



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4163/P6
MGG&RPN:nwn:md

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Wed

2009 Bill

D-N

Regen.

1 AN ACT *to repeal* 23.33 (13) (br); *to renumber* 30.80 (6) (c); *to renumber and*
2 *amend* 23.33 (1) (jm), 23.33 (13) (b) 4., 23.33 (13) (d), 30.50 (9x), 350.01 (10r),
3 350.11 (3) (a) 4. and 350.11 (3) (c); *to amend* 23.33 (4c) (a) 3., 23.33 (4c) (a) 4.,
4 23.33 (4c) (b) 3., 23.33 (4t), 23.33 (13) (b) 1., 23.33 (13) (b) 2., 23.33 (13) (b) 3.,
5 23.33 (13) (bg), 23.33 (13) (cm), 23.33 (13) (dm), 30.681 (1) (bn), 30.681 (1) (c),
6 30.681 (2) (c), 30.681 (2) (d) 1. a., 30.686, 30.74 (1) (bn), 30.80 (6) (a) 1., 30.80
7 (6) (a) 2., 30.80 (6) (a) 3., 30.80 (6) (a) 4., 30.80 (6) (a) 5., 30.80 (6) (a) 6., 30.80
8 (6) (e), 59.54 (14) (g), 350.101 (1) (c), 350.101 (1) (d), 350.101 (2) (c), 350.106,
9 350.11 (3) (a) 1., 350.11 (3) (a) 2., 350.11 (3) (a) 3., 350.11 (3) (bm), 350.11 (3) (cm),
10 350.12 (4) (bg) 2., 940.09 (1m) (b) and 940.25 (1m) (b); and *to create* 23.33 (1)
11 (ib), 23.33 (1) (im), 23.33 (1) (jc), 23.33 (1) (jh), 23.33 (1) (jk), 23.33 (4y), 23.33
12 (13) (b) 4b., 23.33 (13) (b) 5., 23.33 (13) (bm), 23.33 (13) (ce), 23.33 (13) (d) 2.,
13 23.33 (13) (eg), 30.50 (4n), 30.50 (4v), 30.50 (9m), 30.50 (9s), 30.50 (9t), 30.688,
14 30.80 (6) (am), 30.80 (6) (ar), 30.80 (6) (bg), 30.80 (6) (bn), 30.80 (6) (c) 2., 30.80
15 (6) (cm), 350.01 (9b), 350.01 (9j), 350.01 (10p), 350.01 (10q), 350.1075, 350.11

1 (3) (a) 4b., 350.11 (3) (a) 5., 350.11 (3) (am), 350.11 (3) (ar), 350.11 (3) (bg), 350.11
 2 (3) (c) 2. and 350.11 (3) (e) of the statutes; **relating to:** intoxicated operation of
 3 all-terrain vehicles, snowmobiles, motorboats, and motor vehicles, the
 4 calculation of the amount of moneys to be expended from the snowmobile
 5 account in the conservation fund for certain activities relating to snowmobile
 6 trails and routes, and providing penalties.

Analysis by the Legislative Reference Bureau

ins ant → ~~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:

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

8 23.33 (1) (ib) "Intoxicated operating law" means the intoxicated operation of
 9 an all-terrain vehicle law, the intoxicated boating law, as defined in s. 30.50 (4m),
 10 or the intoxicated snowmobiling law, as defined in s. 350.01 (9c).✓

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

12 23.33 (1) (im) "Legal drinking age" means 21 years of age.✓

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

14 23.33 (1) (jc) "Public premises" means all premises held out to the public for use
 15 of a motor vehicle, including highways, all premises provided by employers to
 16 employees for the use of their motor vehicles, and all premises provided to tenants
 17 of rental housing in buildings of 4 or more units for the use of their motor vehicles,
 18 whether such premises are publicly or privately owned and whether or not a fee is
 19 charged for the use of those premises.✓

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

1 23.33 (1) (jh) “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 5.** 23.33 (1) (jk) of the statutes is created to read:

5 23.33 (1) (jk) “Recreational vehicle and boating refusal law” means the
6 all-terrain vehicle refusal law, the boating refusal law, as defined in s. 30.50 (2c), or
7 the snowmobiling refusal law, as defined in s. 350.01 (15c).[✓]

8 **SECTION 6.** 23.33 (1) (jm) of the statutes is renumbered 23.33 (1) (br) and
9 amended to read:

10 23.33 (1) (br) “~~Refusal~~ All-terrain vehicle refusal law” means sub. (4p) (e) or
11 a local ordinance in conformity therewith.[✓]

12 **SECTION 7.** 23.33 (4c) (a) 3. of the statutes is amended to read:

13 23.33 (4c) (a) 3. ‘Operating with alcohol concentrations at specified levels;
14 below legal drinking age 19.’ ~~If a~~ A person who has not attained the legal drinking
15 ~~age of 19, the person~~ may not engage in the operation of an all-terrain vehicle while
16 he or she has an alcohol concentration of more than 0.0 but ~~not more~~ less than 0.08.[✓]

17 **SECTION 8.** 23.33 (4c) (a) 4. of the statutes is amended to read:

18 23.33 (4c) (a) 4. ‘Related charges.’ A person may be charged with and a
19 prosecutor may proceed upon a complaint based upon a violation of any combination
20 of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the
21 person is charged with violating any combination of subd. 1., 2., or 2m., the offenses
22 shall be joined. If the person is found guilty of any combination of subd. 1., 2., or 2m.
23 for acts arising out of the same incident or occurrence, there shall be a single
24 conviction for purposes of sentencing and for purposes of counting convictions under

1 sub. (13) (b) 2. ~~and 3. to 5.~~ Subdivisions 1., 2., and 2m. each require proof of a fact
2 for conviction which the others do not require.✓

3 **SECTION 9.** 23.33 (4c) (b) 3. of the statutes is amended to read:

4 23.33 (4c) (b) 3. 'Related charges.' A person may be charged with and a
5 prosecutor may proceed upon a complaint based upon a violation of any combination
6 of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the
7 person is charged with violating any combination of subd. 1., 2., or 2m. in the
8 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty
9 of any combination of subd. 1, 2., or 2m. for acts arising out of the same incident or
10 occurrence, there shall be a single conviction for purposes of sentencing and for
11 purposes of counting convictions under sub. (13) (b) 2. ~~and 3. to 5.~~ Subdivisions 1.,
12 2., and 2m. each require proof of a fact for conviction which the others do not require.✓

13 **SECTION 10.** 23.33 (4t) of the statutes is amended to read:

14 23.33 (4t) REPORT ARREST TO DEPARTMENT. If a law enforcement officer arrests
15 a person for a violation of the intoxicated operation of an all-terrain vehicle law or
16 the all-terrain vehicle refusal law, the law enforcement officer shall notify the
17 department of the arrest as soon as practicable.✓

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

19 23.33 (4y) SUSPENSION OR REVOCATION OF OPERATING PRIVILEGES. (a) *Orders to*
20 *suspend or revoke.* 1. If a court imposes a penalty for a violation of the intoxicated
21 operation of an all-terrain vehicle law or the all-terrain vehicle refusal law, the court
22 shall order the suspension of the person's privilege to operate a recreational vehicle
23 for a period of not less than 12 months and not more than 16 months. Whenever a
24 court suspends an operating privilege under this subdivision, the court shall notify
25 the department of that action.✓

1 2. In addition to the order under subd. 1., the court shall also order the
2 revocation of the person's privilege to operate a motor vehicle on a public premises
3 if the person, within 5 years prior to the arrest for the current violation of the
4 intoxicated operation of an all-terrain vehicle law or the all-terrain vehicle refusal
5 law, was previously found in violation of the intoxicated operating law or the
6 recreational vehicle and boating refusal law. The period of revocation shall be not
7 less than 6 months and not more than 12 months. Whenever a court revokes an
8 operating privilege under this subdivision, the court may take possession of the
9 revoked license. If the court takes possession of the revoked license, the court shall
10 destroy the license. The court shall forward to the department of transportation the
11 record of the conviction and notice of revocation.✓

