

**2009 DRAFTING REQUEST**

**Bill**

Received: **01/21/2010**

Received By: **mglass**

Wanted: **As time permits**

Identical to LRB:

For: **Louis Molepske Jr (608) 267-9649**

By/Representing: **himself**

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

Drafter: **mglass**

May Contact:

Addl. Drafters:

Subject: **Nat. Res. - boats snomos ATVs**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

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**Topic:**

Operations of sport recreational vehicles while intoxicated

---

**Instructions:**

See attached, preliminary to get answers to questons

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	mglass 01/26/2010	nmatzke 01/28/2010		_____			
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/P5	rnelson2 02/18/2010	nnatzke 02/18/2010	mduchek 02/18/2010	_____	sbasford 02/18/2010		
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FE Sent For: "1" @ intro. 3/11/10

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*2/18 Errors in counting + from Act 103 (RMS)*

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*Handwritten notes: RS, 1/22/10, 1/15, 2/17*

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1?	mglass	1/PI <sup>nwn</sup> 1/22	1/25 pk	1/25 RS/OK			
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FE Sent For:

1/29 <END>

1/29

**LRB-34227/1 changes requested to meet Governor's Snowmobile Recreation Council recommendations.**

One change that may be difficult to implement will be the Council's request that if a person's regular motor vehicle license status is suspended or revoked for OWI and the person is subsequently arrested for OWI on a recreational vehicle for the 1<sup>st</sup> time, it shall be counted as a second offense on a rec. vehicle.

*do not want to be complicated*

RPN

The council simply wanted to further penalize a person that had lost their driver's license due to OWI and then went out on a recreational vehicle and did the same thing. An alternative may be to simply make it illegal to operate a rec. vehicle if the person's motor vehicle license is currently suspended/revoked due to an OWI offense. The State of Michigan does something similar.

*suspended for a violation counted under*

**Sec. 16** Add the language in Sec. 16 to Ch. 30 and Ch. 350.

This question was brought up in the drafter's notes. The council also wants a penalty enhancer for having a passenger under 16 for snowmobiles (Ch. 350) and boats (Ch. 30) as well. Currently, it is only applicable to ATVs (Ch. 23.33).

*has a box. striking in cleared material*

**Repeal Sec. 17, line 22.** Change "amended" to "repealed" and delete lines 23-25.

**Sec. 18 line 1** amend to read "repealed". Delete lines 2-4.

**Sec. 19, line 5** amend to read "repealed". Delete lines 6-8.



The above noted sections are the current ATV penalty enhancers for OWI. The fines are enhanced dependant upon the person's blood alcohol concentration. The council wanted to get rid of these enhancers and simply wanted all ATV, boat and snowmobile OWI violations to have stepped increases for 2<sup>nd</sup> and subsequent violations.

The following are the suggested stepped increases:

- 1<sup>st</sup> offense – forfeit not less than \$400 nor more than \$550. The court shall suspend the person's sport recreation vehicle operating privileges for not less than 12 months nor more than 16 months.
- 2<sup>nd</sup> offense - within 5 years prior to the arrest for the current violation the person was convicted previously under the intoxicated operation of a sport recreational vehicle law or the refusal law or a local ordinance in conformity therewith shall be fined not less than \$300 nor more than \$1,100 and shall be imprisoned not less than 5 days nor more than one year in the county jail. The court shall suspend the person's SPORT RECREATIONAL VEHICLE operating privileges for not less than 12 months nor more than 16 months and revoke the person's motor vehicle operating privilege for not less than 6 months nor more than 9 months.

*needs to be added to 1<sup>st</sup> offense*



- 3<sup>rd</sup> offense – within 5 years prior to the arrest for the current violation the person was convicted previously under the intoxicated operation of a sport recreational vehicle law or the refusal law or a local ordinance in conformity therewith, was convicted 2 times previously under the intoxicated operation of a SPORT RECREATIONAL VEHICLE law or refusal law shall be fined not less than \$600 nor more than \$2,000 and shall be imprisoned for not less than 30 days nor more than one year in the county jail. The court shall suspend the person's SPORT RECREATIONAL VEHICLE operating privileges for not less than 12 months nor more than 16 months and revoke the person's motor vehicle operating privilege for not less than 6 months nor more than 9 months.
- 4<sup>th</sup> offense – within 5 years prior to the arrest for the current violation the person was convicted previously under the intoxicated operation of a sport recreational vehicle law or the refusal law or a local ordinance in conformity therewith, was convicted 3 times previously under the intoxicated operation of a SPORT RECREATIONAL VEHICLE law or refusal law shall be fined not less than \$600 nor more than \$2,000 and shall be imprisoned for not less than 60 days nor more than one year in the county jail. The court shall suspend the person's SPORT RECREATIONAL VEHICLE operating privileges for not less than 12 months nor more than 16 months and revoke the person's motor vehicle operating privilege for not less than 6 months nor more than 9 months.
- 5<sup>th</sup> offense – within 5 years prior to the arrest for the current violation, was convicted 4 or more times previously under the intoxicated operation of a SPORT RECREATIONAL VEHICLE law or refusal law shall be fined not less than \$600 nor more than \$2,000 and shall be imprisoned for not less than 6 months nor more than one year in the county jail. The court shall suspend the person's SPORT RECREATIONAL VEHICLE operating privileges for not less than 12 months nor more than 16 months and revoke the person's motor vehicle operating privilege for not less than 6 months nor more than 9 months.

**Sec. 23, line 6** amend to read “not less than 18 months”. Insert wording that would also suspend the privilege to operate a motor vehicle for X months. X should equal the current length of time listed in the motor vehicle laws for an OWI violation.

RPN?

The amended language would make the suspension of sport recreational vehicle privileges a minimum of 18 months per the council's request. The current language could result in the court suspending privileges for less than that.

Conflict  
w/ 12-6

The council also wanted 2<sup>nd</sup> offense with five years to include a loss of motor vehicle operating privileges for a period of time consistent with what is currently found in the motor vehicle laws (6 months?).

Sec. 23, lines 7-9 lists the penalties for operating a rec. vehicle while suspended.

Can we also create a violation for operating an ATV, boat or snowmobile while suspended. This would be helpful to law enforcement. Suggested language would be: "No person may operate a sport recreational vehicle during the period in which their sport recreational vehicle privileges are suspended by the court."

We would recommend that this be a forfeiture violation. ??

343.349 p. 8, lines 7-9

See suggestions under Section 19, line 5 above.

Sec. 41, lines 12-20 insert similar language into Ch. 23.33 and Ch. 350.

The requirement for completion of a safety course for an OWI conviction is currently only found in the boating laws (Ch. 30). The council wanted the same requirement for ATVs (Ch. 23.33) and snowmobiles (Ch. 350).

Sec. 59, lines 3-7 insert similar language into Ch. 30.

Again, the council wanted the ATV, boat and snowmobile statutes to be the same. This language is needed in Ch. 30 to accomplish that.

P/1 to P/2

went back to "conviction" in current law. Altho technically incorrect (being not convicted of forfeiture) too complicated + wordy and "convicted" has worked so far in current law.



## Gibson-Glass, Mary

---

**From:** Van de Bogert, Abigail  
**Sent:** Wednesday, January 20, 2010 10:21 AM  
**To:** Gibson-Glass, Mary  
**Cc:** Eddy, Gary D - DNR  
**Subject:** LRB-3427/1

**Attachments:** LRB-3427 Review -Gary Eddy.doc

Hello Mary,

My name is Abby, and I'm a new staff member with Rep. Molepske. He asked me to contact you with regards to LRB-3427, the snowmobiling OWI bill. I have attached some comments from Gary Eddy of the Wisconsin DNR. Louis would like these comments incorporated into a new draft of the bill, and he has said it is fine for you to contact Gary directly with questions. His phone number is 7-7455 and his email is [gary.eddy@wisconsin.gov](mailto:gary.eddy@wisconsin.gov). If you could please copy me on these communications (so that I can keep Louis in the loop) I would greatly appreciate it. Thank you very much, and if you have any questions feel free to contact our office at 7-9649.

Abby



LRB-3427 Review  
-Gary Eddy.doc...

