

Fri

State of Wisconsin
2009 - 2010 LEGISLATURE

RJR text
p2

LRB-4163/P1
MGG&RPN:nwn:ph

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

AV

Regen.

1 AN ACT *to repeal* 23.33 (13) (br); *to renumber and amend* 23.33 (1) (jm), 23.33
2 (13) (b) 4., 30.50 (9x), 350.01 (10r) and 350.11 (3) (a) 4.; *to amend* 23.33 (4c) (a)
3 3., 23.33 (4c) (a) 4., 23.33 (4c) (b) 3., 23.33 (4t), 23.33 (13) (b) 1., 23.33 (13) (b)
4 2., 23.33 (13) (b) 3., 23.33 (13) (bg), 23.33 (13) (cm), 23.33 (13) (d), 23.33 (13)
5 (dm), 30.681 (1) (bn), 30.681 (1) (c), 30.681 (2) (c), 30.681 (2) (d) 1. a., 30.686,
6 30.74 (1) (bn), 30.80 (6) (a) 1., 30.80 (6) (a) 2., 30.80 (6) (a) 3., 30.80 (6) (a) 4., 30.80
7 (6) (a) 5., 30.80 (6) (a) 6., 30.80 (6) (c), 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 (4y), 23.33 (13) (b) 4b., 23.33 (13) (b) 5., 23.33 (13) (ce), 23.33 (13)
12 (eg), 23.33 (13) (er), 30.50 (4n), 30.50 (4v), 30.50 (9m), 30.50 (9y), 30.50 (12m),
13 30.688, 30.80 (6) (am), 30.80 (6) (bg), 30.80 (6) (bn), 30.80 (6) (cm), 343.307 (1)
14 (h), 343.307 (1) (i), 343.307 (1) (k), 343.307 (2) (i), 343.307 (2) (k), 343.307 (2) (m),
15 350.01 (9b), 350.01 (9j), 350.01 (10s), 350.01 (17m), 350.1075, 350.11 (3) (a) 4b.,

1 350.11 (3) (a) 5., 350.11 (3) (am), 350.11 (3) (bg) and 350.11 (3) (e) of the statutes;
2 **relating to:** intoxicated operation of all-terrain vehicles, snowmobiles,
3 motorboats, and motor vehicles, and providing penalties.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

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

5 23.33 (1) (ib) "Intoxicated operating law" means the intoxicated operation of
6 an all-terrain vehicle law, the intoxicated boating law, as defined in s. 30.50 (4m),
7 the intoxicated snowmobiling law, as defined in s. 350.01 (9c), or an offense that
8 results in a suspension, revocation, or conviction counted under s. 343.307 (1).

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

10 23.33 (1) (im) "Legal drinking age" means 21 years of age.

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

12 23.33 (1) (jk) "Refusal law" means the all-terrain vehicle refusal law, the
13 boating refusal law, as defined in s. 30.50 (2c), the snowmobiling refusal law, as
14 defined in s. 350.01 (15c), or the motor vehicle refusal law under s. 343.305.

15 **SECTION 4.** 23.33 (1) (jm) of the statutes is renumbered 23.33 (1) (br) and
16 amended to read:

17 23.33 (1) (br) "~~Refusal~~ All-terrain vehicle refusal law" means sub. (4p) (e) or
18 a local ordinance in conformity therewith.

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

1 23.33 (1) (jr) "Sports recreational vehicle" means an all-terrain vehicle, a
2 recreational motorboat as defined in s. 30.50 (9m), or a snowmobile as defined in s.
3 340.01 (58a).

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

5 23.33 (4c) (a) 3. 'Operating with alcohol concentrations at specified levels;
6 below legal drinking age 19.' ~~If a~~ A person who has not attained the legal drinking
7 ~~age of 19, the person~~ may not engage in the operation of an all-terrain vehicle while
8 he or she has an alcohol concentration of more than 0.0 but ~~not more~~ less than 0.08.

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

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

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

21 23.33 (4c) (b) 3. 'Related charges.' A person may be charged with and a
22 prosecutor may proceed upon a complaint based upon a violation of any combination
23 of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the
24 person is charged with violating any combination of subd. 1., 2., or 2m. in the
25 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty

PLAIN

1 of any combination of subd. 1, 2., or 2m. for acts arising out of the same incident or
 2 occurrence, there shall be a single ~~conviction violation~~ for purposes of sentencing and
 3 for purposes of counting ~~convictions violations~~ under sub. (13) (b) 2. and 3. to 5.
 4 Subdivisions 1., 2., and 2m. each require proof of a fact for ~~conviction~~ ~~finding a~~
 5 ~~violation~~ which the others do not require. ✓

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

7 23.33 (4t) REPORT ARREST TO DEPARTMENT. If a law enforcement officer arrests
 8 a person for a violation of the intoxicated operation of an all-terrain vehicle law or
 9 the all-terrain vehicle refusal law, the law enforcement officer shall notify the
 10 department of the arrest as soon as practicable.

11 **SECTION 10.** 23.33 (4y) of the statutes is created to read:

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

17 2. In addition to the order under subd. 1., the court shall also order the
 18 suspension of the person's privilege to operate a motor vehicle if the person, within
 19 5 years prior to the arrest for the current violation of the intoxicated operation of an
 20 all-terrain vehicle law or the all-terrain vehicle refusal law, was previously found
 21 in violation of the intoxicated operating law or the refusal law and the previous
 22 violation involved the operation of a sports recreational vehicle. The period of
 23 suspension shall be not less than 6 months and not more than 12 months.

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

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

3 3. No person whose motor vehicle operating privilege has been suspended or
4 revoked for a ~~violation~~ ^{conviction} (counted under s. 343.307 (1) may operate an all-terrain
5 vehicle during the time that the operating privilege is suspended or revoked.

6 SECTION 11. 23.33 (13) (b) 1. of the statutes is amended to read:

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

10 SECTION 12. 23.33 (13) (b) 2. of the statutes is amended to read:

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

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

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

24 SECTION 14. 23.33 (13) (b) 4. of the statutes is renumbered 23.33 (13) (b) 6. and
25 amended to read:

convicted
was convicted 3 times
SECTION 14
previously under

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 15. 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. ✓

times
was convicted
4 or more pre-
viously under

9 SECTION 16. 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 17. 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 ~~conviction under~~
19 ~~finding of having violated~~ sub. (4c) (a) 1. or 2. or (4p) (e), the applicable minimum and
20 maximum forfeitures, fines, and terms of imprisonment under ~~pars. par.~~ (b) 1., 2.,
21 and 3. ~~for the conviction~~, 4b., and 5. ~~are doubled.~~ ✓

for the conviction
plain

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22 SECTION 18. 23.33 (13) (br) of the statutes is repealed.

23 SECTION 19. 23.33 (13) (ce) of the statutes is created to read:

1 23.33 (13) (ce) Penalties related to suspension or revocation; intoxication. 1.

2 A person who operates a sports recreational vehicle in violation of sub. (4y) (b) 1. is

3 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.

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

5 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.

6 3. A person who operates an all-terrain vehicle in violation of sub. (4y) (b) 3.

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

9 23.33 (13) (cm) Sentence of detention. The legislature intends that courts use
10 the sentencing option under s. 973.03 (4) whenever appropriate for persons subject
11 to par. (b) 2. ~~or~~, 3., 4b., or 5., or (c). The use of this option can result in significant cost
12 savings for the state and local governments. ✓ PLAN

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

14 23.33 (13) (d) Calculation of previous ~~convictions~~ ~~violations~~. In determining
15 the number of previous ~~convictions~~ ~~violations~~ under par. (b) 2. and 3. to 5., ~~convictions~~
16 ~~violations~~ arising out of the same incident or occurrence shall be counted as one
17 previous ~~conviction~~ ~~violation~~. conviction PLAN

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

19 23.33 (13) (dm) Reporting ~~convictions~~ ~~violations~~ to the department. Whenever
20 a person is ~~convicted of~~ ~~found in~~ violation of the intoxicated operation of an
plan convicted of a

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1 all-terrain vehicle law, the clerk of the court ~~in which the conviction occurred~~ ~~that~~
 2 ~~finds the person in violation~~, or the justice, judge or magistrate of a court not having
 3 a clerk, shall forward to the department the record of such ~~conviction violation~~. The
 4 record ~~of conviction~~ forwarded to the department shall state whether the offender
 5 was involved in an accident at the time of the offense. ✓

6 SECTION 23. 23.33 (13) (eg) of the statutes is created to read:

7 23.33 (13) (eg) *Certificate of completion of safety program*. In addition to any
 8 other penalty or order, a person who for the first time violates the intoxicated
 9 operation of an all-terrain vehicle law or the all-terrain vehicle refusal law, shall be
 10 ordered by the court to obtain a certificate of satisfactory completion of a safety
 11 program established under s. 23.33 (5) (d). If the person has a valid certificate at the
 12 time that the court imposes sentence for such a violation, the court shall
 13 permanently revoke the certificate and order the person to obtain another certificate
 14 of satisfactory completion of the safety program.

15 SECTION 24. 23.33 (13) (er) of the statutes is created to read:

16 SECTION 25. 30.50 (4n) of the statutes is created to read:

17 30.50 (4n) "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, the
 19 intoxicated snowmobiling law, as defined in s. 350.01 (9c), or an offense that results
 20 in a suspension, revocation, or conviction counted under s. 343.307 (1).

