

2009 DRAFTING REQUEST

Bill

Received: 09/23/2009

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Senate Chief Clerk

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Drunk Driving - alcohol level
Drunk Driving - penalties
Drunk Driving - other

Extra Copies:

Submit via email: YES

Requester's email: robert.marchant@legis.wisconsin.gov

Carbon copy (CC:) to: Ron.Sklansky@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

OWI omnibus

Instructions:

printing AB 283 engrossed

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 09/23/2009	wjackson 09/24/2009		_____			
/1			rschluet 09/28/2009	_____	mbarman 09/28/2009	mbarman 09/28/2009	

FE Sent For:

<END>

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Added
(see attached)

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/?	phurley						
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1 WLj 9/24

PH →
9/28

<END>

FE Sent For:

History of Assembly Bill 283

ASSEMBLY BILL 283

LC Amendment Memo

An Act to repeal 342.12 (4) (c) 1. b., 343.301 (1) (title), 343.301 (2), 346.65 (6), 346.65 (8), 973.09 (1) (d) 1., 973.09 (1) (d) 2. and 973.09 (1) (d) 3.; to renumber and amend 343.301 (1) (c), 343.301 (1) (d) and 973.09 (1) (d) (intro.); to consolidate, renumber and amend 343.301 (1) (b) 1. and 2.; to amend 165.755 (1) (b), 302.46 (1) (a), 340.01 (46m) (c), 342.12 (4) (c) 1. c., 342.13 (1), 343.10 (2) (a) (intro.), 343.10 (5) (a) 3., 343.23 (2) (b), 343.30 (1q) (b) 5., 343.30 (1q) (c) 1. (intro.), 343.301 (title), 343.305 (10) (b) 5., 343.31 (3) (bm) 5., 346.65 (2) (am) 4., 346.65 (2) (am) 5., 346.65 (2) (am) 6., 346.65 (2) (am) 7., 346.65 (2) (bm), 346.65 (2) (cm), 346.65 (2) (f), 346.65 (2c), 346.65 (2g) (a), 346.65 (2g) (ag), 346.65 (2j) (bm), 346.65 (2j) (cm), 346.65 (3m), 346.65 (3r), 346.65 (7), 346.655 (1), 347.413 (title) and (1), 347.417 (1), 347.417 (2), 347.50 (1s), 757.05 (1) (a), 814.63 (1) (c), 814.63 (2), 814.65 (1), 814.85 (1) (a), 814.86 (1) and 973.09 (2) (a) 1. d.; to repeal and recreate 343.10 (2) (a) (intro.), 343.301 (1), 343.305 (10m), 940.09 (1d) and 940.25 (1d); and to create 20.395 (5) (hj), 25.40 (1) (a) 17., 340.01 (46m) (d), 343.10 (2) (f), 343.301 (1m), 343.301 (3) (b), 343.301 (5), 346.65 (2) (am) 4m., 346.65 (3p) and 347.50 (1t) of the statutes; relating to: operating a vehicle while intoxicated, granting rule-making authority, making an appropriation, and providing a penalty. (FE)

2009

- 05-27. A. Introduced by Representatives Staskunas, Zepnick, Smith, Zigmunt, Hintz, Sheridan, Black, Turner, Clark, Mason, Nelson, Hixson, Hebl and Berceau; cosponsored by Senator Carpenter.
- 05-27. A. Read first time and referred to committee on Public Safety 205
- 05-27. A. Representative Bies added as a coauthor 206
- 06-02. A. Public hearing held.
- 06-08. A. Fiscal estimate received.
- 06-10. A. Fiscal estimate received.
- 06-10. A. Fiscal estimate received.
- 06-10. A. Fiscal estimate received.
- 06-17. A. Executive action taken.
- 06-17. A. Assembly amendment 1 offered by committee on Public Safety 273
- 06-18. A. Fiscal estimate received.
- 06-23. A. Fiscal estimate received.
- 06-30. A. Report Assembly Amendment 1 adoption recommended by committee on Public Safety, Ayes 7, Noes 0 329
- 06-30. A. Report passage as amended recommended by committee on Public Safety, Ayes 7, Noes 0 329
- 06-30. A. Referred to committee on Rules 329
- 09-04. A. Representative Jorgensen added as a coauthor 362
- 09-11. A. Representative Steinbrink added as a coauthor 369
- 09-15. A. Placed on calendar 9-17-2009 by committee on Rules.
- 09-17. A. Assembly substitute amendment 1 offered by Representatives Staskunas, J. Ott, Jorgensen, Vukmir, Nelson, Hixson, Bies, Pope-Roberts, Berceau, A. Ott, Lothian and Molepske Jr. 385
- 09-17. A. Representatives Van Akkeren, Soletski, Sinicki, Pope-Roberts and Spanbauer added as coauthors 389
- 09-17. A. Representatives Pasch and Gottlieb added as coauthors 389
- 09-17. A. Read a second time 389
- 09-17. A. Assembly amendment 1 to Assembly substitute amendment 1 offered by Representative Gundrum 389

09-17. A. Assembly amendment 1 to Assembly substitute amendment 1 placed after Assembly amendment 6 to Assembly substitute amendment 1 389

09-17. A. Assembly amendment 2 to Assembly substitute amendment 1 offered by Representative Staskunas 389