Abigail Van de Bogert  
Office of Representative Louis Molepske, Jr.  
(608) 267-9649  
[abigail.vandebogert@legis.wisconsin.gov](mailto:abigail.vandebogert@legis.wisconsin.gov)

## Gibson-Glass, Mary

---

**From:** Van de Bogert, Abigail  
**Sent:** Wednesday, January 20, 2010 11:30 AM  
**To:** Gibson-Glass, Mary  
**Subject:** RE: Operation of recreational vehicles while intoxicated, LRB 09-3427

Hi Mary,

Excellent, thank you. I will double-check with Louis on the second point (having recreational vehicle OWIs count as regular OWIs), but in the meantime, please operate under your current assumptions (that we do not want to address this).

Louis also asked me to check as to whether Huber privileges would still apply to anyone serving a jail term under the rules in this bill. Can you clarify this for me? I did not see anything in the language itself that indicated either way.

Thank you very much,  
Abby

*called Abby, Told Huber  
would spy.*

---

**From:** Gibson-Glass, Mary  
**Sent:** Wednesday, January 20, 2010 11:22 AM  
**To:** Van de Bogert, Abigail  
**Cc:** Nelson, Robert P.  
**Subject:** FW: Operation of recreational vehicles while intoxicated, LRB 09-3427

Abby,

We will start working on these changes recommended by the snowmobile recreational council that you sent me in a separate e-mail. As to the e-mail correspondence below, the first point is addressed in the council's recommendations, and we'll therefore repeal the penalty enhancer for ATVing instead of creating them for snowmobiling and boating.

As to the 2<sup>nd</sup> point, we will assume you do not want to address this unless we hear from you. This is not requested in the council's recommendations.

Mary Gibson-Glass  
Senior Legislative Attorney  
Legislative Reference Bureau  
267 3215

---

**From:** Gibson-Glass, Mary  
**Sent:** Tuesday, January 19, 2010 10:12 AM  
**To:** Molepske, Louis  
**Cc:** Nelson, Robert P.  
**Subject:** FW: Operation of recreational vehicles while intoxicated, LRB 09-3427

Dear Representative Molepske,

In response to your phone call from yesterday, I am sending you a copy of the e-mail I sent Lloyd in November. As to timing, the first point presented below will be fairly easy to prepare and you would probably have the draft this week if that is all you want to include. The second point is more complicated.

After you have had a chance to review this e-mail, please call me to discuss these redraft instructions.

Sincerely,

Mary Gibson-Glass  
267 3215

## Gibson-Glass, Mary

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**Sent:** Tuesday, January 19, 2010 10:12 AM  
**To:** Molepske, Louis  
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267 3215

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**From:** Gibson-Glass, Mary  
**Sent:** Wednesday, November 18, 2009 11:48 AM  
**To:** Clark, Lloyd  
**Cc:** Nelson, Robert P.  
**Subject:** Operation of recreational vehicles while intoxicated, LRB 09-3427

Lloyd,

I spoke to you last week about the above bill. Bob Nelson's and my work loads right now are in a good position to redraft this for you. I was wondering if you have redraft instructions concerning the following issues:

1. I know the Representative wants the underage penalty enhancers currently in the ATV law drafted for motorboating and snowmobiling. Does he also want the higher percentages of alcohol also drafted for motorboating and snowmobiling? See s. 23.33 (13) (br) 1., 2., and 3. *wants those repealed*
2. When we spoke, you mentioned that you thought the Representative may want the draft to have recreational vehicle OWIs count for regular motor vehicles DWI. That concept is not included in the current version, so please let me know if you want the redraft to include that.

Thanks so much,

Mary Gibson-Glass  
Senior Legislative Attorney  
Legislative Reference Bureau  
608 267 3215

# "RESEARCH APPENDIX"

... Drafting History Reproduction Request Form ...

 DRAFTING ATTORNEYS: PLEASE COMPLETE THIS FORM AND GIVE TO MIKE BARMAN

(Request Made By: MGW) (Date: 1 / 26 / 2010)

## Note:

**Both drafts must have the same "requestor"**

(exception: companion bills).




Please transfer the drafting file for  
**2007 LRB** \_\_\_\_\_ (For: Rep. / Sen. \_\_\_\_\_)

to the drafting file for  
**2009 LRB** \_\_\_\_\_ (For: Rep. / Sen. \_\_\_\_\_)

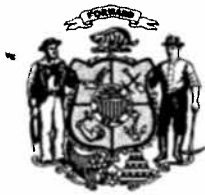
----- **OR** -----

Please copy the drafting file for  
**2009 LRB** 3427 / last / one (include the version) (For:  Rep. / Sen. Molepske)

and place it in the drafting file for  
**2009 LRB** 4163 (For:  Rep. / Sen. Molepske)

 Are These "Companion Bills" ?? ... Yes  No

If yes, who in the initial requestor's office authorized the copy/transfer of the drafting history  
("guts") from the original file: \_\_\_\_\_



State of Wisconsin  
2009 - 2010 LEGISLATURE

☉ - 4163/P1 RDR

LRB-3427/1

MGG&RPN:nwn:md

redraft from -3427/1

## 2009 BILL

SAV

Regen

1 AN ACT *to renumber and amend* 23.33 (1) (jm), 23.33 (13) (b) 4., 30.50 (9x),  
2 350.01 (10r) and 350.11 (3) (a) 4.; *to amend* 23.33 (4c) (a) 3., 23.33 (4c) (a) 4.,  
3 23.33 (4c) (b) 3., 23.33 (4t), 23.33 (13) (b) 1., 23.33 (13) (b) 2., 23.33 (13) (b) 3.,  
4 23.33 (13) (bg), 23.33 (13) (br) 1., 23.33 (13) (br) 2., 23.33 (13) (br) 3., 23.33 (13)  
5 (cm), 23.33 (13) (d), 23.33 (13) (dm), 30.681 (1) (bn), 30.681 (1) (c), 30.681 (2) (c),  
6 30.686, 30.74 (1) (bn), 30.80 (6) (a) 1., 30.80 (6) (a) 2., 30.80 (6) (a) 3., 30.80 (6)  
7 (a) 4., 30.80 (6) (a) 5., 30.80 (6) (a) 6., 30.80 (6) (e), 59.54 (14) (g), 350.101 (1) (c),  
8 350.101 (1) (d), 350.101 (2) (c), 350.106, 350.11 (3) (a) 1., 350.11 (3) (a) 2., 350.11  
9 (3) (a) 3., 350.11 (3) (bm), 350.11 (3) (c), 350.11 (3) (cm), 940.09 (1m) (b) and  
10 940.25 (1m) (b); and *to create* 23.33 (1) (ib), 23.33 (1) (im), 23.33 (1) (jk), 23.33  
11 (1) (jr), 23.33 (13) (b) 4b., 23.33 (13) (b) 5., 23.33 (13) (em), 30.50 (4n), 30.50 (4v),  
12 30.50 (9y), 30.50 (12m), 30.80 (6) (cm), 30.80 (6) (f), 350.01 (9b), 350.01 (9j),  
13 350.01 (10s), 350.01 (17m), 350.11 (3) (a) 4b., 350.11 (3) (a) 5. and 350.11 (3) (e)

**BILL**

1 of the statutes; relating to intoxicated operation of all-terrain vehicles,  
2 snowmobiles, ~~and~~ motorboats and providing penalties.

*Analysis by the Legislative Reference Bureau*

Under current law, a person may not operate a snowmobile, an all-terrain vehicle (ATV), or a motorboat under the influence of alcohol or a controlled substance to a degree that he or she cannot operate the vehicle or boat safely. Under current law, a personal watercraft is included in the definition of "motorboat." Current law also prohibits the operation of an ATV, a recreational motorboat, or a snowmobile by a person who has an alcohol concentration of 0.08 or more. For motorboats being operated on a commercial basis, the maximum alcohol concentration is 0.04. These laws are respectively referred to under current law as the intoxicated operation of an ATV law, the intoxicated boating law, and the intoxicated snowmobiling law. Under current law, a person who refuses to submit to a legal request for a breath, blood, or urine sample pursuant to an arrest for operating a snowmobile, an ATV, or a recreational motorboat while under the influence is in violation of what is known as the refusal law.

Under current law, in imposing a penalty for a violation of the intoxicated operation of an ATV, the intoxicated boating, or the intoxicated snowmobiling law, a court may only count as a previous violation a violation of the same law, or the applicable refusal law. For example, if a person is before the court for violating the intoxicated snowmobiling law or the snowmobile refusal law, the court may count only previous violations of the intoxicated snowmobiling law and the snowmobile refusal law as prior violations. Previous violations of the intoxicated operation of an ATV law or of the intoxicated boating law or of the applicable refusal laws may not be counted. Under the bill, a court must count previous violations of any of these laws that occurred within the previous five years. Also, if a person has his or her driving privilege suspended or revoked as the result of a violation of a law prohibiting the operation of a motor vehicle while under the influence of an intoxicant or controlled substance or with a prohibited alcohol concentration in the blood, or as the result of refusing chemical testing of his or her blood, that violation must be counted.