21 SECTION 26. 30.50 (4v) of the statutes is created to read:

22 30.50 (4v) "Legal drinking age" means 21 years of age.

23 SECTION 27. 30.50 (9m) of the statutes is created to read:

24 30.50 (9m) "Recreational motorboat" means a motorboat that is not a
 25 commercial motorboat.

1 **SECTION 28.** 30.50 (9x) of the statutes is renumbered 30.50 (2c) and amended
2 to read:

3 **30.50 (2c)** "~~Refusal~~ Boating refusal law" means s. 30.684 (5) or a local ordinance
4 in conformity with that subsection.

5 **SECTION 29.** 30.50 (9y) of the statutes is created to read:

6 **30.50 (9y)** "Refusal law" means the all-terrain vehicle refusal law, as defined
7 in s. 23.33 (1) (br), the boating refusal law, the snowmobiling refusal law, as defined
8 in s. 350.01 (15c), or the motor vehicle refusal law under s. 343.305.

9 **SECTION 30.** 30.50 (12m) of the statutes is created to read:

10 **30.50 (12m)** "Sports recreational vehicle" means an all-terrain vehicle, as
11 defined in s. 340.01 (2g), a recreational motorboat, or a snowmobile as defined in s.
12 340.01 (58a).

13 **SECTION 31.** 30.681 (1) (bn) of the statutes is amended to read:

14 **30.681 (1) (bn)** *Operating with alcohol concentrations at specified levels; below*
15 *legal drinking age.* A person who has not attained the legal drinking age, ~~as defined~~
16 ~~in s. 125.02 (8m),~~ may not engage in the operation of a motorboat while he or she has
17 ~~a blood~~ an alcohol concentration of more than 0.0 but less than 0.08.

18 **SECTION 32.** 30.681 (1) (c) of the statutes is amended to read:

19 **30.681 (1) (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., the offenses
23 shall be joined. If the person is found guilty of any combination of par. (a) or (b) 1.,
24 1m., or 2. for acts arising out of the same incident or occurrence, there shall be a
25 single conviction (violation) for purposes of sentencing and for purposes of counting

(PLAIN)

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

4 SECTION 33. 30.681 (2) (c) of the statutes is amended to read:

5 30.681 (2) (c) *Related charges.* A person may be charged with and a prosecutor
6 may proceed upon a complaint based upon a violation of any combination of par. (a)
7 or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence. If the person
8 is charged with violating any combination of par. (a) or (b) 1., 1m., or 2. in the
9 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty
10 of any combination of par. (a) or (b) 1., 1m., or 2. for acts arising out of the same
11 incident or occurrence, there shall be a single ~~conviction~~ ~~violation~~ for purposes of
12 sentencing and for purposes of counting ~~convictions~~ ~~violations~~ under s. 30.80 (6) (a)
13 2. and 3. to 5. Paragraphs (a) and (b) 1., 1m., and 2. each require proof of a fact for
14 ~~conviction~~ ~~finding a violation~~ which the others do not require. ✓

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15 SECTION 34. 30.681 (2) (d) 1. a. of the statutes is amended to read:

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

23 SECTION 35. 30.686 of the statutes is amended to read:

24 **30.686 Report arrest to department.** If a law enforcement officer arrests
25 a person for a violation of the intoxicated boating law or the boating refusal law, the

1 law enforcement officer shall notify the department of the arrest as soon as
2 practicable.

3 **SECTION 36.** 30.688 of the statutes is created to read:

4 **30.688 Suspension of operation privileges. (1) SUSPENSION OF OPERATING**
5 **PRIVILEGES.** (a) If a court imposes a penalty for a violation of the intoxicated boating
6 law or the boating refusal law and if the violation involved the operation of a
7 recreational motorboat, the court shall order the suspension of the person's privilege
8 to operate a sports recreational vehicle for a period of not less than 12 months and
9 not more than 16 months.

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

17 **(2) OPERATION WHILE SUSPENDED OR REVOKED.** (a) No person may operate a
18 sports recreational vehicle in violation of a suspension order imposed under sub. (1)
19 (a).

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

22 (c) No person whose motor vehicle operating privilege has been suspended or
23 ^{conviction} revoked for a ~~violation~~ counted under s. 343.307 (1) may operate a recreational
24 motorboat during the time that the operating privilege is suspended or revoked.

25 **SECTION 37.** 30.74 (1) (bn) of the statutes is amended to read:

SECTION 37

30.688(1)(a)

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

4 SECTION 38. 30.80 (6) (a) 1. of the statutes is amended to read:

5 30.80 (6) (a) 1. Except as provided under subsds. 2. to 5., a person who violates
6 s. 30.681 (1) (a) or (b), ~~a local ordinance in conformity with s. 30.681 (1) (a) or (b) or~~
7 ~~the refusal law~~ 30.684 (5) shall forfeit not less than \$150 ~~\$400~~ nor more than \$300
8 \$550.

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9 SECTION 39. 30.80 (6) (a) 2. of the statutes is amended to read:

10 30.80 (6) (a) 2. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~
11 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law or 30.684 (5)~~ and who, PLAIN
12 within 5 years prior to the arrest for the current violation, was convicted one time
13 previously under ~~had one violation of~~ the intoxicated boating operating law or the
14 refusal law shall be fined not less than \$300 nor more than \$1,000 ~~\$1,100~~ and shall
15 be imprisoned for not less than 5 days nor more than ~~6 months~~ one year in the county
16 jail. ✓

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17 SECTION 40. 30.80 (6) (a) 3. of the statutes is amended to read:

18 30.80 (6) (a) 3. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~
19 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law or 30.684 (5)~~ and who,
20 within 5 years prior to the arrest for the current violation, was convicted had 2 times
21 previously under ~~violations of~~ the intoxicated boating operating law or, the refusal
22 law, or a combination of these laws, shall be fined not less than \$600 nor more than
23 \$2,000 and shall be imprisoned for not less than 30 days nor more than one year in
24 the county jail. ✓

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25 SECTION 41. 30.80 (6) (a) 4. of the statutes is amended to read:

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1 30.80 (6) (a) 4. 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~~ ³ ~~times~~
 4 ~~previously under violations of~~ the intoxicated boating operating law or, the refusal
 5 law, or any 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 60 days nor more than one year in
 7 the county jail. ✓

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8 SECTION 42. 30.80 (6) (a) 5. of the statutes is amended to read:

9 30.80 (6) (a) 5. 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, ^{plain} ~~was convicted~~ ~~had~~ ⁴
 12 ~~more times previously under violations of~~ the intoxicated boating operating law or,
 13 the refusal law, or any combination of these laws, shall be fined not less than \$600
 14 nor more than \$2,000 and shall be imprisoned for not less than 6 months nor more
 15 than one year in the county jail. ✓

16 SECTION 43. 30.80 (6) (a) 6. of the statutes is amended to read:

17 30.80 (6) (a) 6. A person who violates s. 30.681 (1) (bn) or ~~a local ordinance in~~
 18 ~~conformity with s. 30.681 (1) (bn)~~ who violates 30.684 (5) and has not attained the
 19 legal drinking age shall forfeit \$50. ✓ *conviction under*

20 SECTION 44. 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) or (b) 1. 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. ✓ *for the conviction*

1 SECTION 45. 30.80 (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 recreational vehicle in violation of s. 30.688 (2) (a)
4 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.

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.

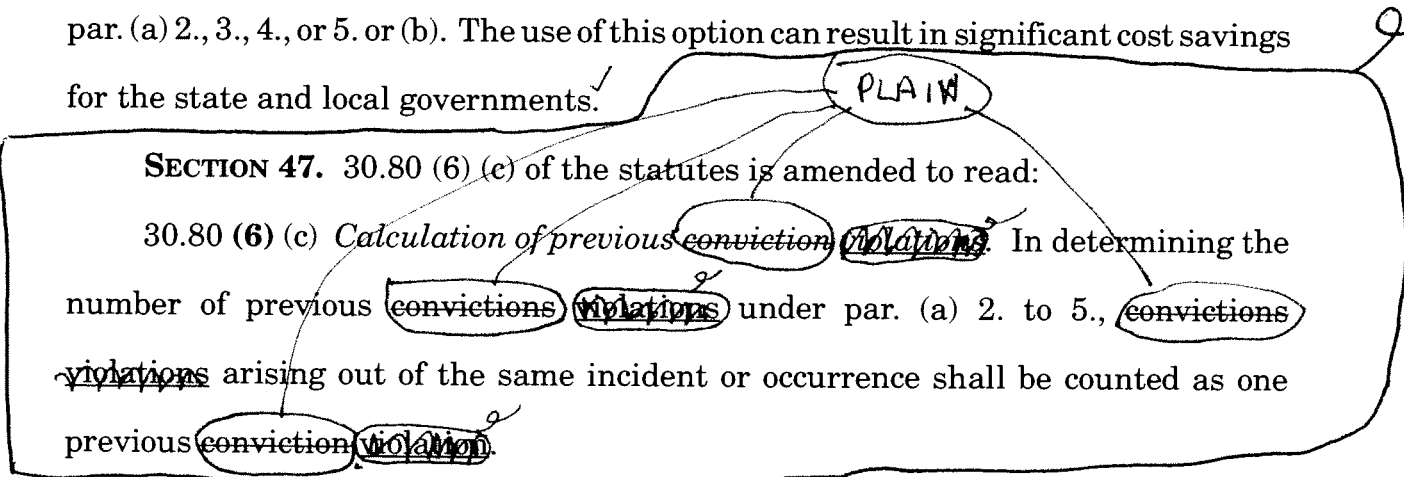
9 SECTION 46. 30.80 (6) (bn) of the statutes is created to read:

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. (a) 2., 3., 4., or 5. or (b). The use of this option can result in significant cost savings
13 for the state and local governments. ✓

14 SECTION 47. 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
17 violations arising out of the same incident or occurrence shall be counted as one
18 previous conviction violation.