09-17. A. Assembly amendment 2 to Assembly substitute amendment 1 **adopted** 389

09-17. A. Assembly amendment 3 to Assembly substitute amendment 1 offered by Representative Kessler 389

09-17. A. Assembly amendment 3 to Assembly substitute amendment 1 laid on table, Ayes 80, Noes 15 389

09-17. A. Assembly amendment 4 to Assembly substitute amendment 1 offered by Representative Kessler 389

09-17. A. Assembly amendment 4 to Assembly substitute amendment 1 withdrawn and returned to author 389

09-17. A. Assembly amendment 5 to Assembly substitute amendment 1 offered by Representatives Hubler, Hebl, Vruwink, Roys, Pasch, Bernard Schaber, Clark, Kessler, Sherman, Pope-Roberts, Hilgenberg, Young, Zigmunt, Soletski, Danou, Pocan, Dexter, Toles, Seidel, Hraychuck, Bies and Nelson 389

09-17. A. Assembly amendment 5 to Assembly substitute amendment 1 **adopted** 389

09-17. A. Assembly amendment 6 to Assembly substitute amendment 1 offered by Representatives Hubler, Hebl, Vruwink, Toles, Hilgenberg, Schneider, Hraychuck, Garthwaite, Soletski and Dexter 389

09-17. A. Assembly amendment 6 to Assembly substitute amendment 1 laid on table, Ayes 57, Noes 39 389

09-17. A. Assembly amendment 7 to Assembly substitute amendment 1 offered by Representative Kessler 389

09-17. A. Assembly amendment 7 to Assembly substitute amendment 1 withdrawn and returned to author 390

09-17. A. Assembly amendment 1 to Assembly substitute amendment 1 withdrawn and returned to author 390

09-17. A. Assembly substitute amendment 1 **adopted** 390

09-17. A. Ordered to a third reading 390

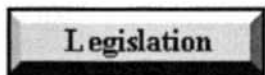
09-17. A. Rules suspended 390

09-17. A. Read a third time and passed, Ayes 95, Noes 0, Paired 2 390

09-17. A. Ordered immediately messaged 390

09-18. S. Received from Assembly 313

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2009

ENGROSS BILL
[or 2nd House Sub]

LPS: Please freeze bill before making any changes.

original AB 283
LRB-2859 / 1

PJH : WLj : 3522

(To Be Printed for Legislature)

ENGROSSED 2009 Assembly BILL 283

(Date) 9-23, 2009 - Printed by direction of Senate CHIEF CLERK

JOINT RULE 63. **Reproduction of engrossed measures.** Upon the finding by the chief clerk of either house that a bill, joint resolution, resolution or major amendment thereto has been amended in the house of origin to a considerable degree, the chief clerk may instruct the legislative reference bureau to prepare and have reproduced an engrossed copy of the measure. In preparing engrossed copy for a bill, joint resolution or resolution the legislative reference bureau shall, if time permits, provide it with a revised analysis. Upon receipt from the legislative reference bureau of the engrossed copy, the chief clerk shall enter that fact in the history file for the measure. Any subsequent amendments to a measure ordered reproduced with all adopted amendments engrossed therein shall be drafted to the reproduced engrossed text.

ADOPTED DOCUMENTS:

Orig A SubAmdt 1

Amendments to above (if none, write "NONE"): AA2, AA5 50113/4

Corrections - show date (if none, write "NONE"):

Date	Drafter	Editor
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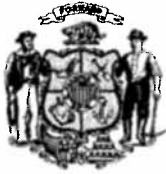
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State of Wisconsin
2009 - 2010 LEGISLATURE

3522/1
LRB:sm/ma
PJH:jld&wlj:md
↑↑
stays

ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 283

9-23-09
soon

September 17, 2009 - Offered by Representatives STASKUNAS, J. OTT, JORGENSEN, VUKMIR, NELSON, HIXSON, BIES, POPE-ROBERTS, BERCEAU, A. OTT, LOTHIAN and MOLEPSKE JR..

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), 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) and
13 973.15 (8) (a) 3.; *to repeal and recreate* 343.10 (2) (a) (intro.), 343.23 (2) (b),

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

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

Insert
Analysis 1

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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~~ ^{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.

^{bill} 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. 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.

^{bill} 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. ^{bill}

3. 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 OWI-related offense within five years to pay a minimum fine of \$600 and to serve a minimum term of six months' imprisonment. The substitute amendment requires a person who commits a seventh, eighth, or ninth OWI-related offense to serve a minimum period of confinement or three years in prison under a bifurcated sentence and requires a person who commits a tenth or subsequent OWI-related offense to serve a minimum period of confinement of four years in prison under a bifurcated sentence.

4. 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.

5. 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 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.

6. 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.

Bill

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.

7. 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.

Bill

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.

Bill

8. 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.

9. 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

Bill

cause to delay the execution of the sentence or unless the court places the person on probation.

10. Under current law, revenue from the tax on fermented malt beverages and from the tax on liquor is deposited into the general fund. Under the substitute amendment beginning July 1, 2011, \$10,000,000 annually from the fermented malt beverages tax and \$10,000,000 annually from the liquor tax will be used to fund alcohol and other drug abuse treatment in community-based corrections programs for people who commit OWI-related offenses.