The bill also requires a court to enter an order to suspend the person's privilege to operate a snowmobile, an ATV, and a motorboat for a period not to exceed 18 months if the person, has, in the previous five years, had a violation that is being counted by the court as a previous violation. The bill also provides a criminal penalty for violating an order of suspension.

The bill makes the provisions of the intoxicated operating of an ATV, the intoxicated boating, and the intoxicated snowmobiling laws more consistent. These changes include:

1. Raising the age of absolute sobriety for the operation of snowmobiles and ATVs to 21. Current law requires absolute sobriety for persons under the age of 19 who are operating snowmobiles and ATVs and for persons under the age of 21 for motorboats.

**BILL**

2. Adopting the higher penalties for various violations where the penalties for violations of the intoxicated operation of an ATV law, the intoxicated boating law, the intoxicated snowmobiling law, and the refusal law conflict.

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:*

*anal: prelim → This is a preliminary draft.  
An analysis will be provided  
in a later version.*

1       **SECTION 1.** 23.33 (1) (ib) of the statutes is created to read:

2       23.33 (1) (ib) "Intoxicated operating law" means the intoxicated operation of

3       an all-terrain vehicle law, the intoxicated boating law, as defined in s. 30.50 (4m),

4       the intoxicated snowmobiling law, as defined in s. 350.01 (9c), or an offense that

5       results in a suspension, revocation, or conviction counted under s. 343.307 (1).

6       **SECTION 2.** 23.33 (1) (im) of the statutes is created to read:

7       23.33 (1) (im) "Legal drinking age" means 21 years of age.

8       **SECTION 3.** 23.33 (1) (jk) of the statutes is created to read:

9       23.33 (1) (jk) "Refusal law" means the all-terrain vehicle refusal law, the

10       boating refusal law, as defined in s. 30.50 (2c), the snowmobiling refusal law, as

11       defined in s. 350.01 (15c), or the motor vehicle refusal law under s. 343.305.

12       **SECTION 4.** 23.33 (1) (jm) of the statutes is renumbered 23.33 (1) (br) and

13       amended to read:

14       23.33 (1) (br) "~~Refusal~~ All-terrain vehicle refusal law" means sub. (4p) (e) or

15       a local ordinance in conformity therewith.

16       **SECTION 5.** 23.33 (1) (jr) of the statutes is created to read:

17       23.33 (1) (jr) "Sports recreational vehicle" means an all-terrain vehicle, a

18       recreational motorboat as defined in s. 30.50 (6) or a snowmobile as defined in s. 340.01 (58a).  
*(9m) (6m) comma stays*

19       **SECTION 6.** 23.33 (4c) (a) 3. of the statutes is amended to read:

**BILL**

**SECTION 6**

1           23.33 (4c) (a) 3. 'Operating with alcohol concentrations at specified levels;  
 2 below legal drinking age 19.' ~~If a~~ A person who has not attained the legal drinking  
 3 ~~age of 19, the person~~ may not engage in the operation of an all-terrain vehicle while  
 4 he or she has an alcohol concentration of more than 0.0 but ~~not more~~ less than 0.08.

5           **SECTION 7.** 23.33 (4c) (a) 4. of the statutes is amended to read:

6           23.33 (4c) (a) 4. 'Related charges.' A person may be charged with and a  
 7 prosecutor may proceed upon a complaint based upon a violation of any combination  
 8 of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the  
 9 person is charged with violating any combination of subd. 1., 2., or 2m., the offenses  
 10 shall be joined. If the person is found guilty of any combination of subd. 1., 2., or 2m.  
 11 for acts arising out of the same incident or occurrence, there shall be a single  
 12 ~~conviction~~ <sup>violation</sup> for purposes of sentencing and for purposes of counting ~~convictions~~ <sup>violations</sup> under  
 13 sub. (13) (b) 2. ~~and 3.~~ <sup>and 3. to 5.</sup> Subdivisions 1., 2., and 2m. each require proof of a fact  
 14 ~~for conviction~~ <sup>for finding a violation</sup> which the others do not require.

15 plain **SECTION 8.** 23.33 (4c) (b) 3. of the statutes is amended to read:

16           23.33 (4c) (b) 3. 'Related charges.' A person may be charged with and a  
 17 prosecutor may proceed upon a complaint based upon a violation of any combination  
 18 of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the  
 19 person is charged with violating any combination of subd. 1., 2., or 2m. in the  
 20 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty  
 21 of any combination of subd. 1, 2., or 2m. for acts arising out of the same incident or  
 22 occurrence, there shall be a single ~~conviction~~ <sup>violation</sup> for purposes of sentencing and for  
 23 purposes of counting ~~convictions~~ <sup>violations</sup> under sub. (13) (b) 2. ~~and 3.~~ <sup>and 3. to 5.</sup> Subdivisions 1.,  
 24 2., and 2m. each require proof of a fact for ~~conviction~~ <sup>finding a violation</sup> which the others do not require.

25           **SECTION 9.** 23.33 (4t) of the statutes is amended to read:



**BILL**

1           23.33 (4t) REPORT ARREST TO DEPARTMENT. If a law enforcement officer arrests  
2 a person for a violation of the intoxicated operation of an all-terrain vehicle law or  
3 the all-terrain vehicle refusal law, the law enforcement officer shall notify the  
4 department of the arrest as soon as practicable.                   — INSERT 5-4<sup>✓</sup>

5           **SECTION 10.** 23.33 (13) (b) 1. of the statutes is amended to read:

6           23.33 (13) (b) 1. Except as provided under subds. 2. ~~and 3.~~ to 5., a person who  
7 violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) shall forfeit not less than \$150 ~~\$400~~ nor  
8 more than ~~\$300~~ \$550.

9           **SECTION 11.** 23.33 (13) (b) 2. of the statutes is amended to read:

10           23.33 (13) (b) 2. ~~Except as provided under subd. 3., a~~ A person who violates sub.  
11 (4c) (a) 1., 2., or 2m. or (4p) (e) and who, within 5 years prior to the arrest for the  
12 current violation, ~~was convicted previously under~~ had one violation of the intoxicated  
13 ~~operation of an all-terrain vehicle operating~~ law or the refusal law shall be fined not  
14 less than \$300 nor more than \$1,100 and shall be imprisoned not less than 5 days  
15 nor more than ~~6 months~~ one year in the county jail

16           **SECTION 12.** 23.33 (13) (b) 3. of the statutes is amended to read:

17           23.33 (13) (b) 3. A person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) and  
18 who, within 5 years prior to the arrest for the current violation, ~~was convicted had~~  
19 ~~2 or more times previously under~~ violations of the intoxicated operation of an  
20 ~~all-terrain vehicle operating~~ law or, the refusal law, or a combination of these laws,  
21 shall be fined not less than \$600 nor more than \$2,000 and shall be imprisoned not  
22 less than 30 days nor more than one year in the county jail insert SUSPEND

23           **SECTION 13.** 23.33 (13) (b) 4. of the statutes is renumbered 23.33 (13) (b) 6. and  
24 amended to read:

**BILL**

**SECTION 13**

1           23.33 (13) (b) 6. A person who violates sub. (4c) (a) 3. or who violates (4p) (e)  
2 and ~~who~~ has not attained the legal drinking age of 19 shall forfeit ~~not more than~~ \$50.

3           **SECTION 14.** 23.33 (13) (b) 4b. of the statutes is created to read:

4           23.33 (13) (b) 4b. A person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) and  
5 who, within 5 years prior to the arrest for the current violation, had 3 violations of  
6 the intoxicated operating law, the refusal law, or any combination of these laws, shall  
7 be fined not less than \$600 nor more than \$2,000 and shall be imprisoned not less  
8 than 60 days nor more than one year in the county jail.

9           **SECTION 15.** 23.33 (13) (b) 5. of the statutes is created to read:

10          23.33 (13) (b) 5. A person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) and  
11 who, within 5 years prior to the arrest for the current violation, had 4 or more  
12 violations of the intoxicated operating law, the refusal law, or any combination of  
13 these laws, shall be fined not less than \$600 nor more than \$2,000 and shall be  
14 imprisoned not less than 6 months nor more than one year in the county jail.