19 SECTION 48. 30.80 (6) (cm) of the statutes is created to read:



1 ^{convicted of a} 30.80 (6) (cm) ~~Reporting~~ ^{convictions} ~~violation~~ to the department. Whenever a person is
 2 ~~found in~~ violation of the intoxicated boating law, the clerk of the court ~~that finds the~~
 3 ~~person in violation~~ or the judge of a court not having a clerk, shall forward to the
 4 department the record of such ~~violation~~ ^{conviction}. The record ^{of conviction} forwarded to the department
 5 shall state whether the offender was involved in an accident at the time of the
 6 offense. ^{in which the conviction occurred} ✓

7 **SECTION 49.** 30.80 (6) (e) of the statutes is amended to read:

8 30.80 (6) (e) *Certificate of satisfactory completion of safety course.* In addition
 9 to any other penalty or order, a person who for the first time violates s. 30.681 (1) or
 10 (2) or 30.684 (5) or who violates s. 940.09 or 940.25 if the violation involves the
 11 operation of a motorboat, the intoxicated boating law or the boating refusal law shall
 12 be ordered by the court to obtain a certificate of satisfactory completion of a safety
 13 course under s. 30.74 (1). If the person has a valid certificate at the time that the
 14 court imposes sentence for a such a violation, the court shall permanently revoke the
 15 certificate and order the person to obtain ~~a~~ another certificate of satisfactory
 16 completion of ~~a~~ the safety course ~~under s. 30.74 (1).~~ ✓

17 **SECTION 50.** 59.54 (14) (g) of the statutes is amended to read:

18 59.54 (14) (g) A county may establish extensions of the jail, which need not be
 19 at the county seat, to serve as places of temporary confinement. No person may be
 20 detained in such an extension for more than 24 consecutive hours, except that a court
 21 may order that a person subject to imprisonment under s. 23.33 (13) (b) 2. or 3., 4b.
 22 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)
 23 be imprisoned for more than 24 consecutive hours in such an extension. Jail
 24 extensions shall be subject to plans and specifications approval by the department

1 of corrections and shall conform to other requirements imposed by law on jails,
2 except that cells may be designed and used for multiple occupancy.

3 **SECTION 51.** 343.307 (1) (h) of the statutes is created to read:

4 343.307 (1) (h) (Suspensions, revocations, or) convictions for a violation of s.
5 23.33 (4c) (a) or (4p) (e) or a local ordinance in conformity therewith, or for a violation
6 of s. 23.33 (4c) (b).

7 **SECTION 52.** 343.307 (1) (i) of the statutes is created to read:

8 343.307 (1) (i) (Suspensions, revocations, or) convictions for a violation of s.
9 30.681 (1) or 30.684 (5) or a local ordinance in conformity therewith, or for a violation
10 of s. 30.681 (2).

11 **SECTION 53.** 343.307 (1) (k) of the statutes is created to read:

12 343.307 (1) (k) (Suspensions, revocations, or) convictions for a violation of s.
13 350.101 (1) or 350.104 (5) or a local ordinance in conformity therewith, or for a
14 violation of s. 350.101 (2).

15 **SECTION 54.** 343.307 (2) (i) of the statutes is created to read:

16 343.307 (2) (i) (Suspensions, revocations, or) convictions for a violation of s. 23.33
17 (4c) (a) or (4p) (e) or a local ordinance in conformity therewith, or for a violation of
18 s. 23.33 (4c) (b).

19 **SECTION 55.** 343.307 (2) (k) of the statutes is created to read:

20 343.307 (2) (k) (Suspensions, revocations, or) convictions for a violation of s.
21 30.681 (1) or 30.684 (5) or a local ordinance in conformity therewith, or for a violation
22 of s. 30.681 (2).

23 **SECTION 56.** 343.307 (2) (m) of the statutes is created to read:

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

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

4 **SECTION 57.** 350.01 (9b) of the statutes is created to read:

5 350.01 (9b) "Intoxicated operating law" means the intoxicated operation of an
6 all-terrain vehicle law, as defined in s. 23.33 (1) (ic), the intoxicated boating law, as
7 defined in s. 30.50 (4m), the intoxicated snowmobiling law, or an offense that results
8 in a suspension, revocation, or conviction counted under s. 343.307 (1).

9 **SECTION 58.** 350.01 (9j) of the statutes is created to read:

10 350.01 (9j) "Legal drinking age" means 21 years of age.

11 **SECTION 59.** 350.01 (10r) of the statutes is renumbered 350.01 (15c) and
12 amended to read:

13 350.01 (15c) "~~Refusal~~ Snowmobiling refusal law" means s. 350.104 (5) or a local
14 ordinance in conformity therewith.

15 **SECTION 60.** 350.01 (10s) of the statutes is created to read:

16 350.01 (10s) "Refusal law" means the all-terrain vehicle refusal law, as defined
17 in s. 23.33 (1) (br), the boating refusal law, as defined in s. 30.50 (2c), the
18 snowmobiling refusal law, or the motor vehicle refusal law under s. 343.305.

19 **SECTION 61.** 350.01 (17m) of the statutes is created to read:

20 350.01 (17m) "Sports recreational vehicle" means an all-terrain vehicle, as
21 defined in s. 340.01 (2g), a recreational motorboat, as defined in s. 30.50 (9m), or a
22 snowmobile.

23 **SECTION 62.** 350.101 (1) (c) of the statutes is amended to read:

1 350.101 (1) (c) *Operating with alcohol concentrations at specified levels; below*
2 *legal drinking age 19.* If a A person who has not attained the legal drinking age of
3 19, the person may not engage in the operation of a snowmobile while he or she has
4 an alcohol concentration of more than 0.0 but ~~not more~~ less than 0.08.

5 **SECTION 63.** 350.101 (1) (d) of the statutes is amended to read:

6 350.101 (1) (d) *Related charges.* A person may be charged with and a prosecutor
7 may proceed upon a complaint based upon a violation of any combination of par. (a),
8 (b), or (bm) for acts arising out of the same incident or occurrence. If the person is
9 charged with violating any combination of par. (a), (b), or (bm), the offenses shall be
10 joined. If the person is found guilty of any combination of par. (a), (b), or (bm) for acts
11 arising out of the same incident or occurrence, there shall be a single conviction
12 violation for purposes of sentencing and for purposes of counting convictions PLAIN
13 violations under s. 350.11 (3) (a) 2. ~~and 3.~~ to 5. Paragraphs (a), (b), and (bm) each
14 require proof of a fact for conviction finding a violation which the others do not
15 require. PLAIN

16 **SECTION 64.** 350.101 (2) (c) of the statutes is amended to read:

17 350.101 (2) (c) *Related charges.* A person may be charged with and a prosecutor
18 may proceed upon a complaint based upon a violation of any combination of par. (a),
19 (b), or (bm) for acts arising out of the same incident or occurrence. If the person is
20 charged with violating any combination of par. (a), (b), or (bm) in the complaint, the
21 crimes shall be joined under s. 971.12. If the person is found guilty of any
22 combination of par. (a), (b), or (bm) for acts arising out of the same incident or
23 occurrence, there shall be a single conviction violation for purposes of sentencing and
24 for purposes of counting convictions violations under s. 350.11 (3) (a) 2. ~~and 3.~~ to 5. PLAIN

1 Paragraphs (a), (b), and (bm) each require proof of a fact for ^{PLAIN} conviction ~~finding a~~
2 ~~violation~~ which the others do not require. ✓

3 SECTION 65. 350.106 of the statutes is amended to read:

4 **350.106 Report arrest to department.** If a law enforcement officer arrests
5 a person for a violation of the intoxicated snowmobiling law or the snowmobiling
6 refusal law, the law enforcement officer shall notify the department of the arrest as
7 soon as practicable.

8 SECTION 66. 350.1075 of the statutes is created to read:

9 **350.1075 Suspension of operation privileges.** (1) SUSPENSION OF
10 OPERATING PRIVILEGES. (a) If a court imposes a penalty for a violation of the
11 intoxicated snowmobiling law or the snowmobiling refusal law, the court shall order
12 the suspension of the person's privilege to operate a sports recreational vehicle for
13 a period of not less than 12 months and not more than 16 months.

14 (b) In addition to the order under par. (a), the court shall also order the
15 suspension of the person's privilege to operate a motor vehicle if the person, within
16 5 years prior to the arrest for the current violation of the intoxicated snowmobiling
17 law or the snowmobiling refusal law, was previously found in violation of the
18 intoxicated operating law or the refusal law and the previous violation involved the
19 operation of a sports recreational vehicle. The period of suspension shall be not less
20 than 6 months and not more than 12 months.