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 received under s. 343.301 (5) for expenditures related to administering the
4 ignition interlock device program under ss. 110.10 and 343.301.

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

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

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

16 20.475 (1) (j) *Prosecutions related to operating while intoxicated.* All moneys
17 received from the penalty surcharge on court fines and forfeitures under s. 346.657
18 to be used for prosecutions under s. 978.05 (1m).

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

2 25.40 (1) (a) 17. Moneys collected under s. 343.301 (5) that are credited to the
3 appropriation under s. 20.395 (5) (hj).

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

5 **139.27 Revenue distribution.** The first \$10,000,000 collected in each fiscal
6 year from the taxes imposed under s. 139.02 and the first \$10,000,000 collected in
7 each fiscal year from the taxes imposed under s. 139.03 shall be credited to the
8 appropriation account under s. 20.410 (1) (hh).

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

10 165.755 (1) (b) A court may not impose the crime laboratories and drug law
11 enforcement surcharge under par. (a) for a violation of s. 101.123 (2) (a), (am) 1., (ar),
12 (bm), (br), or (bv) or (5) (b), ~~for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1.,~~
13 ~~346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood~~
14 ~~alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation,~~
15 or for a violation of a state law or municipal or county ordinance involving a
16 nonmoving traffic violation, a violation under s. 343.51 (1m) (b), or a safety belt use
17 violation under s. 347.48 (2m).

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

19 302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law
20 or for a violation of a municipal or county ordinance except for a violation of s. 101.123
21 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), ~~or for a first violation of s. 23.33 (4c) (a)~~
22 ~~2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the~~
23 ~~violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the~~
24 ~~time of the violation,~~ or for a violation of state laws or municipal or county ordinances
25 involving nonmoving traffic violations, violations under s. 343.51 (1m) (b), or safety

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

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

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

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

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

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

16 **SECTION 11.** 342.13 (1) of the statutes is amended to read:

17 342.13 **(1)** If a certificate of title is lost, stolen, mutilated, or destroyed, or
18 becomes illegible, the owner or legal representative of the owner named in the
19 certificate, as shown by the records of the department, shall promptly make
20 application for and may obtain a replacement upon furnishing information
21 satisfactory to the department. The replacement certificate of title shall contain a
22 notation, in a form determined by the department, identifying the certificate as a
23 replacement certificate that may be subject to the rights of a person under the
24 original certificate. ~~If applicable under s. 346.65 (6), the replacement certificate of~~

1 title shall include the notation “Per section 346.65 (6) of the Wisconsin statutes,
2 ownership of this motor vehicle may not be transferred without prior court approval”.

3 **SECTION 12.** 343.10 (2) (a) (intro.) of the statutes is amended to read:

4 343.10 (2) (a) (intro.) Except as provided in pars. (b) to (e) (f), a person is eligible
5 for an occupational license if the following conditions are satisfied:

6 **SECTION 13.** 343.10 (2) (a) (intro.) of the statutes, as affected by 2007 Wisconsin
7 Act 20 and 2009 Wisconsin Act (this act), is repealed and recreated to read:

8 343.10 (2) (a) (intro.) Except as provided in pars. (b) to (f), and subject to s.
9 343.165 (5), a person is eligible for an occupational license if the following conditions
10 are satisfied:

11 **SECTION 14.** 343.10 (2) (f) of the statutes is created to read:

12 343.10 (2) (f) If the court orders under s. 343.301 (1) that the person's operating
13 privilege for the operation of “Class D” vehicles be restricted to operating vehicles
14 that are equipped with an ignition interlock device, no occupational license may be
15 granted until the person pays the surcharge under s. 343.301 (5) and submits proof
16 that an ignition interlock device has been installed in each motor vehicle for which
17 the person's name appears on the vehicle's certificate of title or registration.

18 **SECTION 15.** 343.10 (5) (a) 3. of the statutes is amended to read:

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

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

13 **SECTION 16.** 343.23 (2) (b) of the statutes, as affected by 2009 Wisconsin Act 28,
14 section 2923, is amended to read:

15 343.23 (2) (b) The information specified in pars. (a) and (am) must be filed by
16 the department so that the complete operator's record is available for the use of the
17 secretary in determining whether operating privileges of such person shall be
18 suspended, revoked, canceled, or withheld, or the person disqualified, in the interest
19 of public safety. The record of suspensions, revocations, and convictions that would
20 be counted under s. 343.307 (2) shall be maintained permanently; ~~except that the~~
21 ~~department shall purge the record of a first violation of s. 23.33 (4c) (a) 2., 30.681 (1)~~
22 ~~(b) 1., 346.63 (1) (b), or 350.101 (1) (b) after 10 years, if the person who committed the~~
23 ~~violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the~~
24 ~~time of the violation, if the person does not have a commercial driver license, if the~~
25 ~~violation was not committed by a person operating a commercial motor vehicle, and~~

1 ~~if the person has no other suspension, revocation, or conviction that would be counted~~
2 ~~under s. 343.307 during that 10-year period.~~ The record of convictions for
3 disqualifying offenses under s. 343.315 (2) (h) shall be maintained for at least 10
4 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (f), (j),
5 and (L) and all records specified in par. (am), shall be maintained for at least 3 years.
6 The record of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall
7 be maintained permanently, except that 5 years after a licensee transfers residency
8 to another state such record may be transferred to another state of licensure of the
9 licensee if that state accepts responsibility for maintaining a permanent record of
10 convictions for disqualifying offenses. Such reports and records may be cumulative
11 beyond the period for which a license is granted, but the secretary, in exercising the
12 power of suspension granted under s. 343.32 (2) may consider only those reports and
13 records entered during the 4-year period immediately preceding the exercise of such
14 power of suspension.