12 (b) *Operating while suspended or revoked.* 1. No person may operate a
13 recreational vehicle in violation of a suspension order imposed under par. (a) 1.✓

14 2. No person may operate an all-terrain vehicle during the time that the
15 person's motor vehicle operating privilege is suspended or revoked for a conviction
16 counted under s. 343.307 (1).✓

17 **SECTION 12.** 23.33 (13) (b) 1. of the statutes is amended to read:

18 23.33 (13) (b) 1. Except as provided under subs. 2. ~~and 3. to 5.~~, a person who
19 violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) shall forfeit not less than \$150 \$400 nor
20 more than ~~\$300~~ \$550.✓

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

22 23.33 (13) (b) 2. ~~Except as provided under subd. 3., a~~ A person who violates sub.
23 (4c) (a) 1., 2., or 2m. or (4p) (e) and who, within 5 years prior to the arrest for the
24 current violation, was convicted one time previously under the intoxicated operation
25 ~~of an all-terrain vehicle~~ operating law or the recreational vehicle and boating refusal

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1 law shall be fined not less than \$300 nor more than \$1,100 and shall be imprisoned
2 not less than 5 days nor more than ~~6 months~~ one year in the county jail.[✓]

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

4 23.33 (13) (b) 3. 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, was convicted 2 or
6 more times previously under the intoxicated ~~operation of an all-terrain vehicle~~
7 operating law or, the recreational vehicle and boating refusal law, or a combination
8 of these laws, shall be fined not less than \$600 nor more than \$2,000 and shall be
9 imprisoned not less than 30 days nor more than one year in the county jail.[✓]

10 **SECTION 15.** 23.33 (13) (b) 4. of the statutes is renumbered 23.33 (13) (b) 6. and
11 amended to read:

12 23.33 (13) (b) 6. A person who violates sub. (4c) (a) 3. or who violates (4p) (e)
13 and ~~who has not attained the legal drinking age of 19~~ shall forfeit ~~not more than~~ \$50.[✓]

14 **SECTION 16.** 23.33 (13) (b) 4b. of the statutes is created to read:

15 23.33 (13) (b) 4b. A person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) and
16 who, within 5 years prior to the arrest for the current violation, was convicted 3 times
17 previously under the intoxicated operating law, the recreational vehicle and boating
18 refusal law, or any combination of these laws, shall be fined not less than \$600 nor
19 more than \$2,000 and shall be imprisoned not less than 60 days nor more than one
20 year in the county jail.[✓]

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

22 23.33 (13) (b) 5. A person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) and
23 who, within 5 years prior to the arrest for the current violation, was convicted 4 or
24 more times previously under the intoxicated operating law, the recreational vehicle
25 and boating refusal law, or any combination of these laws, shall be fined not less than

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

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

4 23.33 (13) (bg) *Penalties related to intoxicated operation of an all-terrain*
5 *vehicle; underage passengers.* If there is a passenger under 16 years of age on the
6 all-terrain vehicle at the time of a violation that gives rise to a conviction under sub.
7 (4c) (a) 1. ~~or~~, 2., or 2m. or (4p) (e), the applicable minimum and maximum forfeitures,
8 fines, and terms of imprisonment under ~~pars.~~ par. (b) 1., 2., ~~and~~, 3., 4b., and 5. for the
9 conviction are doubled.✓

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

11 23.33 (13) (bm) *Alcohol and drug treatment alternatives.* 1. In any county that
12 opts to offer a reduced minimum period of imprisonment for the successful
13 completion of a probation period that includes alcohol and other drug treatment, if
14 the number of suspensions, revocations, and convictions for a violation of the
15 intoxicated operation of an all-terrain vehicle law or of the all-terrain vehicle refusal
16 law within a 5-year period, equals 2, except that suspensions, revocations, or
17 convictions arising out of the same incident or occurrence shall be counted as one, the
18 fine shall be the same as under par. (b) 2., but the period of imprisonment shall be
19 not less than 5 days, except that if the person successfully completes a period of
20 probation that includes alcohol and other drug treatment, the period of
21 imprisonment shall be not less than 5 nor more than 7 days.✓

