or more but less~~  
23 ~~than 0.1 at the time of the violation,~~ or for a violation under s. 343.51 (1m) (b), or a  
24 safety belt use violation under s. 347.48 (2m).

25           **SECTION 64.** 814.63 (2) of the statutes is amended to read:

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

10           **SECTION 65.** 814.65 (1) of the statutes is amended to read:

11           814.65 (1) COURT COSTS. In a municipal court action, except for an action for  
12 a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1)  
13 (b), if the person who committed the violation had a blood alcohol concentration of  
14 0.08 or more but less than 0.1 at the time of the violation, or for a violation of an  
15 ordinance in conformity with s. 343.51 (1m) (b) or 347.48 (2m), the municipal judge  
16 shall collect a fee of not less than \$15 nor more than \$28 on each separate matter,  
17 whether it is on default of appearance, a plea of guilty or no contest, on issuance of  
18 a warrant or summons, or the action is tried as a contested matter. Of each fee  
19 received by the judge under this subsection, the municipal treasurer shall pay  
20 monthly \$5 to the secretary of administration for deposit in the general fund and  
21 shall retain the balance for the use of the municipality.

22           **SECTION 66.** 814.65 (1) of the statutes, as affected by 2009 Wisconsin Acts 28  
23 and .... (this act), is repealed and recreated to read:

24           814.65 (1) COURT COSTS. In a municipal court action, for a financial  
25 responsibility violation under s. 344.62 (2) or for a violation of an ordinance in

1 conformity with s. 343.51 (1m) (b) or 347.48 (2m), the municipal judge shall collect  
2 a fee of not less than \$15 nor more than \$28 on each separate matter, whether it is  
3 on default of appearance, a plea of guilty or no contest, on issuance of a warrant or  
4 summons, or the action is tried as a contested matter. Of each fee received by the  
5 judge under this subsection, the municipal treasurer shall pay monthly \$5 to the  
6 secretary of administration for deposit in the general fund and shall retain the  
7 balance for the use of the municipality.

8 **SECTION 67.** 814.75 (9m) of the statutes is created to read:

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

10 **SECTION 68.** 814.76 (7m) of the statutes is created to read:

11 814.76 (7m) The district attorney surcharge under s. 346.657.

12 **SECTION 69.** 814.78 (7m) of the statutes is created to read:

13 814.78 (7m) The district attorney surcharge under s. 346.657.

14 **SECTION 70.** 814.79 (4r) of the statutes is created to read:

15 814.79 (4r) The district attorney surcharge under s. 346.657.

16 **SECTION 71.** 814.85 (1) (a) of the statutes is amended to read:

17 814.85 (1) (a) Except for an action for ~~a first violation of s. 23.33 (4e) (a) 2.,~~  
18 ~~30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the~~  
19 ~~violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the~~  
20 ~~time of the violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use~~  
21 violation under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$68  
22 court support services surcharge from any person, including any governmental unit  
23 as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am) or  
24 814.63 (1).

1           **SECTION 72.** 814.85 (1) (a) of the statutes, as affected by 2009 Wisconsin Acts  
2 28 and .... (this act), is repealed and recreated to read:

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

9           **SECTION 73.** 814.86 (1) of the statutes, as affected by 2009 Wisconsin Act 28,  
10 section 3240, is amended to read:

11           814.86 (1) Except for an action for ~~a first violation of s. 23.33 (4e) (a) 2., 30.681~~  
12 ~~(1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation~~  
13 ~~had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the~~  
14 ~~violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under~~  
15 s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$21.50 justice  
16 information system surcharge from any person, including any governmental unit, as  
17 defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62  
18 (1), (2), or (3) (a) or (b), or 814.63 (1). The justice information system surcharge is in  
19 addition to the surcharge listed in sub. (1m).

20           **SECTION 74.** 814.86 (1) of the statutes, as affected by 2009 Wisconsin Act 28,  
21 section 3240<sup>✓</sup>m, and 2009 Wisconsin Act .... (this act), is repealed and recreated to  
22 read:

23           814.86 (1) Except for an action for a financial responsibility violation under s.  
24 344.62 (2), or for a violation under s. 343.51 (1m) (b) or a safety belt use violation  
25 under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$21.50 justice

1 information system surcharge from any person, including any governmental unit, as  
2 defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62  
3 (1), (2), or (3) (a) or (b), or 814.63 (1). The justice information system surcharge is in  
4 addition to the surcharge listed in sub. (1m).

5 **SECTION 75.** 940.09 (1d) of the statutes is repealed and recreated to read:

6 940.09 (1d) A person who violates sub. (1) is subject to the requirements and  
7 procedures for installation of an ignition interlock device under s. 343.301.

8 **SECTION 76.** 940.25 (1d) of the statutes is repealed and recreated to read:

9 940.25 (1d) A person who violates sub. (1) is subject to the requirements and  
10 procedures for installation of an ignition interlock device under s. 343.301.