15 **SECTION 17.** 343.23 (2) (b) of the statutes, as affected by 2009 Wisconsin Act 28,
16 section 2924, and 2009 Wisconsin Act ... (this act), is repealed and recreated to read:

17 343.23 (2) (b) The information specified in pars. (a) and (am) must be filed by
18 the department so that the complete operator's record is available for the use of the
19 secretary in determining whether operating privileges of such person shall be
20 suspended, revoked, canceled, or withheld, or the person disqualified, in the interest
21 of public safety. The record of suspensions, revocations, and convictions that would
22 be counted under s. 343.307 (2) shall be maintained permanently. The record of
23 convictions for disqualifying offenses under s. 343.315 (2) (h) shall be maintained for
24 at least 10 years. The record of convictions for disqualifying offenses under s.
25 343.315 (2) (f), (j), and (L), and all records specified in par. (am), shall be maintained

1 substance analogs and development of a driver safety plan for the person. The court
2 shall notify the department of transportation of the assessment order. The court
3 shall notify the person that noncompliance with assessment or the driver safety plan
4 will result in revocation of the person's operating privilege until the person is in
5 compliance. The assessment order shall:

6 **SECTION 20.** 343.30 (1z) of the statutes is amended to read:

7 343.30 (1z) If a court imposes a driver improvement surcharge under s. 346.655
8 and a district attorney surcharge under s. 346.657 and the person fails to pay the
9 surecharge ~~surecharges~~ within 60 days after the date by which the court ordered the
10 surecharge ~~surecharges~~ to be paid, the court may suspend the person's operating
11 privilege until the person pays ~~the surecharge~~ both ~~surecharges~~, except that the
12 suspension period may not exceed 2 years.

13 **SECTION 21.** 343.301 (title) of the statutes is amended to read:

14 **343.301 (title) Installation of ignition interlock device ~~or~~**
15 **~~immobilization of a motor vehicle.~~**

16 **SECTION 22.** 343.301 (1) (title) of the statutes is repealed.

17 **SECTION 23.** 343.301 (1) ^(a) of the statutes is repealed and recreated to read:

18 343.301 (1) A court shall order a person's operating privilege for the operation
19 of "Class D" vehicles be restricted to operating vehicles that are equipped with an
20 ignition interlock device and, except as provided in sub. (1m), shall order that each
21 motor vehicle for which the person's name appears on the vehicle's certificate of title
22 or registration be equipped with an ignition interlock device if either of the following
23 applies:

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

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

12 **SECTION 18.** 343.30 (1q) (b) 5. of the statutes is amended to read:

13 343.30 **(1q)** (b) 5. The time period under this paragraph shall be measured from
14 the dates of the refusals or violations which resulted in the suspensions, revocations
15 or convictions, except that the time period shall be tolled whenever and for as long
16 as the person is imprisoned. A person whose revocation period is tolled under this
17 subdivision is responsible for notifying the department that he or she has been
18 released from prison.

19 **SECTION 19.** 343.30 (1q) (c) 1. (intro.) of the statutes is amended to read:

20 343.30 **(1q)** (c) 1. (intro.) Except as provided in subd. 1. a. or b., ~~and except for~~
21 ~~a first violation of s. 346.63 (1) (b), if the person who committed the violation had a~~
22 ~~blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the~~
23 ~~violation,~~ the court shall order the person to submit to and comply with an
24 assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for
25 examination of the person's use of alcohol, controlled substances or controlled

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

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

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

9 **SECTION 24.** 343.301 (1) (b) 1. and 2. of the statutes are consolidated,
10 renumbered 343.301 (2m) and amended to read:

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

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

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

1 **SECTION 26.** 343.301 (1) (d) of the statutes is renumbered 343.301 (4) and
2 amended to read:

3 343.301 **(4)** A person to whom an order under ~~par. (a) sub. (1)~~ applies violates
4 that order if he or she fails to have an ignition interlock device installed as ordered,
5 removes or disconnects an ignition interlock device, requests or permits another to
6 blow into an ignition interlock device or to start a motor vehicle equipped with an
7 ignition interlock device for the purpose of providing the person an operable motor
8 vehicle without the necessity of first submitting a sample of his or her breath to
9 analysis by the ignition interlock device, or otherwise tampers with or circumvents
10 the operation of the ignition interlock device.

11 **SECTION 27.** 343.301 (1m) of the statutes is created to read:

12 343.301 **(1m)** If equipping each motor vehicle with an ignition interlock device
13 under sub. (1) would cause an undue financial hardship, the court may order that one
14 or more vehicles described sub. (1) not be equipped with an ignition interlock device.

15 **SECTION 28.** 343.301 (2) of the statutes is repealed.