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

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

conviction
 1 (c) No person whose motor vehicle operating privilege has been suspended or
 2 revoked for a ~~violation~~ ^{conviction} counted under s. 343.307 (1) may operate a snowmobile
 3 during the time that the operating privilege is suspended or revoked.

4 SECTION 67. 350.11 (3) (a) 1. of the statutes is amended to read:

5 350.11 (3) (a) 1. Except as provided under subds. 2. and 3. to 5., a person who
 6 violates s. 350.101 (1) (a), (b), or (bm) or s. 350.104 (5) shall forfeit not less than \$400
 7 nor more than \$550. PLAIN one time PLAIN

8 SECTION 68. 350.11 (3) (a) 2. of the statutes is amended to read:

9 350.11 (3) (a) 2. ~~Except as provided under subd. 3., a~~ A person who violates
 10 s. 350.101 (1) (a), (b), or (bm) or 350.104 (5) and who, within 5 years prior to the arrest
 11 for the current violation, was convicted previously under had one violation of the
 12 intoxicated snowmobiling operating law or the refusal law shall be fined not less than
 13 \$300 nor more than \$1,000 \$1,100 and shall be imprisoned not less than 5 days nor
 14 more than ~~6 months~~ one year in the county jail. ✓

15 SECTION 69. 350.11 (3) (a) 3. of the statutes is amended to read: PLAIN

16 350.11 (3) (a) 3. 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, was convicted
 18 had 2 or more times previously under violations of the intoxicated snowmobiling
 19 operating law or, the refusal law, or any combination of these laws, shall be fined not
 20 less than \$600 nor more than \$2,000 and shall be imprisoned not less than 30 days
 21 nor more than one year in the county jail. ✓

22 SECTION 70. 350.11 (3) (a) 4. of the statutes is renumbered 350.11 (3) (a) 6. and
 23 amended to read:

1 350.11 (3) (a) 6. A person who violates s. 350.101 (1) (c) or who violates 350.104
2 (5) and ~~who~~ has not attained the legal drinking age of 19 shall forfeit ~~not more than~~
3 \$50. *was convicted three times previously under*

4 SECTION 71. 350.11 (3) (a) 4b. of the statutes is created to read:

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

10 SECTION 72. 350.11 (3) (a) 5. of the statutes is created to read:

11 350.11 (3) (a) 5. A person who violates s. 350.101 (1) (a), (b), or (bm) or 350.104
12 (5) and who, within 5 years prior to the arrest for the current violation, ~~had 4 or more~~
13 ~~violations of~~ *was convicted 4 or more times previously under* the intoxicated operating law, the refusal law, or any combination of
14 these laws, shall be fined not less than \$600 nor more than \$2,000 and shall be
15 imprisoned not less than 6 months nor more than one year in the county jail. ✓

16 SECTION 73. 350.11 (3) (am) of the statutes is created to read: *conviction under*

17 350.11 (3) (am) *Penalties related to operating with underage passengers.* If
18 there is a passenger under 16 years of age on a snowmobile at the time of a violation
19 that gives rise to a ~~finding of having violated~~ s. 350.101 (1) (a) or (b) or 350.104 (5),
20 the applicable minimum and maximum forfeitures, fines, and terms of
21 imprisonment under par. (a) 1., 2., 3., 4b., and 5. for the conviction are doubled. ✓

22 SECTION 74. 350.11 (3) (bg) of the statutes is created to read:

23 350.11 (3) (bg) *Penalties related to suspension or revocation; intoxication.* 1.
24 A person who operates a sports recreational vehicle in violation of s. 350.1075 (2) (a)
25 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.

1 2. A person who operates a motor vehicle in violation of s. 350.1075 (2) (c) is
2 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.

3 3. A person who operates a snowmobile in violation of s. 350.1075 (2) (c) 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 SECTION 75. 350.11 (3) (bm) of the statutes is amended to read:

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

10 SECTION 76. 350.11 (3) (c) of the statutes is amended to read:

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

15 SECTION 77. 350.11 (3) (cm) of the statutes is amended to read:

16 350.11 (3) (cm) *Reporting convictions violations to the department.* Whenever
17 a person is convicted of a ~~found in~~ violation of the intoxicated snowmobiling law, the
18 clerk of the court ~~in which the conviction occurred that finds the person in violation~~
19 or the justice, judge or magistrate of a court not having a clerk, shall forward to the
20 department the record of such conviction violation. The record of conviction

INS MN
22-10

PLAIN

PLAIN

keep
comma

1 forwarded to the department shall state whether the offender was involved in an
2 accident at the time of the offense.✓

3 **SECTION 78.** 350.11 (3) (e) of the statutes is created to read:

4 350.11 **(3)** (e) *Certificate of completion of safety program.* In addition to any
5 other penalty or order, a person who for the first time violates the intoxicated
6 snowmobiling law or the snowmobiling refusal law, shall be ordered by the court to
7 obtain a certificate of satisfactory completion of a safety program established under
8 s. 350.055 (1). If the person has a valid certificate at the time that the court imposes
9 sentence for such a violation, the court shall permanently revoke the certificate and
10 order the person to obtain another certificate of satisfactory completion of the safety
11 program.✓

12 **SECTION 79.** 940.09 (1m) (b) of the statutes is amended to read:

13 940.09 **(1m)** (b) If a person is charged in an information with any of the
14 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
15 971.12. If the person is found guilty of more than one of the crimes so charged for
16 acts arising out of the same incident or occurrence, there shall be a single conviction
17 for purposes of sentencing and for purposes of counting convictions under s. 23.33
18 (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
19 s. 350.11 (3) (a) 2. ~~and 3. to 5.~~ Subsection (1) (a), (am), (b), (bm), (c), (cm), (d), and (e)
20 each require proof of a fact for conviction which the others do not require, and sub.
21 (1g) (a), (am), (b), (c), (cm), and (d) each require proof of a fact for conviction which
22 the others do not require.✓

23 **SECTION 80.** 940.25 (1m) (b) of the statutes is amended to read:

24 940.25 **(1m)** (b) If a person is charged in an information with any of the
25 combinations of crimes referred to in par. (a), the crimes shall be joined under s.

1 971.12. If the person is found guilty of more than one of the crimes so charged for
2 acts arising out of the same incident or occurrence, there shall be a single conviction
3 for purposes of sentencing and for purposes of counting convictions under s. 23.33
4 (13) (b) 2. ~~and 3. to 5.~~, under s. 30.80 (6) (a) 2. ~~or 3. to 5.~~, under ss. 343.30 (1q) and
5 343.305 or under s. 350.11 (3) (a) 2. ~~and 3. to 5.~~ Subsection (1) (a), (am), (b), (bm), (c),
6 (cm), (d), and (e) each require proof of a fact for conviction which the others do not
7 require✓

8 **SECTION 81. Initial applicability.**

9 (1) This act first applies to violations committed on the effective date of this
10 subsection, but does not preclude the counting of other violations or offenses as prior
11 violations for purposes of sentencing a person or for purposes of suspending or
12 revoking operating privileges.

13 (END)

D-note

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4163/P1insnn
MGG&RPN:nwn:ph

INS NN 22-10

1

2

SECTION 1. 350.11 (3) (c) of the statutes is amended to read:

3

350.11 **(3)** (c) *Calculation of previous convictions.* In determining the number

4

of previous convictions under par. (a) 2. ~~and 3.~~ to 5., convictions arising out of the

5

same incident or occurrence shall be counted as one previous conviction. ✓

History: 1971 c. 277; 1973 c. 218; 1975 c. 365; 1987 a. 399; 1991 a. 269; 1993 a. 119, 436; 1995 a. 417, 448; 1997 a. 27, 283; 2001 a. 109; 2003 a. 97.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4163/P²/dn
MGG&RPN:nwn:ph

Date

Representative Molepske:

1. This area of current law is quite challenging. Please review carefully. I'll be happy to be meet with interested parties to explain areas where there are questions.

2. Pursuant to our telephone conversation, this is a preliminary draft done under a new LRB number. Please note there are embedded four-star notes in the draft that need to be addressed. From the Snowmobile Recreation Council's recommendation did not directly make it clear what penalties were desired.

3. Under current law, there are different provisions under the OWI boating law for commercial motorboats as opposed to recreational motorboats. "Commercial motorboat" is defined under current law in s. 30.50 (3d), and I have defined "recreational motorboat" in this draft. See s. 30.50 (9m). Under current law, a person operating a commercial motorboat runs afoul with the OWI law for having a blood alcohol concentration of 0.04% or more, as opposed to 0.08% or more. Under current law, prior convictions of the law applicable to the operation of commercial motorboats count as prior violations if a person is in court to be sentenced for the OWI operation of a recreational motorboat and vice versa. This draft does not affect these provisions. However, under OWI motor vehicle law, prior regular OWI convictions count when sentencing a person for OWI operation in a commercial or occupational setting, but prior commercial or occupational OWI convictions do not apply when sentencing a person for a regular OWI law violation. Apparently, the intent is to not count violations in excess of 0.04% when a person is being sentenced for personal behavior as opposed to behavior on the job, since 0.04% is almost absolute sobriety. Please let me know if you want any changes in this regard in the OWI boating laws.

Furthermore, as to the dichotomy between OWI operation of a commercial motorboat as opposed to a personal motorboat, in this draft the provisions authorizing the court to suspend motorboating or motor vehicle operating privileges of a motorboat operator under s. 30.688 only apply when the motorboat operator is in court to be sentenced for the OWI operation of a recreational motorboat, and not for the operation of commercial motorboat. Again, this is due to my understanding that the intent of this legislation is only to affect the penalties for the operation of recreational motorboats.