11 **SECTION 77.** 969.01 (2) (a) of the statutes is amended to read:

12 969.01 (2) (a) Release pursuant to s. 969.02 or 969.03 may be allowed in the  
13 discretion of the trial court after conviction and prior to sentencing or the granting  
14 of probation. This paragraph does not apply to a person if his or her number of  
15 convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total  
16 number of suspensions, revocations, and other convictions counted under s. 343.307  
17 (1), equals 3 or more until after the person has served at least the minimum term of  
18 confinement for the violation.

19 **SECTION 78.** 973.09 (1) (d) (intro.) of the statutes is renumbered 973.09 (1) (d)  
20 and amended to read:

21 973.09 (1) (d) If a person is convicted of an offense that provides a mandatory  
22 or presumptive minimum period of one year or less of imprisonment, a court may  
23 place the person on probation under par. (a) if the court requires, as a condition of  
24 probation, that the person be confined under sub. (4) for at least that mandatory or  
25 presumptive minimum period. The person is eligible to earn good time credit

1 calculated under s. 302.43 regarding the period of confinement. ~~This paragraph does~~  
2 ~~not apply if the conviction is for any of the following:~~

3 **SECTION 79.** 973.09 (1) (d) 1. of the statutes is repealed.

4 **SECTION 80.** 973.09 (1) (d) 2. of the statutes is repealed.

5 **SECTION 81.** 973.09 (1) (d) 3. of the statutes is repealed.

6 **SECTION 82.** 973.09 (2) (a) 1. d. of the statutes is amended to read:

7 973.09 (2) (a) 1. d. A misdemeanor under s. 23.33 (4c) or (4p) (e), 30.681, 30.684  
8 (5), 350.101, 350.104 (5), or 350.17 ~~or a misdemeanor under s. 346.63 to which s.~~  
9 ~~973.09 (1) (d) applies.~~

10 **SECTION 83.** 973.15 (8) (a) 3. of the statutes is amended to read:

11 973.15 (8) (a) 3. For not more than 60 days, except that the court may not stay  
12 execution of a person's sentence of imprisonment or to the intensive sanctions  
13 program under this subdivision if the person's number of convictions under ss.  
14 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,  
15 revocations, and other convictions counted under s. 343.307 (1), equals 3 or more  
16 until after the person has served at least the minimum term of confinement for the  
17 violation.

18 **SECTION 84.** 978.05 (1m) of the statutes is created to read:

19 978.05 (1m) INTOXICATED AND DRUGGED DRIVING ACTIONS. The district attorney  
20 of any prosecutorial unit shall use funds from the appropriation under s. 20.475 (1)  
21 (j) to prosecute offenses relating to operating a motor vehicle while under the  
22 influence of an intoxicant, a controlled substance, a controlled substance analog or  
23 any combination of an intoxicant, a controlled substance and a controlled substance  
24 analog, under the influence of any other drug to a degree which renders him or her  
25 incapable of safely driving, or under the combined influence of an intoxicant and any

1 other drug or operating a motor vehicle with a prohibited alcohol concentration or  
2 a detectable amount of a restricted controlled substance in his or her blood.

3 **SECTION 85. Initial applicability.**

4 (1) This act first applies to violations that are committed or refusals that occur  
5 on the effective date of this subsection, but does not preclude the counting of other  
6 convictions, suspensions, or revocations as prior convictions, suspensions, or  
7 revocations for purposes of administrative action by the department of  
8 transportation, sentencing by a court, or revocation or suspension of motor vehicle  
9 operating privileges.

10 **SECTION 86. Effective dates.** This act takes effect on first day of the 3rd  
11 month beginning after publication, except as follows:

12 (1) The repeal and recreation of sections 343.10 (2) (a) (intro.) and 343.23 (2)  
13 (b) of the statutes takes effect on the first day of the 3rd month beginning after  
14 publication, or on the date on which the creation of section 343.165 of the statutes  
15 by 2007 Wisconsin Act 20 takes effect, whichever is later.

16 (2) The repeal of sections 342.12 (4) (c) 1. b., 343.301 (1) (title), 343.301 (2), and  
17 346.65 (6) of the statutes, the renumbering and amendment of sections 343.301 (1)  
18 (c) and 343.301 (1) (d) of the statutes, the amendment of sections 340.01 (46m) (c),  
19 342.12 (4) (c) 1. c., 342.13 (1), 343.10 (2) (a) (intro.), 343.10 (5) (a) 3., 343.301 (title),  
20 347.413 (title) and (1), 347.417 (1), 347.417 (2), and 347.50 (1s) of the statutes, the  
21 repeal and recreation of sections 343.301 (1), 343.305 (10m), 940.09 (1d), and 940.25  
22 (1d) of the statutes, and the creation of sections 20.395 (5) (hj), 343.10 (2) (f), 343.301  
23 (3) (b), 343.301 (5), and 347.50 (1t) of the statutes take effect on the first day of the  
24 9th month beginning after publication.





SENATE BILL 66

Insert analysis  
substitute amendment ✓

assessment program before his or her driving privileges may be reinstated. Under this bill, DOT must keep a record of this offense permanently.