16 **SECTION 29.** 343.301 (3) (b) of the statutes is created to read:

17 343.301 **(3)** (b) If the court finds that the person who is subject to an order under
18 sub. (1) has a household income that is at or below 150 percent of the nonfarm federal
19 poverty line for the continental United States, as defined by the federal department
20 of labor under 42 USC 9902 (2), the court shall limit the person's liability under par.
21 (a) to one-half of the cost of equipping each motor vehicle with an ignition interlock
22 device and one-half of the cost per day per vehicle of maintaining the ignition
23 interlock device.

24 **SECTION 30.** 343.301 (5) of the statutes is created to read:

1 343.301 (5) If the court enters an order under sub. (1), the court shall impose
2 and the person shall pay to the court an interlock surcharge of \$50. The court shall
3 transmit the surcharge to the department. The department shall pay \$40 of each
4 surcharge payment it receives to the sheriff of the county where the fee was collected.

5 **SECTION 31.** 343.305 (10) (b) 5. of the statutes is amended to read:

6 343.305 (10) (b) 5. The time period under this paragraph shall be measured
7 from the dates of the refusals or violations which resulted in revocations or
8 convictions, except that the time period shall be tolled whenever and for as long as
9 the person is imprisoned. A person whose revocation period is tolled under this
10 subdivision is responsible for notifying the department that he or she has been
11 released from prison.

12 **SECTION 32.** 343.305 (10m) of the statutes is repealed and recreated to read:

13 343.305 (10m) REFUSALS; IGNITION INTERLOCK OF A MOTOR VEHICLE. The
14 requirements and procedures for installation of an ignition interlock device under s.
15 343.301 apply when an operating privilege is revoked under sub (10).

16 **SECTION 33.** 343.31 (3) (bm) 5. of the statutes is amended to read:

17 343.31 (3) (bm) 5. The time period under this paragraph shall be measured
18 from the dates of the refusals or violations which resulted in the suspensions,
19 revocations or convictions, except that the time period shall be tolled whenever and
20 for as long as the person is imprisoned. A person whose revocation period is tolled
21 under this subdivision is responsible for notifying the department that he or she has
22 been released from prison.

23 **SECTION 34.** 346.65 (2) (am) 4. of the statutes is amended to read:

24 346.65 (2) (am) 4. Except as provided in subd. 4m. and pars. (f) and (g), shall
25 be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than

1 60 days nor more than one year in the county jail if the number of convictions under
2 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
3 suspensions, revocations and other convictions counted under s. 343.307 (1), equals
4 4, except that suspensions, revocations or convictions arising out of the same
5 incident or occurrence shall be counted as one.

6 **SECTION 35.** 346.65 (2) (am) 4m. of the statutes is created to read:

7 346.65 (2) (am) 4m. Except as provided in pars. (f) and (g), is guilty of a Class
8 H felony and shall be fined not less than \$600 and imprisoned for not less than 6
9 months if the number of convictions under ss. 940.09 (1) and 940.25 in the person's
10 lifetime, plus the total number of suspensions, revocations, and other convictions
11 counted under s. 343.307 (1), equals 4 and the person committed an offense that
12 resulted in a suspension, revocation, or other conviction counted under s. 343.307 (1)
13 within 5 years prior to the current conviction, except that suspensions, revocations,
14 or convictions arising out of the same incident or occurrence shall be counted as one.

15 **SECTION 36.** 346.65 (2) (am) 6. of the statutes is amended to read:

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

21 The confinement portion of a bifurcated sentence imposed on the person under s.
22 973.01 shall be not less than 3 years.

23 **SECTION 37.** 346.65 (2) (am) 7. of the statutes is amended to read:

24 346.65 (2) (am) 7. Except as provided in par. (f), is guilty of a Class F felony if
25 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,

1 plus the total number of suspensions, revocations, and other convictions counted
2 under s. 343.307 (1), equals 10 or more except that suspensions, revocations, or
3 convictions arising out of the same incident or occurrence shall be counted as one.
4 The confinement portion of a bifurcated sentence imposed on the person under s.
5 973.01 shall be not less than 4 years.

6 **SECTION 38.** 346.65 (2) (bm) of the statutes is amended to read:

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

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

20 346.65 (2) (cm) In ~~Winnebago County~~ any county that opts to offer a reduced
21 minimum period of imprisonment for the successful completion of a probation period
22 that includes alcohol and other drug treatment, if the number of convictions under
23 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
24 suspensions, revocations, and other convictions counted under s. 343.307 (1) within
25 a 10-year period, equals 3, except that suspensions, revocations, or convictions

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

7 **SECTION 40.** 346.65 (2) (f) of the statutes is renumbered 346.65 (2) (f) 2. and
8 amended to read:

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

16 **SECTION 41.** 346.65 (2) (f) 1. of the statutes is created to read:

17 346.65 (2) (f) 1. If there was a minor passenger under 16 years of age in the
18 motor vehicle at the time of the violation that gave rise to the conviction under s.
19 346.63 (1), the person shall be fined not less than \$350 nor more than \$1,100 and
20 imprisoned for not less than 5 days nor more than 6 months, except as provided in
21 subd. 2.