15          **SECTION 16.** 23.33 (13) (bg) of the statutes is amended to read:

16          23.33 (13) (bg) *Penalties related to intoxicated operation of an all-terrain*  
17 *vehicle; underage passengers.* If there is a passenger under 16 years of age on the  
18 all-terrain vehicle at the time of a violation that gives rise to a ~~finding of having~~  
19 ~~violated or a~~ a finding of having violated conviction under sub. (4c) (a) 1. or 2. or (4p) (e), the applicable  
20 minimum and maximum forfeitures, fines, and terms of imprisonment under ~~par.~~  
21 ~~par~~ (b) 1., 2., and 3. par (b) 1., 2., 3., 4b., and 5. ~~(4b. and 5.)~~ for the conviction are doubled.

22          **SECTION 17.** 23.33 (13) (br) 1. of the statutes is amended to read:

23          23.33 (13) (br) 1. If a person ~~convicted under~~ found in violation of sub. (4c) (a) 1. or 2. had an alcohol  
24 concentration of 0.17 to 0.199 at the time of the offense, the minimum and maximum  
25 fines specified under par. (b) 3., 4b., and 5. for the conviction are doubled.

**BILL**

**SECTION 18.** 23.33 (13) (br) 2. of the statutes is amended to read:

23.33 (13) (br) 2. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol concentration of 0.20 to 0.249 at the time of the offense, the minimum and maximum fines specified under par. (b) 3., 4b., and 5. for the conviction are tripled.

**SECTION 19.** 23.33 (13) (br) 3. of the statutes is amended to read:

23.33 (13) (br) 3. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol concentration of 0.25 or above at the time of the offense, the minimum and maximum fines under par. (b) 3., 4b., and 5. for the conviction are quadrupled.

**SECTION 20.** 23.33 (13) (cm) of the statutes is amended to read:

23.33 (13) (cm) *Sentence of detention.* The legislature intends that courts use the sentencing option under s. 973.03 (4) whenever appropriate for persons subject to par. (b) 2., 3., 4b., or 5., or (c). The use of this option can result in significant cost savings for the state and local governments.

INS  
7-8

**SECTION 21.** 23.33 (13) (d) of the statutes is amended to read:

23.33 (13) (d) *Calculation of previous convictions.* In determining the number of previous convictions under par. (b) 2. and 3. convictions arising out of the same incident or occurrence shall be counted as one previous conviction.

violations (I)

**SECTION 22.** 23.33 (13) (dm) of the statutes is amended to read:

23.33 (13) (dm) *Reporting convictions to the department.* Whenever a person is convicted of a violation of the intoxicated operation of an all-terrain vehicle law, the clerk of the court in which the conviction occurred, or the justice, judge or magistrate of a court not having a clerk, shall forward to the department the record of such conviction. The record of conviction forwarded to the department shall state whether the offender was involved in an accident at the time of the offense.

**SECTION 23.** 23.33 (13) (er) of the statutes is created to read:

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**BILL**

**SECTION 23**

1           23.33 (13) <sup>(er)</sup> ~~(en)~~ *Suspension of privilege.* 1. In addition to any other penalty or  
 2 order, if a person who within 5 years prior to the arrest for the current violation of  
 3 the intoxicated operation of an all-terrain vehicle law or the all-terrain vehicle  
 4 refusal law, was previously found in violation of the intoxicated operating law or the  
 5 refusal law, the court shall order the suspension of the person's privilege to operate  
 6 a sports recreational vehicle for a period ~~not to exceed 18 months~~ *of not less than 12 months and not more than 16 months*

7           2. A person who violates ~~an order imposed by the court under subd. D~~ shall be  
 8 fined not more than \$2,500 or imprisoned not more than one year in the county jail  
 9 or both. *11/19/09 8-12*

10           **SECTION 24.** 30.50 (4n) of the statutes is created to read: *Sub 40/12*

11           30.50 (4n) "Intoxicated operating law" means the intoxicated operation of an  
 12 all-terrain vehicle law, as defined in s. 23.33 (1) (ic), the intoxicated boating law, the  
 13 intoxicated snowmobiling law, as defined in s. 350.01 (9c), or an offense that results  
 14 in a suspension, revocation, or conviction counted under s. 343.307 (1).

15           **SECTION 25.** 30.50 (4v) of the statutes is created to read:

16           30.50 (4v) "Legal drinking age" means 21 years of age.

17           **SECTION 26.** 30.50 (9x) of the statutes is renumbered 30.50 (2c) and amended  
 18 to read:

19           30.50 (2c) "~~Refusal Boating refusal~~ law" means s. 30.684 (5) or a local ordinance  
 20 in conformity with that subsection. *In just here*

21           **SECTION 27.** 30.50 (9y) of the statutes is created to read:

22           30.50 (9y) "Refusal law" means the all-terrain vehicle refusal law, as defined  
 23 in s. 23.33 (1) (br), the boating refusal law, the snowmobiling refusal law, as defined  
 24 in s. 350.01 (15c), or the motor vehicle refusal law under s. 343.305.

25           **SECTION 28.** 30.50 (12m) of the statutes is created to read:

*← INSERT 8-20 ✓*

**BILL**

1           30.50 (12m) "Sports recreational vehicle" means an all-terrain vehicle, as  
2 defined in s. 340.01 (2g), a <sup>recreational</sup> motorboat, or a snowmobile as defined in s. 340.01 (58a).<sup>✓</sup>

3           **SECTION 29.** 30.681 (1) (bn) of the statutes is amended to read:

4           30.681 (1) (bn) *Operating with alcohol concentrations at specified levels; below*  
5 *legal drinking age.* A person who has not attained the legal drinking age, as defined  
6 in s. 125.02 (8m), may not engage in the operation of a motorboat while he or she has  
7 ~~a blood~~ an alcohol concentration of more than 0.0 but less than 0.08.

8           **SECTION 30.** 30.681 (1) (c) of the statutes is amended to read:

9           30.681 (1) (c) *Related charges.* A person may be charged with and a prosecutor  
10 may proceed upon a complaint based upon a violation of any combination of par. (a)  
11 or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence. If the person  
12 is charged with violating any combination of par. (a) or (b) 1., 1m., or 2., the offenses  
13 shall be joined. If the person is found guilty of any combination of par. (a) or (b) 1.,  
14 1m., or 2. for acts arising out of the same incident or occurrence, there shall be a  
15 single ~~conviction~~ <sup>↓ violation</sup> for purposes of sentencing and for purposes of counting ~~convictions~~ <sup>↓ violations</sup>  
16 under s. 30.80 (6) (a) 2. and 3. to 5. Paragraphs (a) and (b) 1., 1m., and 2. each require  
17 proof of a fact for ~~conviction~~ <sup>↓ finding a violation</sup> which the others do not require.<sup>✓</sup>

18           **SECTION 31.** 30.681 (2) (c) of the statutes is amended to read:

19           30.681 (2) (c) *Related charges.* A person may be charged with and a prosecutor  
20 may proceed upon a complaint based upon a violation of any combination of par. (a)  
21 or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence. If the person  
22 is charged with violating any combination of par. (a) or (b) 1., 1m., or 2. in the  
23 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty  
24 of any combination of par. (a) or (b) 1., 1m., or 2. for acts arising out of the same  
25 incident or occurrence, there shall be a single ~~conviction~~ <sup>↓ violation</sup> for purposes of sentencing

**BILL**

**SECTION 31**

1 and for purposes of counting ~~convictions~~ <sup>violations</sup> under s. 30.80 (6) (a) 2. ~~and 3. to 5.~~  
 2 Paragraphs (a) and (b) 1., 1m., and 2. each require proof of a fact for ~~conviction~~, which  
 3 the others do not require. ✓

all scoring  
not stricken

finding a  
violation

4 **SECTION 32.** 30.686 of the statutes is amended to read:

5 **30.686 Report arrest to department.** If a law enforcement officer arrests  
 6 a person for a violation of the intoxicated boating law or the boating refusal law, the  
 7 law enforcement officer shall notify the department of the arrest as soon as  
 8 practicable.

INS ✓  
10-3

← INSERT 10-8

9 **SECTION 33.** 30.74 (1) (bn) of the statutes is amended to read:

10 30.74 (1) (bn) A certificate issued to a person under this subsection is valid for  
 11 life unless the certificate or the person's privilege to operate a motorboat is  
 12 suspended or revoked by a court under s. 30.80 (2m) or (6) (e) or (f) or 938.343 (5).