46. The bill requires the Judicial Council to establish advisory sentencing guidelines for OWI offenses and make those guidelines and any revisions available to judges and attorneys at least annually. ~~-related~~

\*

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

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

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

1 SECTION 1. 165.755 (1) (b) of the statutes is amended to read:

2 165.755 (1) (b) A court may not impose the crime laboratories and drug law  
3 enforcement surcharge under par. (a) for a violation of s. 101.123 (2) (a), (am) 1., (ar),  
4 (bm), (br), or (bv) or (5) (b), for a first violation of s. 23.33 (4e) (a) 2., 30.681 (1) (b) 1.,  
5 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood  
6 alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation,  
7 or for a violation of a state law or municipal or county ordinance involving a  
8 nonmoving traffic violation, a violation under s. 343.51 (1m) (b), or a safety belt use  
9 violation under s. 347.48 (2m).

10 SECTION 2. 302.46 (1) (a) of the statutes is amended to read:

11 302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law  
12 or for a violation of a municipal or county ordinance except for a violation of s. 101.123  
13 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), or for a first violation of s. 23.33 (4e) (a)  
14 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), 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, or for a violation of state laws or municipal or county ordinances

SENATE BILL 66

Inset  
22-4

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

4 SECTION 18. 346.65 (2m) (a) of the statutes is amended to read:

5 346.65 (2m) (a) In imposing a sentence under sub. (2) for a violation of s. 346.63  
6 (1) (am) or (b) or (5) or a local ordinance in conformity therewith, the court shall  
7 review the record and consider the aggravating and mitigating factors in the matter  
8 and the sentencing guidelines adopted under s. 758.13 (2) (h). If the amount of  
9 alcohol in the person's blood or urine or the amount of a restricted controlled  
10 substance in the person's blood is known, the court shall consider that amount as a  
11 factor in sentencing. ~~The chief judge of each judicial administrative district shall~~  
12 ~~adopt guidelines, under the chief judge's authority to adopt local rules under SCR~~  
13 ~~70.34, for the consideration of aggravating and mitigating factors.~~ (ends  
22-4)

14 SECTION 19. 346.65 (3r) of the statutes is amended to read:

15 346.65 (3r) 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, any person violating s. 346.63 (2) or  
18 (6) shall be fined the same as under sub. (3m), but the period of imprisonment shall  
19 be 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 15 days. If there was a minor passenger under  
22 16 years of age in the motor vehicle at the time of the violation that gave rise to the  
23 conviction under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum  
24 and maximum fines or periods of imprisonment for the conviction are doubled and  
25 the place of imprisonment shall be determined under s. 973.02. A person may be

SENATE BILL 66

insert 26.17

1 suspended in whole or in part, the penalty surcharge shall be reduced in proportion  
2 to the suspension.

3 SECTION ~~23~~<sup>#</sup> 758.13 (2) (h)<sup>x</sup> of the statutes is created to read:

4 758.13 (2) (h) Adopt advisory sentencing guidelines for violations of s. 346.63  
5 (1) or (2), 940.09 (1), or 940.25 to promote public safety, to reflect changes in  
6 sentencing practices, and to preserve the integrity of the judicial, criminal justice,  
7 and correctional systems.

8 SECTION ~~24~~<sup>#</sup> 758.13 (2) (i)<sup>x</sup> of the statutes is created to read:

9 758.13 (2) (i) Provide information to judges and attorneys about the sentencing  
10 guidelines adopted under par. (h), which shall include annual reports that include  
11 the most current sentencing guidelines and all changes in existing sentencing  
12 guidelines adopted during the 12 months preceding the report. (end ins)

13 SECTION 25. 814.63 (1) (c) of the statutes is amended to read:

14 ~~814.63 (1) (c) This subsection does not apply to an action for a violation of s.  
15 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), for a first violation of s. 23.33  
16 (4e) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who  
17 committed the violation had a blood alcohol concentration of 0.08 or more but less  
18 than 0.1 at the time of the violation, or for a violation under s. 343.51 (1m) (b), or a  
19 safety belt use violation under s. 347.48 (2m).~~

20 SECTION 26. 814.63 (2) of the statutes is amended to read:

21 814.63 (2) Upon the disposition of a forfeiture action in circuit court for  
22 violation of a county, town, city, village, town sanitary district or public inland lake  
23 protection and rehabilitation district ordinance, except for an action for a first  
24 violation of s. 23.33 (4e) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the  
25 person who committed the violation had a blood alcohol concentration of 0.08 or more

# Changes to ~~SSO~~ S0113/2

(suggested by  
Joe Bauer)

✓ (L) to (G) (L) to (W)

✓ incorporate AA I to L-11?

yes  
- subs "person's name appears on certificate"  
- surcharge stuff

✓ add DA surcharge change  
don't do SSS of draft  
this S I

or 20.475(1)G,  
346.657  
995.05(1m)

go into July 1, 2011

so all apps except IID is on July 1, 2011.

✓ take out rec judicial review stuff

p 4 analysis  
p 26  
p 21

✓ put back mandatory mins for  
analysis p 4 7, 8, & 9  
p 17

tlc to Adrienne: don't delay this one.