22 **SECTION 42.** 346.65 (2c) of the statutes is amended to read:

23 346.65 (2c) In sub. (2) (am) 2., 3., 4., 4m. 5., 6., and 7., the time period shall
24 be measured from the dates of the refusals or violations that resulted in the
25 revocation or convictions. If a person has a suspension, revocation, or conviction for

1 any offense under a local ordinance or a state statute of another state that would be
2 counted under s. 343.307 (1), that suspension, revocation, or conviction shall count
3 as a prior suspension, revocation, or conviction under sub. (2) (am) 2., 3., 4., 4m. 5.,
4 6., and 7.

5 **SECTION 43.** 346.65 (2g) (a) of the statutes is amended to read:

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

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

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

24 **SECTION 45.** 346.65 (2j) (bm) of the statutes is amended to read:

1 346.65 (2j) (bm) 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 2, 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) 2., but the period of imprisonment shall be not less
9 than 5 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 5 nor more than 7 days. A person may be sentenced under this
12 paragraph or under par. (cm) or sub. (2) (bm) or (cm) or (3r) once in his or her lifetime.

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

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

1 **SECTION 47.** 346.65 (2q) of the statutes is amended to read:

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

6 **SECTION 48.** 346.65 (3m) of the statutes is amended to read:

7 346.65 **(3m)** Except as provided in sub. (3p) or (3r), any person violating s.
8 346.63 (2) or (6) shall be fined not less than \$300 nor more than \$2,000 and may be
9 imprisoned for not less than 30 days nor more than one year in the county jail. If
10 there was a minor passenger under 16 years of age in the motor vehicle at the time
11 of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense
12 is a felony, the applicable minimum and maximum fines or periods of imprisonment
13 for the conviction are doubled and the place of imprisonment shall be determined
14 under s. 973.02.

15 **SECTION 49.** 346.65 (3p) of the statutes is created to read:

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

22 **SECTION 50.** 346.65 (3r) of the statutes is amended to read:

23 346.65 **(3r)** In ~~Winnebago County~~ any county that opts to offer a reduced
24 minimum period of imprisonment for the successful completion of a probation period
25 that includes alcohol and other drug treatment, any person violating s. 346.63 (2) or

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

12 **SECTION 51.** 346.65 (6) of the statutes is repealed.

13 **SECTION 52.** 346.65 (7) of the statutes is amended to read:

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

17 **SECTION 53.** 346.65 (8) of the statutes is repealed.

18 **SECTION 54.** 346.655 (1) of the statutes is amended to read:

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

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

3 **SECTION 55.** 346.657 of the statutes is created to read:

4 **346.657 District attorney surcharge. (1)** If a court imposes a fine or a
5 forfeiture for a violation of s. 346.63 (1) or (5), or a local ordinance in conformity
6 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the
7 use of a vehicle, it shall impose a district attorney surcharge under ch. 814 in an
8 amount of \$100 in addition to the fine or forfeiture, plus costs, fees, and other
9 surcharges imposed under ch. 814.

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

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

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

20 **SECTION 56.** 347.413 (title) and (1) of the statutes are amended to read:

21 **347.413 (title) Ignition interlock device tampering; failure to install.**

22 **(1)** No person may remove, disconnect, tamper with, or otherwise circumvent the
23 operation of an ignition interlock device installed in response to the court order under
24 s. 346.65 (6), 1999 stats., or s. 343.301 (1), or fail to have the ignition interlock device
25 installed as ordered by the court. This subsection does not apply to the removal of

1 an ignition interlock device upon the expiration of the order requiring the motor
2 vehicle to be so equipped or to necessary repairs to a malfunctioning ignition
3 interlock device by a person authorized by the department.

4 **SECTION 57.** 347.417 (1) of the statutes is amended to read:

5 347.417 (1) No person may remove, disconnect, tamper with, or otherwise
6 circumvent the operation of any immobilization device installed in response to a
7 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. This
8 subsection does not apply to the removal of an immobilization device pursuant to a
9 court order or to necessary repairs to a malfunctioning immobilization device.

10 **SECTION 58.** 347.417 (2) of the statutes is amended to read:

11 347.417 (2) The department shall design a warning label which shall be affixed
12 by the owner of each immobilization device before the device is used to immobilize
13 any motor vehicle under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. The
14 label shall provide notice of the penalties for removing, disconnecting, tampering
15 with, or otherwise circumventing the operation of the immobilization device.

16 **SECTION 59.** 347.50 (1s) of the statutes is amended to read:

17 347.50 (1s) Any person violating s. 347.413 (1) or 347.417 (1) may be ~~required~~
18 ~~to forfeit~~ fined not less than \$150 nor more than \$600, or may be imprisoned for not
19 more than 6 months, or both for the first offense. For a 2nd or subsequent conviction
20 within 5 years, the person may be fined not less than \$300 nor more than \$1,000, or
21 imprisoned for not more than 6 months, or both.

22 **SECTION 60.** 347.50 (1t) of the statutes is created to read:

23 347.50 (1t) In addition to the penalty under sub. (1s), if a person who is subject
24 to an order under s. 343.301 violates s. 347.413, the court shall extend the order
25 under s. 343.301 (1) or (2m) for 6 months for each violation.