13 **SECTION 34.** 30.80 (6) (a) 1. of the statutes is amended to read:

14 30.80 (6) (a) 1. Except as provided under subds. 2. to 5., a person who violates  
 15 s. 30.681 (1) (a) or (b), ~~a local ordinance in conformity with s. 30.681 (1) (a) or (b) or~~  
 16 ~~the refusal law~~ 30.684 (5) shall forfeit not less than \$150 ~~\$400~~ nor more than \$300  
 17 \$550.

18 **SECTION 35.** 30.80 (6) (a) 2. of the statutes is amended to read:

19 30.80 (6) (a) 2. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~  
 20 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law~~ or 30.684 (5) and who,  
 21 within 5 years prior to the arrest for the current violation, ~~was convicted one time~~  
 22 ~~previously under~~ had one violation of the intoxicated boating operating law or the  
 23 refusal law shall be fined not less than \$300 nor more than \$1,000 ~~\$1,100~~ and shall  
 24 be imprisoned for not less than 5 days nor more than ~~6 months~~ of one year in the  
 25 county jail ✓

25 **SECTION 36.** 30.80 (6) (a) 3. of the statutes is amended to read:

**BILL**

1           30.80 (6) (a) 3. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~  
2 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law or 30.684 (5)~~ and who,  
3 within 5 years prior to the arrest for the current violation, was convicted had 2 times  
4 ~~previously under violations of the intoxicated boating operating law or, the refusal~~  
5 ~~law, or a combination of these laws,~~ shall be fined not less than \$600 nor more than  
6 \$2,000 and shall be imprisoned for not less than 30 days nor more than one year in  
7 the county jail. ✓

8           **SECTION 37.** 30.80 (6) (a) 4. of the statutes is amended to read:

9           30.80 (6) (a) 4. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~  
10 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law or 30.684 (5)~~ and who,  
11 within 5 years prior to the arrest for the current violation, was convicted had 3 times  
12 ~~previously under violations of the intoxicated boating operating law or, the refusal~~  
13 ~~law, or any combination of these laws,~~ shall be fined not less than \$600 nor more than  
14 \$2,000 and shall be imprisoned for not less than 60 days nor more than one year in  
15 the county jail. ✓

16           **SECTION 38.** 30.80 (6) (a) 5. of the statutes is amended to read:

17           30.80 (6) (a) 5. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~  
18 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law or 30.684 (5)~~ and who,  
19 within 5 years prior to the arrest for the current violation, was convicted had 4 or  
20 ~~more times previously under violations of the intoxicated boating operating law or,~~  
21 ~~the refusal law, or any combination of these laws,~~ shall be fined not less than \$600  
22 nor more than \$2,000 and shall be imprisoned for not less than 6 months nor more  
23 than one year in the county jail. ✓

24           **SECTION 39.** 30.80 (6) (a) 6. of the statutes is amended to read:

BILL

SECTION 39

1 30.80 (6) (a) 6. A person who violates s. 30.681 (1) (bn) or ~~a local ordinance in~~  
2 ~~conformity with s. 30.681 (1) (bn)~~ who violates 30.684 (5) and has not attained the  
3 legal drinking age shall forfeit \$50. ✓

4 SECTION 40. 30.80 (6) (cm) of the statutes is created to read:

5 30.80 (6) (cm) Reporting ~~convictions~~ <sup>violations</sup> to the department. Whenever a person is <sup>found in</sup> ~~in~~  
6 ~~convicted~~ violation of the intoxicated boating law, the clerk of the court ~~in which~~  
7 ~~the conviction occurred~~, or the judge of a court not having a clerk, shall forward to  
8 the department the record of such ~~conviction~~ <sup>violation</sup>. The record ~~of conviction~~ <sup>of conviction</sup> forwarded to  
9 the department shall state whether the offender was involved in an accident at the  
10 time of the offense. ✓

INS 12-3  
that finds the person in violation

11 SECTION 41. 30.80 (6) (e) of the statutes is amended to read:

12 30.80 (6) (e) Certificate of satisfactory completion of safety course. In addition  
13 to any other penalty or order, a person who for the first time violates s. 30.681 (1) or  
14 (2) or 30.684 (5) or who violates s. 940.09 or 940.25 if the violation involves the  
15 operation of a motorboat, the intoxicated boating law or the boating refusal law shall  
16 be ordered by the court to obtain a certificate of satisfactory completion of a safety  
17 course under s. 30.74 (1). <sup>for such a violation</sup> If the person has a valid certificate at the time that the  
18 court imposes sentence ~~under this paragraph~~ <sup>subsection</sup>, the court shall permanently revoke  
19 the certificate and order the person to obtain <sup>another</sup> a certificate of satisfactory completion  
20 of <sup>the</sup> a safety course ~~under s. 30.74 (1)~~ ✓

21 SECTION 42. ~~30.80 (6) (f) of the statutes is created to read:~~

22 30.80 (6) (f) Suspension of privilege. 1. In addition to any other penalty or  
23 order, if a person who within 5 years prior to the arrest for the current violation of  
24 the intoxicated boating law or the boating refusal law, had a previous violation of the  
25 intoxicated operating law or the refusal law, the court shall order the suspension of



**BILL**

1 the person's privilege to operate a sports recreational vehicle for a period not to  
2 exceed 18 months.

3 ~~2. A person who violates an order imposed by the court under subd. 1. shall be~~  
4 ~~fined not more than \$2,500 or imprisoned not more than one year in the county jail~~  
5 ~~or both.~~

6 **SECTION 43.** 59.54 (14) (g) of the statutes is amended to read:

7 59.54 (14) (g) A county may establish extensions of the jail, which need not be  
8 at the county seat, to serve as places of temporary confinement. No person may be  
9 detained in such an extension for more than 24 consecutive hours, except that a court  
10 may order that a person subject to imprisonment under s. 23.33 (13) (b) 2. ~~or~~ 3., 4b.  
11 or 5. or (c), 30.80 (6) (a) 2., 3., 4., or 5. or (b) or 350.11 (3) (a) 2. ~~or~~ 3., 4b., or 5. or (b)  
12 be imprisoned for more than 24 consecutive hours in such an extension. Jail  
13 extensions shall be subject to plans and specifications approval by the department  
14 of corrections and shall conform to other requirements imposed by law on jails,  
15 except that cells may be designed and used for multiple occupancy.

*ins rpn  
13-16*

16 **SECTION 44.** 350.01 (9b) of the statutes is created to read:

17 350.01 (9b) "Intoxicated operating law" means the intoxicated operation of an  
18 all-terrain vehicle law, as defined in s. 23.33 (1) (ic), the intoxicated boating law, as  
19 defined in s. 30.50 (4m), the intoxicated snowmobiling law, or an offense that results  
20 in a suspension, revocation, or conviction counted under s. 343.307 (1).

21 **SECTION 45.** 350.01 (9j) of the statutes is created to read:

22 350.01 (9j) "Legal drinking age" means 21 years of age.

23 **SECTION 46.** 350.01 (10r) of the statutes is renumbered 350.01 (15c) and  
24 amended to read:

**BILL****SECTION 46**

1           350.01 (15c) "~~Refusal~~ Snowmobiling refusal law" means s. 350.104 (5) or a local  
2 ordinance in conformity therewith.

3           **SECTION 47.** 350.01 (10s) of the statutes is created to read:

4           350.01 (10s) "Refusal law" means the all-terrain vehicle refusal law, as defined  
5 in s. 23.33 (1) (br), the boating refusal law, as defined in s. 30.50 (2c), the  
6 snowmobiling refusal law, or the motor vehicle refusal law under s. 343.305.

7           **SECTION 48.** 350.01 (17m) of the statutes is created to read:<sup>1</sup>

8           350.01 (17m) "Sports recreational vehicle" means an all-terrain vehicle, as  
9 defined in s. 340.01 (2g), a <sup>recreational</sup> motorboat, as defined in s. 30.50 <sup>(9m)</sup> ~~(10)~~, or a snowmobile.<sup>✓</sup>

10          **SECTION 49.** 350.101 (1) (c) of the statutes is amended to read:

11          350.101 (1) (c) *Operating with alcohol concentrations at specified levels; below*  
12 *legal drinking age 19.* ~~If a~~ A person who has not attained the legal drinking age of  
13 ~~19, the person~~ may not engage in the operation of a snowmobile while he or she has  
14 an alcohol concentration of more than 0.0 but ~~not more~~ less than 0.08.