22 2. In any county that opts to offer a reduced minimum period of imprisonment
23 for the successful completion of a probation period that includes alcohol and other
24 drug treatment, if the number of suspensions, revocations, and convictions for a
25 violation of the intoxicated operation of an all-terrain vehicle law or of the

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1 all-terrain vehicle refusal law within a 5-year period equals 3, except that
2 suspensions, revocations, or convictions arising out of the same incident or
3 occurrence shall be counted as one, the fine shall be the same as under par. (b) 3., but
4 the period of imprisonment shall be not less than 30 days, except that if the person
5 successfully completes a period of probation that includes alcohol and other drug
6 treatment, the period of imprisonment shall be not less than 14 days.✓

7 3. In any county that opts to offer a reduced minimum period of imprisonment
8 for the successful completion of a probation period that includes alcohol and other
9 drug treatment, if the number of suspensions, revocations, and convictions for a
10 violation of the intoxicated operation of an all-terrain vehicle law or of the
11 all-terrain vehicle refusal law within a 5-year period equals 4, except that
12 suspensions, revocations, or convictions arising out of the same incident or
13 occurrence shall be counted as one, the fine shall be the same as under par. (b) 4b.,
14 but the period of imprisonment shall be not less than 60 days, except that if the
15 person successfully completes a period of probation that includes alcohol and other
16 drug treatment, the period of imprisonment shall be not less than 29 days.✓

17 4. A person may be sentenced under this paragraph or under s. 30.80 (6) (ar)
18 or 350.11 (3) (ar) once in his or her lifetime.✓

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

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

21 23.33 (13) (ce) *Penalties related to suspension; intoxication.* 1. A person who
22 operates a recreational vehicle in violation of sub. (4y) (b) 1. is subject to a forfeiture
23 of not less than \$50 nor more than \$250. In addition, for each violation under this
24 subdivision, the court may suspend the person's privilege to operate a recreational
25 vehicle for a period of not more than 6 months. Whenever a court suspends an

1 operating privilege under this subdivision, the court shall notify the department of
2 that action.✓

3 2. A person who operates an all-terrain vehicle in violation of sub. (4y) (b) 2.
4 is subject to a forfeiture of not less than \$150 nor more than \$300. In addition, the
5 court may suspend the person's privilege to operate a recreational vehicle for a period
6 of not more than 6 months. Whenever a court suspends an operating privilege under
7 this subdivision, the court shall notify the department of that action.

8 **SECTION 22.** 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.✓

13 **SECTION 23.** 23.33 (13) (d) of the statutes is renumbered 23.33 (13) (d) 1. and
14 amended to read:

15 23.33 (13) (d) 1. In determining the number of previous convictions under par.
16 (b) 2. ~~and 3. to 5.,~~ convictions arising out of the same incident or occurrence shall be
17 counted as one previous conviction.✓

18 **SECTION 24.** 23.33 (13) (d) 2. of the statutes is created to read:

19 23.33 (13) (d) 2. In determining the number of previous convictions under par.
20 (b) 2. to 5., previous convictions under the intoxicated operation of an all-terrain
21 vehicle law or under the all-terrain vehicle refusal law that occurred before, on, or
22 after the effective date of this subdivision [LRB inserts date], and previous
23 convictions under the intoxicated boating law, as defined in s. 30.50 (4m), the boating
24 refusal law, as defined in s. 30.50 (2c), the intoxicated snowmobiling law, as defined
25 in s. 350.01 (9c), or the snowmobiling refusal law, as defined in s. 350.01 (15c), that

1 occur after the effective date of this subdivision ... [LRB inserts date], shall count as
2 previous convictions.✓