4. Under current law relating to the OWI operation of ATVS, motorboats, and snowmobiles the provisions for doubling the penalties when there is an underaged

passenger do not apply to OWI violations that involve the use of a controlled substance as opposed to alcohol. Do you want to include that change in this draft?

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4163/P2dn
MGG:nwn:jf

January 29, 2010

Representative Molepske:

1. This area of current law is quite challenging. Please review carefully. I'll be happy to be meet with interested parties to explain areas where there are questions.

2. Pursuant to our telephone conversation, this is a preliminary draft done under a new LRB number. Please note there are embedded four-star notes in the draft that need to be addressed. The Snowmobile Recreation Council's recommendation did not directly make it clear what penalties were desired.

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Furthermore, as to the dichotomy between OWI operation of a commercial motorboat as opposed to a personal motorboat, in this draft the provisions authorizing the court to suspend motorboating or motor vehicle operating privileges of a motorboat operator under s. 30.688 apply only when the motorboat operator is in court to be sentenced for the OWI operation of a recreational motorboat, and not for the operation of commercial motorboat. Again, this is due to my understanding that the intent of this legislation is only to affect the penalties for the operation of recreational motorboats.

4. Under current law relating to the OWI operation of ATVs, motorboats, and snowmobiles the provisions for doubling the penalties when there is an underaged

passenger do not apply to OWI violations that involve the use of a controlled substance as opposed to alcohol. Do you want to include that change in this draft?

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

Insert 3-8

(RPN)

SECTION 23.33 (1)(d) is created to read:

346.61

346.61 Applicability of sections relating to reckless and drunken driving. In addition to being applicable upon highways, ss. 346.62 to 346.64 are applicable upon all premises held out to the public for use of their motor vehicles, all premises provided by employers to employees for the use of their motor vehicles and all premises provided to tenants of rental housing in buildings of 4 or more units for the use of their motor vehicles, whether such premises are publicly or privately owned and whether or not a fee is charged for the use thereof. Sections 346.62 to 346.64 do not apply to private parking areas at farms or single-family residences.

"Public premises" means

including highways, as defined in s. 340.01(22)

inserts 4-21, 11-10, 19-2

subsection

343.30(4)

(4) Whenever a court or judge suspends or revokes an operating privilege under this section, the court or judge shall immediately take possession of any suspended or revoked license and shall forward it as provided in s. 345.48 to the department together with the record of conviction and notice of suspension or revocation. Whenever a court or judge restricts the operating privilege of a person, the court or judge shall forward notice of the restriction to the department.

of transportation

19 MGG/RPN Gary & Thomas, DNR
Abbey for Rep. M. Depste
3541

Rec. veh. not to be
included in counting
for OWI purposes

Rec. veh. OWI - 400 offenses

Rec. veh. counted for each
other, not for OWI

OWI suspension - car counted
for deciding if can operate
rec. veh.

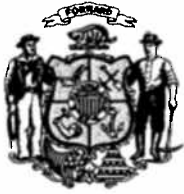
If 2 rec. veh. in 5 yrs.,
counted for OWI

Counting of previous suspension
violations for rec. veh.

No counting
of previous susp.
violations

343.30 (1g) (a) - ~~do~~
343.44 (1)
use 343.44 (2) (a)
with 350-300 plus
343.30 (1g) (a)

Need to tell DOT



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

repeal

1 AN ACT *to repeal* 23.33 (13) (br); *to renumber and amend* 23.33 (1) (jm), 23.33
2 (13) (b) 4., 30.50 (9x), 350.01 (10r) and 350.11 (3) (a) 4.; *to amend* 23.33 (4c) (a)
3 3., 23.33 (4c) (a) 4., 23.33 (4c) (b) 3., 23.33 (4t), 23.33 (13) (b) 1., 23.33 (13) (b)
4 2., 23.33 (13) (b) 3., 23.33 (13) (bg), 23.33 (13) (cm), 23.33 (13) (d), 23.33 (13)
5 (dm), 30.681 (1) (bn), 30.681 (1) (c), 30.681 (2) (c), 30.681 (2) (d) 1. a., 30.686,
6 30.74 (1) (bn), 30.80 (6) (a) 1., 30.80 (6) (a) 2., 30.80 (6) (a) 3., 30.80 (6) (a) 4., 30.80
7 (6) (a) 5., 30.80 (6) (a) 6., 30.80 (6) (e), 59.54 (14) (g), 350.101 (1) (c), 350.101 (1)
8 (d), 350.101 (2) (c), 350.106, 350.11 (3) (a) 1., 350.11 (3) (a) 2., 350.11 (3) (a) 3.,
9 350.11 (3) (bm), 350.11 (3) (c), 350.11 (3) (cm), 940.09 (1m) (b) and 940.25 (1m)
10 (b); and *to create* 23.33 (1) (ib), 23.33 (1) (im), 23.33 (1) (jk), 23.33 (1) (jr), 23.33
11 (4y), 23.33 (13) (b) 4b., 23.33 (13) (b) 5., 23.33 (13) (ce), 23.33 (13) (eg), 30.50 (4n),
12 30.50 (4v), 30.50 (9m), 30.50 (9y), 30.50 (12m), 30.688, 30.80 (6) (am), 30.80 (6)
13 (bg), 30.80 (6) (bn), 30.80 (6) (cm), 343.307 (1) (h), 343.307 (1) (i), 343.307 (1) (k),
14 343.307 (2) (i), 343.307 (2) (k), 343.307 (2) (m), 350.01 (9b), 350.01 (9j), 350.01
15 (10s), 350.01 (17m), 350.1075, 350.11 (3) (a) 4b., 350.11 (3) (a) 5., 350.11 (3) (am),

1 350.11 (3) (bg) and 350.11 (3) (e) of the statutes; **relating to:** intoxicated
2 operation of all-terrain vehicles, snowmobiles, motorboats, and motor vehicles,
3 and providing penalties.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

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

5 23.33 (1) (ib) "Intoxicated operating law" means the intoxicated operation of
6 an all-terrain vehicle law, the intoxicated boating law, as defined in s. 30.50 (4m),
7 the intoxicated snowmobiling law, as defined in s. 350.01 (9c), ~~or an offense that~~
8 ~~results in a suspension, revocation, or conviction counted under s. 343.307 (1).~~

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

10 23.33 (1) (im) "Legal drinking age" means 21 years of age.

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

12 23.33 (1) (jk) "Refusal law" means the all-terrain vehicle refusal law, the
13 boating refusal law, as defined in s. 30.50 (2c), the snowmobiling refusal law, as
14 defined in s. 350.01 (15c), or the motor vehicle refusal law under s. 343.305.

15 **SECTION 4.** 23.33 (1) (jm) of the statutes is renumbered 23.33 (1) (br) and
16 amended to read:

17 23.33 (1) (br) "Refusal All-terrain vehicle refusal law" means sub. (4p) (e) or
18 a local ordinance in conformity therewith.

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

1 23.33 (1) (jr) "Sports recreational vehicle" means an all-terrain vehicle, a
2 recreational motorboat as defined in s. 30.50 (9m), or a snowmobile as defined in s.
3 340.01 (58a).

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

5 23.33 (4c) (a) 3. 'Operating with alcohol concentrations at specified levels;
6 below legal drinking age 19.' ~~If a~~ A person who has not attained the legal drinking
7 age of 19, the person may not engage in the operation of an all-terrain vehicle while
8 he or she has an alcohol concentration of more than 0.0 but ~~not more~~ less than 0.08.

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

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

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

20 23.33 (4c) (b) 3. 'Related charges.' A person may be charged with and a
21 prosecutor may proceed upon a complaint based upon a violation of any combination
22 of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the
23 person is charged with violating any combination of subd. 1., 2., or 2m. in the
24 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty
25 of any combination of subd. 1, 2., or 2m. for acts arising out of the same incident or

SECTION 8

1 occurrence, there shall be a single conviction for purposes of sentencing and for
2 purposes of counting convictions under sub. (13) (b) 2. ~~and 3. to 5.~~ Subdivisions 1.,
3 2., and 2m. each require proof of a fact for conviction which the others do not require.

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

5 23.33 (4t) REPORT ARREST TO DEPARTMENT. If a law enforcement officer arrests
6 a person for a violation of the intoxicated operation of an all-terrain vehicle law or
7 the all-terrain vehicle refusal law, the law enforcement officer shall notify the
8 department of the arrest as soon as practicable.

9 **SECTION 10.** 23.33 (4y) of the statutes is created to read:

10 23.33 (4y) SUSPENSION OF OPERATING PRIVILEGES. (a) *Suspension orders.* 1. If a
11 court imposes a penalty for a violation of the intoxicated operation of an all-terrain
12 vehicle law or the all-terrain vehicle refusal law, the court shall order the suspension
13 of the person's privilege to operate a sports recreational vehicle for a period of not less
14 than 12 months and not more than 16 months.

15 2. In addition to the order under subd. 1., the court shall also order the ^{346.}
16 suspension of the person's privilege to operate a motor vehicle ⁶¹ if the person, within
17 5 years prior to the arrest for the current violation of the intoxicated operation of an
18 all-terrain vehicle law or the all-terrain vehicle refusal law, was previously found
19 in violation of the intoxicated operating law or the refusal law and the previous
20 violation involved the operation of a sports recreational vehicle. The period of
21 suspension shall be not less than 6 months and not more than 12 months.