15          **SECTION 50.** 350.101 (1) (d) of the statutes is amended to read:

16          350.101 (1) (d) *Related charges.* A person may be charged with and a prosecutor  
17 may proceed upon a complaint based upon a violation of any combination of par. (a),  
18 (b), or (bm) for acts arising out of the same incident or occurrence. If the person is  
19 charged with violating any combination of par. (a), (b), or (bm), the offenses shall be  
20 joined. If the person is found guilty of any combination of par. (a), (b), or (bm) for acts  
21 arising out of the same incident or occurrence, there shall be a single <sup>violation</sup> conviction<sup>↓</sup> for  
22 purposes of sentencing and for purposes of counting <sup>violations</sup> convictions<sup>↓</sup> under s. 350.11 (3)  
23 (a) 2. ~~and 3. to 5.~~ Paragraphs (a), (b), and (bm) each require proof of a fact for  
24 conviction <sup>finding a violation</sup> which the others do not require.<sup>✓</sup>

25          **SECTION 51.** 350.101 (2) (c) of the statutes is amended to read:

**BILL**

1           350.101 (2) (c) *Related charges*. A person may be charged with and a prosecutor  
2 may proceed upon a complaint based upon a violation of any combination of par. (a),  
3 (b), or (bm) for acts arising out of the same incident or occurrence. If the person is  
4 charged with violating any combination of par. (a), (b), or (bm) in the complaint, the  
5 crimes shall be joined under s. 971.12. If the person is found guilty of any  
6 combination of par. (a), (b), or (bm) for acts arising out of the same incident or  
7 occurrence, there shall be a single ~~conviction~~ <sup>violation</sup> for purposes of sentencing and for  
8 purposes of counting ~~convictions~~ <sup>violations</sup> under s. 350.11 (3) (a) 2. ~~and 3. to 5.~~ Paragraphs  
9 (a), (b), and (bm) each require proof of a fact for ~~conviction~~ <sup>funding a violation</sup> which the others do not  
10 require.

11           **SECTION 52.** 350.106 of the statutes is amended to read:

12           **350.106 Report arrest to department.** If a law enforcement officer arrests  
13 a person for a violation of the intoxicated snowmobiling law or the snowmobiling  
14 refusal law, the law enforcement officer shall notify the department of the arrest as  
15 soon as practicable.

16           **SECTION 53.** 350.11 (3) (a) 1. of the statutes is amended to read:

17           350.11 (3) (a) 1. Except as provided under subs. 2. ~~and 3. to 5.~~, a person who  
18 violates s. 350.101 (1) (a), (b), or (bm) or s. 350.104 (5) shall forfeit not less than \$400  
19 nor more than \$550.

20           **SECTION 54.** 350.11 (3) (a) 2. of the statutes is amended to read:

21           350.11 (3) (a) 2. ~~Except as provided under subd. 3., a~~ A person who violates  
22 s. 350.101 (1) (a), (b), or (bm) or 350.104 (5) and who, within 5 years prior to the arrest  
23 for the current violation, ~~was convicted previously under~~ had one violation of the  
24 intoxicated snowmobiling operating law or the refusal law shall be fined not less than

— INSERT  
15-15

## BILL

1 \$300 nor more than \$1,000 ~~\$1,100~~ and shall be imprisoned not less than 5 days nor  
2 more than ~~6 months~~ *one year in the county jail*

3 SECTION 55. 350.11 (3) (a) 3. of the statutes is amended to read:

4 350.11 (3) (a) 3. A person who violates s. 350.101 (1) (a), (b), or (bm) or 350.104  
5 (5) and who, within 5 years prior to the arrest for the current violation, ~~was convicted~~  
6 had 2 or more times previously under violations of the intoxicated snowmobiling  
7 operating law or, the refusal law, or any combination of these laws, shall be fined not  
8 less than \$600 nor more than \$2,000 and shall be imprisoned not less than 30 days  
9 nor more than one year in the county jail.

10 SECTION 56. 350.11 (3) (a) 4. of the statutes is renumbered 350.11 (3) (a) 6. and  
11 amended to read:

12 350.11 (3) (a) 6. A person who violates s. 350.101 (1) (c) or who violates 350.104  
13 (5) and ~~who~~ has not attained the legal drinking age of 19 shall forfeit ~~not more than~~  
14 \$50.

15 SECTION 57. 350.11 (3) (a) 4b. of the statutes is created to read:

16 350.11 (3) (a) 4b. A person who violates s. 350.101 (1) (a), (b), or (bm) or 350.104  
17 (5) and who, within 5 years prior to the arrest for the current violation, had 3  
18 violations of the intoxicated operating law, the refusal law, or any combination of  
19 these laws, shall be fined not less than \$600 nor more than \$2,000 and shall be  
20 imprisoned not less than 60 days nor more than one year in the county jail.

21 SECTION 58. 350.11 (3) (a) 5. of the statutes is created to read:

22 350.11 (3) (a) 5. A person who violates s. 350.101 (1) (a), (b), or (bm) or 350.104  
23 (5) and who, within 5 years prior to the arrest for the current violation, had 4 or more  
24 violations of the intoxicated operating law, the refusal law, or any combination of

**BILL**

1 these laws, shall be fined not less than \$600 nor more than \$2,000 and shall be  
2 imprisoned not less than 6 months nor more than one year in the county jail.

3 **SECTION 59.** 350.11 (3) (bm) of the statutes is amended to read:

4 350.11 (3) (bm) *Sentence of detention.* The legislature intends that courts use  
5 the sentencing option under s. 973.03 (4) whenever appropriate for persons subject  
6 to par. (a) 2. ~~or~~, 3., 4b., or 5. or (b). The use of this option can result in significant cost  
7 savings for the state and local governments.

8 **SECTION 60.** 350.11 (3) (c) of the statutes is amended to read:

9 350.11 (3) (c) *Calculation of previous convictions.* In determining the number  
10 of previous ~~convictions~~ <sup>violations</sup> under par. (a) 2. and 3. ~~(to 5)~~ <sup>violations</sup> arising out of the  
11 same incident or occurrence shall be counted as one previous ~~conviction~~ <sup>violation</sup>.

12 **SECTION 61.** 350.11 (3) (cm) of the statutes is amended to read:

13 350.11 (3) (cm) *Reporting convictions to the department.* Whenever a person <sup>that finds the person on violation</sup>  
14 is ~~convicted~~ <sup>found in</sup> of a violation of the intoxicated snowmobiling law, the clerk of the court  
15 ~~in which the conviction occurred~~, or the justice, judge or magistrate of a court not  
16 having a clerk, shall forward to the department the record of such ~~conviction~~ <sup>violation</sup>. The  
17 record ~~of conviction~~ forwarded to the department shall state whether the offender  
18 was involved in an accident at the time of the offense.

19 **SECTION 62.** 350.11 (3) <sup>(f)</sup> ~~(e)~~ of the statutes is created to read:

20 350.11 <sup>(f)</sup> ~~(e)~~ *Suspension of privilege.* 1. In addition to any other penalty or  
21 order, if a person who within 5 years prior to the arrest for the current violation of  
22 the intoxicated snowmobiling law or the snowmobile refusal law, was previously  
23 found in violation of the intoxicated operating law or the refusal law, the court shall  
24 order the suspension of the person's privilege to operate a sports recreational vehicle  
25 for a period not to exceed 18 months.

INS 17-2

INSERT 17-18

**BILL**

1 2. A person who violates an order imposed by the court under subd. 1. shall be  
2 fined not more than \$2,500 or imprisoned not more than one year in the county jail  
3 or both.

4 **SECTION 63.** 940.09 (1m) (b) of the statutes is amended to read:

5 940.09 (1m) (b) If a person is charged in an information with any of the  
6 combinations of crimes referred to in par. (a), the crimes shall be joined under s.  
7 971.12. If the person is found guilty of more than one of the crimes so charged for  
8 acts arising out of the same incident or occurrence, there shall be a single conviction  
9 for purposes of sentencing and for purposes of counting convictions under s. 23.33  
10 (13) (b) 2. ~~and 3. to 5.~~, under s. 30.80 (6) (a) 2. ~~and 3. to 5.~~, under s. 343.307 (1) or under  
11 s. 350.11 (3) (a) 2. ~~and 3. to 5.~~ Subsection (1) (a), (am), (b), (bm), (c), (cm), (d), and (e)  
12 each require proof of a fact for conviction which the others do not require, and sub.  
13 (1g) (a), (am), (b), (c), (cm), and (d) each require proof of a fact for conviction which  
14 the others do not require.