3 **SECTION 25.** 23.33 (13) (dm) of the statutes is amended to read:

4 23.33 (13) (dm) *Reporting convictions to the department.* Whenever a person
5 is convicted of a violation of the intoxicated operation of an all-terrain vehicle law
6 or the all-terrain vehicle refusal law, the ~~clerk of the court in which the conviction~~
7 ~~occurred, or the justice, judge or magistrate of a court not having a clerk~~, shall
8 forward to the department the record of such conviction. The record of conviction
9 forwarded to the department shall state whether the offender was involved in an
10 accident at the time of the offense.✓

11 **SECTION 26.** 23.33 (13) (eg) of the statutes is created to read:

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

20 **SECTION 27.** 30.50 (4n) of the statutes is created to read:

21 30.50 (4n) "Intoxicated operating law" means the intoxicated operation of an
22 all-terrain vehicle law, as defined in s. 23.33 (1) (ic), the intoxicated boating law, or
23 the intoxicated snowmobiling law, as defined in s. 350.01 (9c).✓

24 **SECTION 28.** 30.50 (4v) of the statutes is created to read:

25 30.50 (4v) "Legal drinking age" means 21 years of age.✓

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

2 30.50 (9m) "Recreational motorboat" means a motorboat that is not a
3 commercial motorboat.✓

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

5 30.50 (9s) "Recreational vehicle" means an all-terrain vehicle, as defined in s.
6 340.01 (2g), a recreational motorboat, or a snowmobile as defined in s. 340.01 (58a).✓

7 **SECTION 31.** 30.50 (9t) of the statutes is created to read:

8 30.50 (9t) "Recreational vehicle and boating refusal law" means the all-terrain
9 vehicle refusal law, as defined in s. 23.33 (1) (br), the boating refusal law, or the
10 snowmobiling refusal law, as defined in s. 350.01 (15c).✓

11 **SECTION 32.** 30.50 (9x) of the statutes is renumbered 30.50 (2c) and amended
12 to read:

13 30.50 (2c) "~~Refusal~~ Boating refusal law" means s. 30.684 (5) or a local ordinance
14 in conformity with that subsection.✓

15 **SECTION 33.** 30.681 (1) (bn) of the statutes is amended to read:

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

20 **SECTION 34.** 30.681 (1) (c) of the statutes is amended to read:

21 30.681 (1) (c) *Related charges.* A person may be charged with and a prosecutor
22 may proceed upon a complaint based upon a violation of any combination of par. (a)
23 or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence. If the person
24 is charged with violating any combination of par. (a) or (b) 1., 1m., or 2., the offenses
25 shall be joined. If the person is found guilty of any combination of par. (a) or (b) 1.,

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1 1m., or 2. for acts arising out of the same incident or occurrence, there shall be a
2 single conviction for purposes of sentencing and for purposes of counting convictions
3 under s. 30.80 (6) (a) 2. ~~and 3.~~ to 5. Paragraphs (a) and (b) 1., 1m., and 2. each require
4 proof of a fact for conviction which the others do not require.✓

5 **SECTION 35.** 30.681 (2) (c) of the statutes is amended to read:

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

16 **SECTION 36.** 30.681 (2) (d) 1. a. of the statutes is amended to read:

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

24 **SECTION 37.** 30.686 of the statutes is amended to read:

1 **30.686 Report arrest to department.** If a law enforcement officer arrests
2 a person for a violation of the intoxicated boating law or the boating refusal law, the
3 law enforcement officer shall notify the department of the arrest as soon as
4 practicable.✓

5 **SECTION 38.** 30.688 of the statutes is created to read:

6 **30.688 Suspension or revocation of operating privileges. (1) ORDERS TO**
7 **SUSPEND OR REVOKE.** (a) If a court imposes a penalty for a violation of the intoxicated
8 boating law or the boating refusal law and if the violation involved the operation of
9 a recreational motorboat, the court shall order the suspension of the person's
10 privilege to operate a recreational vehicle for a period of not less than 12 months and
11 not more than 16 months. Whenever a court suspends an operating privilege under
12 this paragraph, the court shall notify the department of that action.✓

13 (b) In addition to the order under par. (a), the court shall also order the
14 revocation of the person's privilege to operate a motor vehicle on public premises, as
15 defined in s. 23.33 (1) (jc), if the person, within 5 years prior to the arrest for the
16 current violation subject to the order under par. (a), was previously found in violation

17 *of* ~~of~~ the intoxicated operating law or the recreational vehicle and boating refusal law.