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

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

*Account
to report
to DOT*

on a public highway
346.
61

1 3. No person whose motor vehicle operating privilege has been suspended or
2 revoked for a conviction counted under s. 343.307 (1) may operate an all-terrain
3 vehicle during the time that the operating privilege is suspended or revoked.

4 **SECTION 11.** 23.33 (13) (b) 1. of the statutes is amended to read:

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

8 **SECTION 12.** 23.33 (13) (b) 2. of the statutes is amended to read:

9 23.33 (13) (b) 2. ~~Except as provided under subd. 3., a~~ A person who violates sub.
10 (4c) (a) 1., 2., or 2m. or (4p) (e) and who, within 5 years prior to the arrest for the
11 current violation, was convicted one time previously under the intoxicated ~~operation~~
12 ~~of an all-terrain vehicle operating~~ law or the refusal law shall be fined not less than
13 \$300 nor more than \$1,100 and shall be imprisoned not less than 5 days nor more
14 than ~~6 months~~ one year in the county jail.

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

16 23.33 (13) (b) 3. A person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) and
17 who, within 5 years prior to the arrest for the current violation, was convicted 2 or
18 more times previously under the intoxicated ~~operation of an all-terrain vehicle~~
19 operating law or, the refusal law, or a combination of these laws, shall be fined not
20 less than \$600 nor more than \$2,000 and shall be imprisoned not less than 30 days
21 nor more than one year in the county jail.

22 **SECTION 14.** 23.33 (13) (b) 4. of the statutes is renumbered 23.33 (13) (b) 6. and
23 amended to read:

24 23.33 (13) (b) 6. A person who violates sub. (4c) (a) 3. or who violates (4p) (e)
25 and ~~who~~ has not attained the legal drinking age of 19 shall forfeit ~~not more than~~ \$50.

1 **SECTION 15.** 23.33 (13) (b) 4b. of the statutes is created to read:

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

7 **SECTION 16.** 23.33 (13) (b) 5. of the statutes is created to read:

8 23.33 (13) (b) 5. A person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) and
9 who, within 5 years prior to the arrest for the current violation, was convicted 4 or
10 more times previously under the intoxicated operating law, the refusal law, or any
11 combination of these laws, shall be fined not less than \$600 nor more than \$2,000 and
12 shall be imprisoned not less than 6 months nor more than one year in the county jail.

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

14 23.33 (13) (bg) *Penalties related to intoxicated operation of an all-terrain*
15 *vehicle; underage passengers.* If there is a passenger under 16 years of age on the
16 all-terrain vehicle at the time of a violation that gives rise to a conviction under sub.
17 (4c) (a) 1. or 2. or (4p) (e), the applicable minimum and maximum forfeitures, fines,
18 and terms of imprisonment under ~~pars.~~ par. (b) 1., 2., ~~and, 3., 4b., and 5.~~ for the
19 conviction are doubled.

20 **SECTION 18.** 23.33 (13) (br) of the statutes is repealed.

21 **SECTION 19.** 23.33 (13) (ce) of the statutes is created to read:

22 23.33 (13) (ce) *Penalties related to suspension or revocation; intoxication.* 1.

23 A person who operates a sports recreational vehicle in violation of sub. (4y) (b) 1. is
24 subject to ... ~~forfeiture~~ ^{\$}150 - 300.

OF ATV
may suspend up to
to 6 mos to run
consecutively

****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.

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

3 3. A person who operates an all-terrain vehicle in violation of sub. (4y) (b) 3.
4 is subject to \$150-300..... may suspend ATV up to 6 mos
to run consecutively

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

6 23.33 (13) (cm) *Sentence of detention.* The legislature intends that courts use
7 the sentencing option under s. 973.03 (4) whenever appropriate for persons subject
8 to par. (b) 2. ~~or 3., 4b., or 5.,~~ or (c). The use of this option can result in significant cost
9 savings for the state and local governments.

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

11 23.33 (13) (d) *Calculation of previous convictions.* In determining the number
12 of previous convictions under par. (b) 2. ~~and 3.~~ to 5., convictions arising out of the
13 same incident or occurrence shall be counted as one previous conviction.

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

15 23.33 (13) (dm) *Reporting convictions to the department.* Whenever a person
16 is convicted of a violation of the intoxicated operation of an all-terrain vehicle law,
17 the clerk of the court in which the conviction occurred, or the justice, judge or
18 magistrate of a court not having a clerk, shall forward to the department the record
19 of such conviction. The record of conviction forwarded to the department shall state
20 whether the offender was involved in an accident at the time of the offense.

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

2 23.33 (13) (eg) *Certificate of completion of safety program.* In addition to any
3 other penalty or order, a person who for the first time violates the intoxicated
4 operation of an all-terrain vehicle law or the all-terrain vehicle refusal law, shall be
5 ordered by the court to obtain a certificate of satisfactory completion of a safety
6 program established under s. 23.33 (5) (d). If the person has a valid certificate at the
7 time that the court imposes sentence for such a violation, the court shall
8 permanently revoke the certificate and order the person to obtain another certificate
9 of satisfactory completion of the safety program.

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

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 (9m) of the statutes is created to read:

18 30.50 (9m) "Recreational motorboat" means a motorboat that is not a
19 commercial motorboat.

20 **SECTION 27.** 30.50 (9x) of the statutes is renumbered 30.50 (2c) and amended
21 to read:

22 30.50 (2c) "~~Refusal Boating refusal~~ law" means s. 30.684 (5) or a local ordinance
23 in conformity with that subsection.

24 **SECTION 28.** 30.50 (9y) of the statutes is created to read:

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

4 **SECTION 29.** 30.50 (12m) of the statutes is created to read:

5 30.50 (12m) "Sports recreational vehicle" means an all-terrain vehicle, as
6 defined in s. 340.01 (2g), a recreational motorboat, or a snowmobile as defined in s.
7 340.01 (58a).

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

9 30.681 (1) (bn) *Operating with alcohol concentrations at specified levels; below*
10 *legal drinking age.* A person who has not attained the legal drinking age, as defined
11 in s. ~~125.02~~ (8m), may not engage in the operation of a motorboat while he or she has
12 ~~a blood~~ an alcohol concentration of more than 0.0 but less than 0.08.

13 **SECTION 31.** 30.681 (1) (c) of the statutes is amended to read:

14 30.681 (1) (c) *Related charges.* A person may be charged with and a prosecutor
15 may proceed upon a complaint based upon a violation of any combination of par. (a)
16 or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence. If the person
17 is charged with violating any combination of par. (a) or (b) 1., 1m., or 2., the offenses
18 shall be joined. If the person is found guilty of any combination of par. (a) or (b) 1.,
19 1m., or 2. for acts arising out of the same incident or occurrence, there shall be a
20 single conviction for purposes of sentencing and for purposes of counting convictions
21 under s. 30.80 (6) (a) 2. ~~and 3. to 5.~~ Paragraphs (a) and (b) 1., 1m., and 2. each require
22 proof of a fact for conviction which the others do not require.

23 **SECTION 32.** 30.681 (2) (c) of the statutes is amended to read:

24 30.681 (2) (c) *Related charges.* A person may be charged with and a prosecutor
25 may proceed upon a complaint based upon a violation of any combination of par. (a)

1 or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence. If the person
2 is charged with violating any combination of par. (a) or (b) 1., 1m., or 2. in the
3 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty
4 of any combination of par. (a) or (b) 1., 1m., or 2. for acts arising out of the same
5 incident or occurrence, there shall be a single conviction for purposes of sentencing
6 and for purposes of counting convictions under s. 30.80 (6) (a) 2. ~~and 3.~~ to 5.
7 Paragraphs (a) and (b) 1., 1m., and 2. each require proof of a fact for conviction which
8 the others do not require.

9 **SECTION 33.** 30.681 (2) (d) 1. a. of the statutes is amended to read:

10 30.681 (2) (d) 1. a. In an action under this subsection for a violation of the
11 intoxicated boating law where the defendant was operating a recreational motorboat
12 ~~that is not a commercial motorboat~~, the defendant has a defense if he or she proves
13 by a preponderance of the evidence that the injury would have occurred even if he
14 or she had been exercising due care and he or she had not been under the influence
15 of an intoxicant or did not have an alcohol concentration of 0.08 or more or a
16 detectable amount of a restricted controlled substance in his or her blood.

17 **SECTION 34.** 30.686 of the statutes is amended to read:

18 **30.686 Report arrest to department.** If a law enforcement officer arrests
19 a person for a violation of the intoxicated boating law or the boating refusal law, the
20 law enforcement officer shall notify the department of the arrest as soon as
21 practicable.

22 **SECTION 35.** 30.688 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 a violation of the intoxicated boating
25 law or the boating refusal law and if the violation involved the operation of a

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

4 (b) In addition to the order under par. (a), the court shall also order the
5 suspension of the person's privilege to operate a motor vehicle if the person, within
6 5 years prior to the arrest for the current violation subject to the order under par. (a),
7 was previously found in violation of the intoxicated operating law or the refusal law
8 and the previous violation involved the operation of a sports recreational 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 a
12 sports recreational vehicle in violation of a suspension order imposed under sub. (1)
13 (a).