15 **SECTION 64.** 940.25 (1m) (b) of the statutes is amended to read:

16 940.25 (1m) (b) If a person is charged in an information with any of the  
17 combinations of crimes referred to in par. (a), the crimes shall be joined under s.  
18 971.12. If the person is found guilty of more than one of the crimes so charged for  
19 acts arising out of the same incident or occurrence, there shall be a single conviction  
20 for purposes of sentencing and for purposes of counting convictions under s. 23.33  
21 (13) (b) 2. ~~and 3. to 5.~~, under s. 30.80 (6) (a) 2. ~~or 3. to 5.~~, under ss. 343.30 (1q) and  
22 343.305 or under s. 350.11 (3) (a) 2. ~~and 3. to 5.~~ Subsection (1) (a), (am), (b), (bm), (c),  
23 (cm), (d), and (e) each require proof of a fact for conviction which the others do not  
24 require.

25 **SECTION 65. Initial applicability.**

**BILL**

1           (1) This act first applies to violations committed on the effective date of this  
 2 subsection, but does not preclude the counting of other violations or offenses as prior  
 3 violations for purposes of sentencing a person.

(END)

or  
 for purposes of  
 suspending or restricting  
 operating privileges ✓

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4163/?ins  
RPN:.....

insert rpn 13-16:

**SECTION 1.** 343.307<sup>^</sup> (1) (h) of the statutes is created to read:

343.307 (1) (h) Suspensions, revocations<sup>^</sup> or convictions<sup>^</sup> for a violation of s. 23.33 (4c) (a) or (4p)<sup>^</sup> or a local ordinance in conformity therewith, or for a violation of s. 23.33 (4c) (b).

**SECTION 2.** 343.307<sup>^</sup> (1) (i) of the statutes is created to read:

343.307 (1) (i) Suspensions, revocations<sup>^</sup> or convictions<sup>^</sup> for a violation of s. 30.681 (1) or 30.684 (5) or a local ordinance in conformity therewith, or for a violation of s. 30.681 (2).

**SECTION 3.** 343.307<sup>^</sup> (1) (k) of the statutes is created to read:

343.307 (1) (k) Suspensions, revocations<sup>^</sup> or convictions<sup>^</sup> for a violation of s. 350.101 (1) or 350.104 (5) or a local ordinance in conformity therewith, or for a violation of s. 350.101 (2).

**SECTION 4.** 343.307<sup>^</sup> (2) (i) of the statutes is created to read:

343.307 (2) (i) Suspensions, revocations<sup>^</sup> or convictions<sup>^</sup> for a violation of s. 23.33 (4c) (a) or (4p)<sup>^</sup> or a local ordinance in conformity therewith, or for a violation of s. 23.33 (4c) (b).

**SECTION 5.** 343.307<sup>^</sup> (2) (k) of the statutes is created to read:

343.307 (2) (k) Suspensions, revocations<sup>^</sup> or convictions<sup>^</sup> for a violation of s. 30.681 (1) or 30.684 (5) or a local ordinance in conformity therewith, or for a violation of s. 30.681 (2).

**SECTION 6.** 343.307<sup>^</sup> (2) (m) of the statutes is created to read:



343.307 (2) (m) Suspensions, revocations or convictions for a violation of s. 350.101 (1) or 350.104 (5) or a local ordinance in conformity therewith, or for a violation of s. 350.101 (2).

\*\*\*NOTE: This language counts ATV, snowmobile, and boating OWI violations for both regular and commercial driver licenses.

previous  
and the violation  
involved the operation  
of a sports recreational  
vehicle

1 **Insert 5-4**

2 **SECTION 1.** 23.33 (4y) of the statutes is created to read:

3 23.33 (4y) SUSPENSION OF OPERATING PRIVILEGES. (a) *Suspension orders.* 1. If a  
4 court imposes a penalty for <sup>a</sup> ~~the~~ violation of the intoxicated operation of an all-terrain  
5 vehicle law or the all-terrain vehicle refusal law, the court shall order the suspension  
6 of the person's privilege to operate a sports recreational vehicle for a period of not less  
7 than 12 months and not more than 16 months.

8 2. In addition to imposing <sup>the</sup> an order under subd. 1., the court shall also order  
9 the suspension of the person's privilege to operate a motor vehicle if the person,  
10 within 5 years prior to the arrest for the current violation of the intoxicated operation  
11 of an all-terrain vehicle law or the all-terrain vehicle refusal law, was previously  
12 found in violation of the intoxicated operating law or the refusal law. The period of  
13 suspension shall be not less than 6 months and not more than 12 months.

14 (b) *Operation while suspended or revoked.* 1. No person may operate an sports  
15 recreational vehicle in violation of a suspension order imposed under par. (a) 1.

16 2. No person may operate a motor vehicle in violation of a suspension order  
17 imposed under par. (a) 2.

18 3. No person whose motor vehicle operating privilege has been suspended or  
19 revoked for a violation counted under s. 343.307 (2) may operate an all-terrain  
20 vehicle during the time that the operating privilege is suspended or revoked.

21 **Insert 7-8**

22 **SECTION 2.** 23.33 (13) (bg) of the statutes is amended to read:

1           23.33 (13) (bg) *Penalties related to intoxicated operation of an all-terrain*  
 2 *vehicle; underage passengers.* If there is a passenger under 16 years of age on the  
 3 all-terrain vehicle at the time of a violation that gives rise to a conviction under ~~a~~<sup>e</sup>  
 4 ~~finding~~<sup>of</sup> having violated sub. (4c) (a) 1. or 2. or (4p) (e), the applicable minimum and  
 5 maximum forfeitures, fines, and terms of imprisonment under ~~pars.~~ par. (b) 1., 2.,  
 6 and 3. for the conviction, 4b., and 5. are doubled. ✓

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 64m to 666m, 9121 (6) (a); 2007 a. 27, 209.

7           **SECTION 3.** 23.33 (13) (br) of the statutes is repealed.

8           **SECTION 4.** 23.33 (13) (ce) of the statutes is created to read:

9           23.33 (13) (ce) *Penalties related to suspension or revocation; intoxication.* 1.  
 10 A person who operates a sports recreation<sup>a</sup> vehicle in violation of sub. (4y) (b) 1. ✓ is  
 11 subject to .....

      \*\*\*\*NOTE: Please decide whether you want a forfeiture or fine and the maximum and minimum amount. Also if you want imprisonment, please decide the maximum and minimum term. ✓

12           2. A person who operates a motor vehicle in violation of sub. (4y) (b) 2. ✓ is subject  
 13 to .....

      \*\*\*\*NOTE: Please decide whether you want a forfeiture or fine and the maximum and minimum amount. Also if you want imprisonment, please decide the maximum and minimum term. ✓

14           3. A person who operates an all-terrain vehicle in violation of sub. (4y) (b) 3. ✓  
 15 is subject to .....

      \*\*\*\*NOTE: Please decide whether you want a forfeiture or fine and the maximum and minimum amount. Also if you want imprisonment, please decide the maximum and minimum term. ✓

16           **Insert 7-24**

17           **SECTION 5.** 23.33 (13) (eg) of the statutes is created to read:

18           23.33 (13) (eg) *Certificate of completion of safety program.* ✓ In addition to any  
 19 other penalty or order, a person who for the first time violates the intoxicated

1 operation of an all-terrain vehicle law<sup>✓</sup> or the all-terrain vehicle refusal law<sup>✓</sup>, shall be  
 2 ordered by the court to obtain a certificate of satisfactory completion of a safety  
 3 program established under s. 23.33 (5) (d)<sup>✓</sup>. If the person has a valid certificate at the  
 4 time that the court imposes sentence for such a violation, the court shall  
 5 permanently revoke the certificate and order the person to obtain another certificate  
 6 of satisfactory completion of the safety program<sup>✓</sup>.

7 **Insert 8-20**

8 **SECTION 6.** 30.50<sup>✓</sup> (9m)<sup>^</sup> of the statutes is created to read:

9 30.50 (9m) "Recreational motorboat" means a motorboat that is not a  
 10 commercial<sup>✓</sup> motorboat<sup>✓</sup>.