1 **SECTION 61.** 757.05 (1) (a) of the statutes is amended to read:

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

15 **SECTION 62.** 814.63 (1) (c) of the statutes is amended to read:

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

22 **SECTION 63.** 814.63 (2) of the statutes is amended to read:

23 814.63 (2) Upon the disposition of a forfeiture action in circuit court for
24 violation of a county, town, city, village, town sanitary district or public inland lake
25 protection and rehabilitation district ordinance, except for an action ~~for a first~~

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

7 **SECTION 64.** 814.65 (1) of the statutes is amended to read:

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

19 **SECTION 65.** 814.65 (1) of the statutes, as affected by 2009 Wisconsin Acts 28
20 and (this act), is repealed and recreated to read:

21 814.65 (1) COURT COSTS. In a municipal court action, for a financial
22 responsibility violation under s. 344.62 (2) or for a violation of an ordinance in
23 conformity with s. 343.51 (1m) (b) or 347.48 (2m), the municipal judge shall collect
24 a fee of not less than \$15 nor more than \$28 on each separate matter, whether it is
25 on default of appearance, a plea of guilty or no contest, on issuance of a warrant or

1 summons, or the action is tried as a contested matter. Of each fee received by the
2 judge under this subsection, the municipal treasurer shall pay monthly \$5 to the
3 secretary of administration for deposit in the general fund and shall retain the
4 balance for the use of the municipality.

5 **SECTION 66.** 814.75 (9m) of the statutes is created to read:

6 814.75 (9m) The district attorney surcharge under s. 346.657.

7 **SECTION 67.** 814.76 (7m) of the statutes is created to read:

8 814.76 (7m) The district attorney surcharge under s. 346.657.

9 **SECTION 68.** 814.78 (7m) of the statutes is created to read:

10 814.78 (7m) The district attorney surcharge under s. 346.657.

11 **SECTION 69.** 814.79 (4r) of the statutes is created to read:

12 814.79 (4r) The district attorney surcharge under s. 346.657.

13 **SECTION 70.** 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 (4c) (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).

22 **SECTION 71.** 814.85 (1) (a) of the statutes, as affected by 2009 Wisconsin Acts
23 28 and (this act), is repealed and recreated to read:

24 814.85 (1) (a) Except for an action for a financial responsibility violation under
25 s. 344.62 (2), or for a violation under s. 343.51 (1m) (b) or a safety belt use violation

1 under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$68 court
2 support services surcharge from any person, including any governmental unit as
3 defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am) or 814.63
4 (1).

5 **SECTION 72.** 814.86 (1) of the statutes, as affected by 2009 Wisconsin Act 28,
6 section 3240, is amended to read:

7 814.86 (1) Except for an action for ~~a first violation of s. 23.33 (4c) (a) 2., 30.681~~
8 ~~(1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation~~
9 ~~had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the~~
10 ~~violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under~~
11 ~~s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$21.50 justice~~
12 ~~information system surcharge from any person, including any governmental unit, as~~
13 ~~defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62~~
14 ~~(1), (2), or (3) (a) or (b), or 814.63 (1). The justice information system surcharge is in~~
15 ~~addition to the surcharge listed in sub. (1m).~~

16 **SECTION 73.** 814.86 (1) of the statutes, as affected by 2009 Wisconsin Act 28,
17 section 3240m, and 2009 Wisconsin Act (this act), is repealed and recreated to
18 read:

19 814.86 (1) Except for an action for a financial responsibility violation under s.
20 344.62 (2), or for a violation under s. 343.51 (1m) (b) or a safety belt use violation
21 under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$21.50 justice
22 information system surcharge from any person, including any governmental unit, as
23 defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62
24 (1), (2), or (3) (a) or (b), or 814.63 (1). The justice information system surcharge is in
25 addition to the surcharge listed in sub. (1m).

1 **SECTION 74.** 940.09 (1d) of the statutes is repealed and recreated to read:

2 940.09 **(1d)** A person who violates sub. (1) is subject to the requirements and
3 procedures for installation of an ignition interlock device under s. 343.301.

4 **SECTION 75.** 940.25 (1d) of the statutes is repealed and recreated to read:

5 940.25 **(1d)** A person who violates sub. (1) is subject to the requirements and
6 procedures for installation of an ignition interlock device under s. 343.301.

7 **SECTION 76.** 969.01 (2) (a) of the statutes is amended to read:

8 969.01 **(2)** (a) Release pursuant to s. 969.02 or 969.03 may be allowed in the
9 discretion of the trial court after conviction and prior to sentencing or the granting
10 of probation. This paragraph does not apply to a person if his or her number of
11 convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total
12 number of suspensions, revocations, and other convictions counted under s. 343.307
13 (1), equals 3 or more until after the person has served at least the minimum term of
14 confinement for the violation.

15 **SECTION 77.** 973.09 (1) (d) (intro.) of the statutes is renumbered 973.09 (1) (d)
16 and amended to read:

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

24 **SECTION 78.** 973.09 (1) (d) 1. of the statutes is repealed.

25 **SECTION 79.** 973.09 (1) (d) 2. of the statutes is repealed.

1 **SECTION 80.** 973.09 (1) (d) 3. of the statutes is repealed.