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 conviction counted under s. 343.307 (1) may operate a recreational
18 motorboat during the time that the operating privilege is suspended or revoked.

19 **SECTION 36.** 30.74 (1) (bn) of the statutes is amended to read:

20 30.74 (1) (bn) A certificate issued to a person under this subsection is valid for
21 life unless the certificate or the person's privilege to operate a motorboat is
22 suspended or revoked by a court under s. 30.80 (2m) or (6) (e), 30.688 (1) (a), or
23 938.343 (5).

24 **SECTION 37.** 30.80 (6) (a) 1. of the statutes is amended to read:

1 30.80 (6) (a) 1. Except as provided under subds. 2. to 5., a person who violates
2 s. 30.681 (1) (a) or (b), ~~a local ordinance in conformity with s. 30.681 (1) (a) or (b) or~~
3 ~~the refusal law~~ 30.684 (5) shall forfeit not less than \$150 ~~\$400~~ nor more than \$300
4 \$550.

5 **SECTION 38.** 30.80 (6) (a) 2. of the statutes is amended to read:

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

12 **SECTION 39.** 30.80 (6) (a) 3. of the statutes is amended to read:

13 30.80 (6) (a) 3. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~
14 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law~~ or 30.684 (5) and who,
15 within 5 years prior to the arrest for the current violation, was convicted 2 times
16 previously under the intoxicated ~~boating~~ operating law ~~or, the refusal law, or a~~
17 combination of these laws, shall be fined not less than \$600 nor more than \$2,000 and
18 shall be imprisoned for not less than 30 days nor more than one year in the county
19 jail.

20 **SECTION 40.** 30.80 (6) (a) 4. of the statutes is amended to read:

21 30.80 (6) (a) 4. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~
22 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law~~ or 30.684 (5) and who,
23 within 5 years prior to the arrest for the current violation, was convicted 3 times
24 previously under the intoxicated ~~boating~~ operating law ~~or, the refusal law, or any~~
25 combination of these laws, shall be fined not less than \$600 nor more than \$2,000 and

1 shall be imprisoned for not less than 60 days nor more than one year in the county
2 jail.

3 **SECTION 41.** 30.80 (6) (a) 5. of the statutes is amended to read:

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

11 **SECTION 42.** 30.80 (6) (a) 6. of the statutes is amended to read:

12 30.80 (6) (a) 6. A person who violates s. 30.681 (1) (bn) or ~~a local ordinance in~~
13 ~~conformity with s. 30.681 (1) (bn)~~ who violates 30.684 (5) and has not attained the
14 legal drinking age shall forfeit \$50.

15 **SECTION 43.** 30.80 (6) (am) of the statutes is created to read:

16 30.80 (6) (am) *Penalties related to operating with underage passengers.* If there
17 is a passenger under 16 years of age in a motorboat at the time of a violation that
18 gives rise to a conviction under s. 30.681 (1) (a) or (b) 1. or 30.684 (5), the applicable
19 minimum and maximum forfeitures, fines, and terms of imprisonment under par. (a)
20 1., 2., 3., 4., and 5. for the conviction are doubled.

21 **SECTION 44.** 30.80 (6) (bg) of the statutes is created to read:

22 30.80 (6) (bg) *Penalties related to suspension or revocation; intoxication.* (a)
23 A person who operates a sports recreational vehicle in violation of. s. 30.688 (2) (a)
24 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.

1 (b) A person who operates a motor vehicle in violation of s. 30.688 (2) (b) is
2 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.

3 3. A person who operates a recreational motorboat in violation of s. 30.688 (2)
4 (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.

5 **SECTION 45.** 30.80 (6) (bn) of the statutes is created to read:

6 30.80 (6) (bn) *Sentence of detention.* The legislature intends that courts use the
7 sentencing option under s. 973.03 (4) whenever appropriate for persons subject to
8 par. (a) 2., 3., 4., or 5. or (b). The use of this option can result in significant cost savings
9 for the state and local governments.

10 **SECTION 46.** 30.80 (6) (cm) of the statutes is created to read:

11 30.80 (6) (cm) *Reporting convictions to the department.* Whenever a person is
12 convicted of a violation of the intoxicated boating law, the clerk of the court in which
13 the conviction occurred, or the judge of a court not having a clerk, shall forward to
14 the department the record of such conviction. The record of conviction forwarded to
15 the department shall state whether the offender was involved in an accident at the
16 time of the offense.

17 **SECTION 47.** 30.80 (6) (e) of the statutes is amended to read:

18 30.80 (6) (e) *Certificate of satisfactory completion of safety course.* In addition
19 to any other penalty or order, a person who for the first time violates s. 30.681 (1) or
20 ~~(2) or 30.684 (5) or who violates s. 940.09 or 940.25 if the violation involves the~~

1 ~~operation of a motorboat, the intoxicated boating law or the boating refusal law~~ shall
2 be ordered by the court to obtain a certificate of satisfactory completion of a safety
3 course under s. 30.74 (1). If the person has a valid certificate at the time that the
4 court imposes sentence for a such a violation, the court shall permanently revoke the
5 certificate and order the person to obtain ~~a~~ another certificate of satisfactory
6 completion of ~~a the safety course under s. 30.74 (1)~~.

7 **SECTION 48.** 59.54 (14) (g) of the statutes is amended to read:

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

17 **SECTION 49.** 343.307 (1) (h) of the statutes is created to read:

18 ~~343.307 (1) (h) Convictions for a violation of s. 23.33 (4c) (a) or (4p) (e) or a local~~
19 ~~ordinance in conformity therewith, or for a violation of s. 23.33 (4c) (b).~~

20 **SECTION 50.** 343.307 (1) (i) of the statutes is created to read:

21 ~~343.307 (1) (i) Convictions for a violation of s. 30.681 (1) or 30.684 (5) or a local~~
22 ~~ordinance in conformity therewith, or for a violation of s. 30.681 (2).~~

23 **SECTION 51.** 343.307 (1) (k) of the statutes is created to read:

24 ~~343.307 (1) (k) Convictions for a violation of s. 350.101 (1) or 350.104 (5) or a~~
25 ~~local ordinance in conformity therewith, or for a violation of s. 350.101 (2).~~

1 **SECTION 52.** 343.307 (2) (i) of the statutes is created to read:

2 343.307 (2) (i) Convictions for a violation of s. 23.33 (4c) (a) or (4p) (e) or a local
3 ordinance in conformity therewith, or for a violation of s. 23.33 (4c) (b).

4 **SECTION 53.** 343.307 (2) (k) of the statutes is created to read:

5 343.307 (2) (k) Convictions for a violation of s. 30.681 (1) or 30.684 (5) or a local
6 ordinance in conformity therewith, or for a violation of s. 30.681 (2).

7 **SECTION 54.** 343.307 (2) (m) of the statutes is created to read:

8 343.307 (2) (m) Convictions for a violation of s. 350.101 (1) or 350.104 (5) or a
9 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.

10 **SECTION 55.** 350.01 (9b) of the statutes is created to read:

11 350.01 (9b) "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, as
13 defined in s. 30.50 (4m), the intoxicated snowmobiling law, or an offense that results
14 in a suspension, revocation, or conviction counted under s. 343.307 (1).

15 **SECTION 56.** 350.01 (9j) of the statutes is created to read:

16 350.01 (9j) "Legal drinking age" means 21 years of age.

17 **SECTION 57.** 350.01 (10r) of the statutes is renumbered 350.01 (15c) and
18 amended to read:

19 350.01 (15c) "~~Refusal~~ Snowmobiling refusal law" means s. 350.104 (5) or a local
20 ordinance in conformity therewith.

21 **SECTION 58.** 350.01 (10s) of the statutes is created to read:

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

4 **SECTION 59.** 350.01 (17m) of the statutes is created to read:

5 350.01 (17m) "Sports recreational vehicle" means an all-terrain vehicle, as
6 defined in s. 340.01 (2g), a recreational motorboat, as defined in s. 30.50 (9m), or a
7 snowmobile.

8 **SECTION 60.** 350.101 (1) (c) of the statutes is amended to read:

9 350.101 (1) (c) *Operating with alcohol concentrations at specified levels; below*
10 *legal drinking age 19.* ~~If a~~ A person who has not attained the legal drinking age of
11 19, the person may not engage in the operation of a snowmobile while he or she has
12 an alcohol concentration of more than 0.0 but ~~not more~~ less than 0.08.

13 **SECTION 61.** 350.101 (1) (d) of the statutes is amended to read:

14 350.101 (1) (d) *Related charges.* A person may be charged with and a prosecutor
15 may proceed upon a complaint based upon a violation of any combination of par. (a),
16 (b), or (bm) for acts arising out of the same incident or occurrence. If the person is
17 charged with violating any combination of par. (a), (b), or (bm), the offenses shall be
18 joined. If the person is found guilty of any combination of par. (a), (b), or (bm) for acts
19 arising out of the same incident or occurrence, there shall be a single conviction for
20 purposes of sentencing and for purposes of counting convictions under s. 350.11 (3)
21 (a) 2. ~~and 3.~~ to 5. Paragraphs (a), (b), and (bm) each require proof of a fact for
22 conviction which the others do not require.