11 **Insert 10-3**

12 **SECTION 7.** 30.681<sup>✓</sup> (2) (d) 1. a. of the statutes is amended to read:

13 30.681 (2) (d) 1. a. In an action under this subsection for a violation of the  
 14 intoxicated boating law where the defendant was operating a recreational motorboat  
 15 ~~that is not a commercial motorboat~~, the defendant has a defense if he or she proves  
 16 by a preponderance of the evidence that the injury would have occurred even if he  
 17 or she had been exercising due care and he or she had not been under the influence  
 18 of an intoxicant or did not have an alcohol concentration of 0.08 or more or a  
 19 detectable amount of a restricted controlled substance in his or her blood<sup>✓</sup>.

20 History: 1985 a. 331; 1989 a. 275; 1995 a. 290, 436; 1997 a. 35, 198; 2003 a. 30, 97, 326.

21 **Insert 10-8**

22 **SECTION 8.** 30.688<sup>✓</sup> of the statutes is created to read:

23 **30.688 Suspension of operation privileges.** (1) SUSPENSION OF OPERATING  
 24 PRIVILEGES. (a) If a court imposes a penalty for ~~the~~<sup>a</sup> violation of the intoxicated  
 boating law or the boating refusal law and if the violation involved the operation of

1 a recreational motorboat, the court shall order the suspension of the person's  
2 privilege to operate a sports recreational vehicle for a period of not less than 12  
3 months and not more than 16 months.

4 (b) In addition to imposing an order under par. (a), the court shall also order  
5 the suspension of the person's privilege to operate a motor vehicle if the person,  
6 within 5 years prior to the arrest for the current violation subject to the order under  
7 par. (a), was previously found in violation of the intoxicated operating law or the  
8 refusal law and the violation involved the operation of a sports recreation vehicle.  
9 The period of suspension shall be not less than 6 months and not more than 12  
10 months.

11 (2) OPERATION WHILE SUSPENDED OR REVOKED. (a) No person may operate an  
12 sports recreational vehicle in violation of a suspension order imposed under sub. (1)

13 (a) (1)

14 (b) No person may operate a motor vehicle in violation of a suspension order  
15 imposed under sub (1) (b).

16 (c) No person whose motor vehicle operating privilege has been suspended or  
17 revoked for a violation counted under s. 343.307 (2) may operate a recreational  
18 motorboat during the time that the operating privilege is suspended or revoked.

19 **Insert 12-3**

20 **SECTION 9.** 30.80 (6) (am) of the statutes is created to read:

21 30.80 (6) (am) *Penalties related to operating with underage passengers.* If there  
22 is a passenger under 16 years of age in a motorboat at the time of a violation that  
23 gives rise to a finding of having violated s. 30.681 (1) (a) 1. or (2) or 30.684 (5), the  
24 applicable minimum and maximum forfeitures, fines, and terms of imprisonment  
25 under par. (a) 1., 2., 3., 4., and 5. are doubled.

1 SECTION 10. 30.80<sup>^</sup> (6) (bg) of the statutes is created to read:

2 30.80 (6) (bg) *Penalties related to suspension or revocation; intoxication.* (a) ✓

3 A person who operates a sports recreation<sup>a</sup> vehicle in violation of s. 30.688 (2) (a) ✓ is  
4 subject to .....

\*\*\*\*NOTE: Please decide whether you want a forfeiture or fine and the maximum and minimum amount. Also if you want imprisonment, please decide the maximum and minimum term. ✓

5 (b) A person who operates a motor vehicle in violation of s. 30.688 (2) (b) ✓ is  
6 subject to .....

\*\*\*\*NOTE: Please decide whether you want a forfeiture or fine and the maximum and minimum amount. Also if you want imprisonment, please decide the maximum and minimum term. ✓

7 3. A person who operates a recreational motorboat in violation of s. 30.688 (2)  
8 (c) ✓ is subject to .....

\*\*\*\*NOTE: Please decide whether you want a forfeiture or fine and the maximum and minimum amount. Also if you want imprisonment, please decide the maximum and minimum term. ✓

9 SECTION 11. 30.80<sup>^</sup> (6) (bn) of the statutes is created to read:

10 30.80 (6) (bn) *Sentence of detention.* ✓ The legislature intends that courts use the  
11 sentencing option under s. 973.03 (4) whenever appropriate for persons subject to  
12 par. (b) 2. or 3. or (e) ✓ <sup>or</sup> par. (a) 2., 3., 4. ~~and~~ 5. <sup>or</sup> (b) ✓  
13 the state and local governments. ✓

14 SECTION 12. 30.80 (6) (c) of the statutes is amended to read:

15 30.80 (6) (c) *Calculation of previous conviction violations.* In determining the  
16 number of previous ~~convictions~~ violations under par. (a) 2. to 5., ~~convictions~~ violations  
17 arising out of the same incident or occurrence shall be counted as one previous  
18 conviction violation. ✓

History: 1973 c. 302; 1975 c. 208, 365, 422; 1979 c. 296 ss. 1 to 3; 1985 a. 243, 331; 1985 a. 332 s. 251 (1); 1989 a. 31, 145; 1995 a. 448; 1997 a. 198, 283; 2001 a. 109; 2005 a. 356.

and the previous violation involved the operation of a sports recreational vehicle

SECTION 13. 350.1075 of the statutes is created to read:

**350.1075 Suspension of operation privileges. (1) SUSPENSION OF**

OPERATING PRIVILEGES. (a) If a court imposes a penalty for the violation of the intoxicated snowmobiling law or the snowmobiling refusal law, the court shall order the suspension of the person's privilege to operate a sports recreational vehicle for a period of not less than 12 months and not more than 16 months.

(b) In addition to imposing <sup>the</sup> an order under par. (a), the court shall also order the suspension of the person's privilege to operate a motor vehicle if the person, within 5 years prior to the arrest for the current violation of the intoxicated snowmobiling law or the snowmobiling refusal law, was previously found in violation of the intoxicated operating law or the refusal law. The period of suspension shall be not less than 6 months and not more than 12 months.

**(2) OPERATION WHILE SUSPENDED OR REVOKED. (a) No person may operate an**

sports recreational vehicle in violation of a suspension order imposed under sub. (1) (a)

(b) No person may operate a motor vehicle in violation of a suspension order imposed under sub (1) (b).

(c) No person whose motor vehicle operating privilege has been suspended or revoked for a violation counted under s. 343.307 (2) may operate a snowmobile during the time that the operating privilege is suspended or revoked.

**Insert 17-2**

SECTION 14. 350.11 (3) (am) of the statutes is created to read:

350.11 (3) (am) Penalties related to operating with underage passengers. If there is a passenger under 16 years of age on a snowmobile at the time of a violation that gives rise to a finding of having violated ~~on to a conviction under~~ s. 350.101 (1)

1 (a) or (b) or (s) 350.104 (5), the applicable minimum and maximum forfeitures, fines,  
2 and terms of imprisonment under par. (a) 1., 2., 3., 4b., and 5. for the conviction are  
3 doubled.

4 SECTION 15. 350.11 (3) (bg) of the statutes is created to read:

5 350.11 (3) (bg) Penalties related to suspension or revocation; intoxication. (a)

6 A person who operates a sports recreation vehicle in violation of s. 350.1075 (2) (a)  
7 is subject to .....

\*\*\*NOTE: Please decide whether you want a forfeiture or fine and the maximum  
and minimum amount. Also if you want imprisonment, please decide the maximum and  
minimum term.

8 (b) A person who operates a motor vehicle in violation of s. 350.1075 (2) (b) is  
9 subject to .....

\*\*\*NOTE: Please decide whether you want a forfeiture or fine and the maximum  
and minimum amount. Also if you want imprisonment, please decide the maximum and  
minimum term.

10 3. A person who operates a snowmobile in violation of s. 350.1075 (2) (c) is  
11 subject to .....

\*\*\*NOTE: Please decide whether you want a forfeiture or fine and the maximum  
and minimum amount. Also if you want imprisonment, please decide the maximum and  
minimum term.

12 Insert 17-18

13 SECTION 16. 350.11 (3) (e) of the statutes is created to read:

14 350.11 (3) (e) Certificate of completion of safety program. In addition to any  
15 other penalty or order, a person who for the first time violates the intoxicated  
16 snowmobiling law or the snowmobiling refusal law, shall be ordered by the court to  
17 obtain a certificate of satisfactory completion of a safety program established under  
18 s. 350.055 (1). If the person has a valid certificate at the time that the court imposes  
19 sentence for such a violation, the court shall permanently revoke the certificate and



- 1 order the person to obtain another certificate of satisfactory completion of the safety
- 2 program.✓