2 **SECTION 81.** 973.15 (8) (a) 3. of the statutes is amended to read:

3 973.15 **(8)** (a) 3. For not more than 60 days, except that the court may not stay
4 execution of a person's sentence of imprisonment or to the intensive sanctions
5 program under this subdivision if the person's number of convictions under ss.
6 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
7 revocations, and other convictions counted under s. 343.307 (1), equals 3 or more
8 until after the person has served at least the minimum term of confinement for the
9 violation.

10 **SECTION 82.** 978.05 (1m) of the statutes is created to read:

11 978.05 **(1m)** INTOXICATED AND DRUGGED DRIVING ACTIONS. The district attorney
12 of any prosecutorial unit shall use funds from the appropriation under s. 20.475 (1)
13 (j) to prosecute offenses relating to operating a motor vehicle while under the
14 influence of an intoxicant, a controlled substance, a controlled substance analog or
15 any combination of an intoxicant, a controlled substance and a controlled substance
16 analog, under the influence of any other drug to a degree which renders him or her
17 incapable of safely driving, or under the combined influence of an intoxicant and any
18 other drug or operating a motor vehicle with a prohibited alcohol concentration or
19 a detectable amount of a restricted controlled substance in his or her blood.

20 **SECTION 83. Nonstatutory provisions.**

21 (1) The department of corrections may not use moneys from the appropriation
22 under section 20.410 (1) (hh) of the statutes, as created by this act, to supplant
23 moneys allocated to provide services related to probation, extended supervision and
24 parole, the intensive sanctions program under section 301.048 of the statutes, the
25 community residential confinement program under section 301.046 of the statutes,

1 and programs of intensive supervision of adult offenders and minimum security
2 correctional institutions established under section 301.13 of the statutes for persons
3 who were convicted of offenses not related to intoxicated driving.

4 **SECTION 84. Initial applicability.**

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

11 **SECTION 85. Effective dates.** This act takes effect on first day of the 3rd
12 month beginning after publication, except as follows:

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

Insert 32.16

17 (2) The repeal of sections 342.12 (4) (c) 1. b., 343.301 (1) (title), 343.301 (2), and

18 346.65 (6) of the statutes, the renumbering and amendment of sections 343.301 (1)

19 (c) and 343.301 (1) (d) of the statutes, the amendment of sections 340.01 (46m) (c),

Insert 32.19

20 342.12 (4) (c) 1. c., 342.13 (1), 343.10 (2) (a) (intro.), 343.10 (5) (a) 3., 343.301 (title),

21 347.413 (title) and (1), 347.417 (1), 347.417 (2), and 347.50 (1s) of the statutes, the

22 repeal and recreation of sections 343.301 (1) (a), 343.305 (10m), 940.09 (1d), and 940.25

23 (1d) of the statutes, and the creation of sections 20.395 (5) (hj), 343.10 (2) (f), 343.301

24 (3) (b), 343.301 (5), and 347.50 (1t) of the statutes take effect on the first day of the

25 9th month beginning after publication.

25.40(1)(a) 170

343.301(1m)

2009-2010 DRAFTING INSERT
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LRB-3522/?ins

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1/7
INSERT ANALYSIS 1:

Engrossment information:

The text of Engrossed 2009 Assembly Bill 283, as passed by the assembly on September 18, 2009, consists of the following documents adopted in the assembly on September 17, 2009: the bill as affected by Assembly Substitute Amendment 1 (as affected by Assembly Amendments 2 and 5 thereto).

Contents of Engrossed 2009 Assembly Bill 283:



**ASSEMBLY AMENDMENT 2,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 283**

September 17, 2009 – Offered by Representative STASKUNAS.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 13, line 17: after “(1)” insert “(a)”.

3 **2.** Page 32, line 19: after “statutes,” insert *Insert 32.19*
4 *the consolidation, renumbering,*
5 *and amending of sections 343.301 (1) (b) 1. and 2. of the statutes”.*

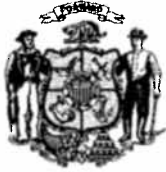
6 **3.** Page 32, line 22: after “343.301 (1)” insert “(a)”.

7 **4.** Page 32, line 23: after “20.395 (5) (hj),” insert “25.40 (1) (a) 17.,”.

8 **5.** Page 32, line 23: after “343.10 (2) (f),” insert “343.301 (1m)”.

(END)

cc (7)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa0740/1
PJH:bjk:md

ASSEMBLY AMENDMENT 5,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 283

September 17, 2009 – Offered by Representatives HUBLER, HEBL, VRUWINK, ROYS, PASCH, BERNARD SCHABER, CLARK, KESSLER, SHERMAN, POPE-ROBERTS, HILGENBERG, YOUNG, ZIGMUNT, SOLETSKI, DANOU, POCAN, DEXTER, TOLES, SEIDEL, HRAYCHUCK, BIES and NELSON.

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 32, line 16: after that line insert:

3 “(1m) The amendment of section 346.65 (2) (bm) and (cm), (2j) (bm) and (cm),
4 and (3r) of the statutes takes effect on the day after publication.”

5 (END)

Barman, Mike

From: Duerst, Christina
Sent: Thursday, September 24, 2009 4:52 PM
To: Barman, Mike; Basford, Sarah
Subject: -3522

Ron Sklansky wants an email copy of this a.s.a.p.
Thanks!