23 **SECTION 62.** 350.101 (2) (c) of the statutes is amended to read:

24 350.101 (2) (c) *Related charges.* A person may be charged with and a prosecutor
25 may proceed upon a complaint based upon a violation of any combination of par. (a),

1 (b), or (bm) for acts arising out of the same incident or occurrence. If the person is
2 charged with violating any combination of par. (a), (b), or (bm) in the complaint, the
3 crimes shall be joined under s. 971.12. If the person is found guilty of any
4 combination of par. (a), (b), or (bm) for acts arising out of the same incident or
5 occurrence, there shall be a single conviction for purposes of sentencing and for
6 purposes of counting convictions under s. 350.11 (3) (a) 2. ~~and 3.~~ to 5. Paragraphs
7 (a), (b), and (bm) each require proof of a fact for conviction which the others do not
8 require.

9 **SECTION 63.** 350.106 of the statutes is amended to read:

10 **350.106 Report arrest to department.** If a law enforcement officer arrests
11 a person for a violation of the intoxicated snowmobiling law or the snowmobiling
12 refusal law, the law enforcement officer shall notify the department of the arrest as
13 soon as practicable.

14 **SECTION 64.** 350.1075 of the statutes is created to read:

15 **350.1075 Suspension of operation privileges.** (1) SUSPENSION OF
16 OPERATING PRIVILEGES. (a) If a court imposes a penalty for a violation of the
17 intoxicated snowmobiling law or the snowmobiling refusal law, the court shall order
18 the suspension of the person's privilege to operate a sports recreational vehicle for
19 a period of not less than 12 months and not more than 16 months.

20 (b) In addition to the order under par. (a), the court shall also order the
21 suspension of the person's privilege to operate a motor vehicle if the person, within
22 5 years prior to the arrest for the current violation of the intoxicated snowmobiling
23 law or the snowmobiling refusal law, was previously found in violation of the
24 intoxicated operating law or the refusal law and the previous violation involved the

1 operation of a sports recreational vehicle. The period of suspension shall be not less
2 than 6 months and not more than 12 months.

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

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

8 (c) No person whose motor vehicle operating privilege has been suspended or
9 revoked for a conviction counted under s. 343.307 (1) may operate a snowmobile
10 during the time that the operating privilege is suspended or revoked.

11 **SECTION 65.** 350.11 (3) (a) 1. of the statutes is amended to read:

12 350.11 (3) (a) 1. Except as provided under subs. 2. ~~and 3. to 5.~~, a person who
13 violates s. 350.101 (1) (a), (b), or (bm) or s. 350.104 (5) shall forfeit not less than \$400
14 nor more than \$550.

15 **SECTION 66.** 350.11 (3) (a) 2. of the statutes is amended to read:

16 350.11 (3) (a) 2. ~~Except as provided under subd. 3., a~~ A person who violates
17 s. 350.101 (1) (a), (b), or (bm) or 350.104 (5) and who, within 5 years prior to the arrest
18 for the current violation, was convicted one time previously under the intoxicated
19 ~~snowmobiling operating~~ law or the refusal law shall be fined not less than \$300 nor
20 more than ~~\$1,000~~ \$1,100 and shall be imprisoned not less than 5 days nor more than
21 ~~6 months~~ one year in the county jail.

22 **SECTION 67.** 350.11 (3) (a) 3. of the statutes is amended to read:

23 350.11 (3) (a) 3. A person who violates s. 350.101 (1) (a), (b), or (bm) or 350.104
24 (5) and who, within 5 years prior to the arrest for the current violation, was convicted
25 ~~2 or more times~~ previously under the intoxicated ~~snowmobiling operating~~ law ~~or, the~~

1 refusal law, or any combination of these laws, shall be fined not less than \$600 nor
2 more than \$2,000 and shall be imprisoned not less than 30 days nor more than one
3 year in the county jail.

4 **SECTION 68.** 350.11 (3) (a) 4. of the statutes is renumbered 350.11 (3) (a) 6. and
5 amended to read:

6 350.11 (3) (a) 6. A person who violates s. 350.101 (1) (c) or who violates 350.104
7 (5) and ~~who~~ has not attained the legal drinking age of 19 shall forfeit ~~not more than~~
8 \$50.

9 **SECTION 69.** 350.11 (3) (a) 4b. of the statutes is created to read:

10 350.11 (3) (a) 4b. A person who violates s. 350.101 (1) (a), (b), or (bm) or 350.104
11 (5) and who, within 5 years prior to the arrest for the current violation, was convicted
12 3 times previously under the intoxicated operating law, the refusal law, or any
13 combination of these laws, shall be fined not less than \$600 nor more than \$2,000 and
14 shall be imprisoned not less than 60 days nor more than one year in the county jail.

15 **SECTION 70.** 350.11 (3) (a) 5. of the statutes is created to read:

16 350.11 (3) (a) 5. 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, was convicted
18 4 or more times previously under the intoxicated operating law, the refusal law, or
19 any combination of these laws, shall be fined not less than \$600 nor more than \$2,000
20 and shall be imprisoned not less than 6 months nor more than one year in the county
21 jail.

22 **SECTION 71.** 350.11 (3) (am) of the statutes is created to read:

23 350.11 (3) (am) *Penalties related to operating with underage passengers.* If
24 there is a passenger under 16 years of age on a snowmobile at the time of a violation
25 that gives rise to a conviction under s. 350.101 (1) (a) or (b) or 350.104 (5), the

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

3 **SECTION 72.** 350.11 (3) (bg) of the statutes is created to read:

4 350.11 (3) (bg) *Penalties related to suspension or revocation; intoxication.* 1.

5 A person who operates a sports recreational vehicle in violation of s. 350.1075 (2) (a)
6 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.

7 2. A person who operates a motor vehicle in violation of s. 350.1075 (2) (c) is
8 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 3. A person who operates a snowmobile in violation of s. 350.1075 (2) (c) is
10 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.

11 **SECTION 73.** 350.11 (3) (bm) of the statutes is amended to read:

12 350.11 (3) (bm) *Sentence of detention.* The legislature intends that courts use
13 the sentencing option under s. 973.03 (4) whenever appropriate for persons subject
14 to par. (a) 2. ~~or~~ 3., 4b., or 5. or (b). The use of this option can result in significant cost
15 savings for the state and local governments.

16 **SECTION 74.** 350.11 (3) (c) of the statutes is amended to read:

17 350.11 (3) (c) *Calculation of previous convictions.* In determining the number
18 of previous convictions under par. (a) 2. ~~and 3.~~ to 5., convictions arising out of the
19 same incident or occurrence shall be counted as one previous conviction.

20 **SECTION 75.** 350.11 (3) (cm) of the statutes is amended to read:

1 350.11 (3) (cm) *Reporting convictions to the department.* Whenever a person
2 is convicted of a violation of the intoxicated snowmobiling law, the clerk of the court
3 in which the conviction occurred, or the justice, judge or magistrate of a court not
4 having a clerk, shall forward to the department the record of such conviction. The
5 record of conviction forwarded to the department shall state whether the offender
6 was involved in an accident at the time of the offense.

7 **SECTION 76.** 350.11 (3) (e) of the statutes is created to read:

8 350.11 (3) (e) *Certificate of completion of safety program.* In addition to any
9 other penalty or order, a person who for the first time violates the intoxicated
10 snowmobiling law or the snowmobiling refusal law, shall be ordered by the court to
11 obtain a certificate of satisfactory completion of a safety program established under
12 s. 350.055 (1). If the person has a valid certificate at the time that the court imposes
13 sentence for such a violation, the court shall permanently revoke the certificate and
14 order the person to obtain another certificate of satisfactory completion of the safety
15 program.

16 **SECTION 77.** 940.09 (1m) (b) of the statutes is amended to read:

17 940.09 (1m) (b) If a person is charged in an information with any of the
18 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
19 971.12. If the person is found guilty of more than one of the crimes so charged for
20 acts arising out of the same incident or occurrence, there shall be a single conviction
21 for purposes of sentencing and for purposes of counting convictions under s. 23.33
22 (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
23 s. 350.11 (3) (a) 2. ~~and 3. to 5.~~ Subsection (1) (a), (am), (b), (bm), (c), (cm), (d), and (e)
24 each require proof of a fact for conviction which the others do not require, and sub.

1 (1g) (a), (am), (b), (c), (cm), and (d) each require proof of a fact for conviction which
2 the others do not require.

3 **SECTION 78.** 940.25 (1m) (b) of the statutes is amended to read:

4 940.25 (1m) (b) If a person is charged in an information with any of the
5 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
6 971.12. If the person is found guilty of more than one of the crimes so charged for
7 acts arising out of the same incident or occurrence, there shall be a single conviction
8 for purposes of sentencing and for purposes of counting convictions under s. 23.33
9 (13) (b) 2. ~~and 3.~~ to 5., under s. 30.80 (6) (a) 2. ~~or 3.~~ to 5., under ss. 343.30 (1q) and
10 343.305 or under s. 350.11 (3) (a) 2. ~~and 3.~~ to 5. Subsection (1) (a), (am), (b), (bm), (c),
11 (cm), (d), and (e) each require proof of a fact for conviction which the others do not
12 require.

13 **SECTION 79. Initial applicability.**

14 (1) This act first applies to violations committed on the effective date of this
15 subsection, but does not preclude the counting of other violations or offenses as prior
16 violations for purposes of sentencing a person or for purposes of suspending or
17 revoking operating privileges.

18 (END)

July 1 2010

~~July~~
~~1st day of the 4th month.~~