18 The period of revocation shall be not less than 6 months and not more than 12
19 months. Whenever a court revokes an operating privilege under this paragraph, the
20 court may take possession of the revoked license. If the court takes possession of the
21 revoked license, the court shall destroy the license. The court shall forward to the
22 department of transportation the record of the conviction and notice of revocation.✓

23 **(2) OPERATING WHILE SUSPENDED OR REVOKED.** (a) No person may operate a
24 recreational vehicle in violation of a suspension order imposed under sub. (1) (a).✓

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1 (b) No person may operate a recreational motorboat during the time that the
2 person's motor vehicle operating privilege is suspended or revoked for a conviction
3 counted under s. 343.307 (1).

4 **SECTION 39.** 30.74 (1) (bn) of the statutes is amended to read:

5 30.74 (1) (bn) A certificate issued to a person under this subsection is valid for
6 life unless the certificate or the person's privilege to operate a motorboat is
7 suspended or revoked by a court under s. 30.688 (1) (a), 30.80 (2m) or (6) (e), or
8 938.343 (5).[✓]

9 **SECTION 40.** 30.80 (6) (a) 1. of the statutes is amended to read:

10 30.80 (6) (a) 1. Except as provided under subds. 2. to 5., a person who violates
11 s. 30.681 (1) (a) or (b), ~~a local ordinance in conformity with s. 30.681 (1) (a) or (b) or~~
12 ~~the refusal law~~ 30.684 (5) shall forfeit not less than \$150 \$400 nor more than \$300
13 \$550.[✓]

14 **SECTION 41.** 30.80 (6) (a) 2. of the statutes is amended to read:

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

22 **SECTION 42.** 30.80 (6) (a) 3. of the statutes is amended to read:

23 30.80 (6) (a) 3. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~
24 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law~~ or 30.684 (5) and who,
25 within 5 years prior to the arrest for the current violation, was convicted 2 times

1 previously under the intoxicated boating operating law or, the recreational vehicle
2 and boating refusal law, or a combination of these laws, shall be fined not less than
3 \$600 nor more than \$2,000 and shall be imprisoned for not less than 30 days nor more
4 than one year in the county jail.✓

5 **SECTION 43.** 30.80 (6) (a) 4. of the statutes is amended to read:

6 30.80 (6) (a) 4. 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 3 times
9 previously under the intoxicated boating operating law or, the recreational vehicle
10 and boating refusal law, or any combination of these laws, shall be fined not less than
11 \$600 nor more than \$2,000 and shall be imprisoned for not less than 60 days nor more
12 than one year in the county jail.✓

13 **SECTION 44.** 30.80 (6) (a) 5. of the statutes is amended to read:

14 30.80 (6) (a) 5. A person who violates s. 30.681 (1) (a) or (b), ~~a local ordinance~~
15 ~~in conformity with s. 30.681 (1) (a) or (b) or the refusal law or 30.684 (5)~~ and who,
16 within 5 years prior to the arrest for the current violation, was convicted 4 or more
17 times previously under the intoxicated boating operating law or, the recreational
18 vehicle and boating refusal law, or any combination of these laws, shall be fined not
19 less than \$600 nor more than \$2,000 and shall be imprisoned for not less than 6
20 months nor more than one year in the county jail.✓

21 **SECTION 45.** 30.80 (6) (a) 6. of the statutes is amended to read:

22 30.80 (6) (a) 6. A person who violates s. 30.681 (1) (bn) or ~~a local ordinance in~~
23 ~~conformity with s. 30.681 (1) (bn)~~ who violates 30.684 (5) and has not attained the
24 legal drinking age shall forfeit \$50.✓

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

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

6 **SECTION 47.** 30.80 (6) (ar) of the statutes is created to read:

7 30.80 (6) (ar) *Alcohol and drug treatment alternatives.* 1. In any county that
8 opts to offer a reduced minimum period of imprisonment for the successful
9 completion of a probation period that includes alcohol and other drug treatment, if
10 the number of suspensions, revocations, and convictions for a violation of the
11 intoxicated boating law or the boating refusal law within a 5-year period, equals 2,
12 except that suspensions, revocations, or convictions arising out of the same incident
13 or occurrence shall be counted as one, the fine shall be the same as under par. (a) 2.,
14 but the period of imprisonment shall be not less than 5 days, except that if the person
15 successfully completes a period of probation that includes alcohol and other drug
16 treatment, the period of imprisonment shall be not less than 5 nor more than 7 days.✓

17 2. In any county that opts to offer a reduced minimum period of imprisonment
18 for the successful completion of a probation period that includes alcohol and other
19 drug treatment, if the number of suspensions, revocations, and convictions for a
20 violation of the intoxicated boating law or the boating refusal law within a 5-year
21 period equals 3, except that suspensions, revocations, or convictions arising out of
22 the same incident or occurrence shall be counted as one, the fine shall be the same
23 as under par. (a) 3., but the period of imprisonment shall be not less than 30 days,
24 except that if the person successfully completes a period of probation that includes

1 alcohol and other drug treatment, the period of imprisonment shall be not less than
2 14 days.✓

3 3. In any county that opts to offer a reduced minimum period of imprisonment
4 for the successful completion of a probation period that includes alcohol and other
5 drug treatment, if the number of suspensions, revocations, and convictions for a
6 violation of the intoxicated boating law or the boating refusal law within a 5-year
7 period equals 4, except that suspensions, revocations, or convictions arising out of
8 the same incident or occurrence shall be counted as one, the fine shall be the same
9 as under par. (a) 4., but the period of imprisonment shall be not less than 60 days,
10 except that if the person successfully completes a period of probation that includes
11 alcohol and other drug treatment, the period of imprisonment shall be not less than
12 29 days.✓

13 4. A person may be sentenced under this paragraph or under s. 23.33 (13) (bm)
14 or 350.11 (3) (ar) once in his or her lifetime.✓

15 **SECTION 48.** 30.80 (6) (bg) of the statutes is created to read:

16 30.80 (6) (bg) *Penalties related to suspension; intoxication.* 1. A person who
17 operates a recreational vehicle in violation of s. 30.688 (2) (a) is subject to a forfeiture
18 of not less than \$50 nor more than \$250. In addition, for each violation under this
19 subdivision, the court may suspend the person's privilege to operate a recreational
20 vehicle for a period of not more than 6 months. Whenever a court suspends an
21 operating privilege under this subdivision, the court shall notify the department of
22 that action.✓

23 2. A person who operates a recreational motorboat in violation of s. 30.688 (2)
24 (b) is subject to a forfeiture of not less than \$150 nor more than \$300. In addition,
25 the court may suspend the person's privilege to operate a recreational vehicle for a

1 period of not more than 6 months. Whenever a court suspends an operating privilege
2 under this subdivision, the court shall notify the department of that action.

3 **SECTION 49.** 30.80 (6) (bn) of the statutes is created to read:

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

8 **SECTION 50.** 30.80 (6) (c) of the statutes is renumbered 30.80 (6) (c) 1.

9 **SECTION 51.** 30.80 (6) (c) 2. of the statutes is created to read:

10 30.80 (6) (c) 2. In determining the number of previous convictions under par.
11 (a) 2. to 5., previous convictions under the the intoxicated boating law or the boating
12 refusal law that occurred before, on, or after the effective date of this subdivision
13 [LRB inserts date], and previous convictions under the intoxicated operation of an
14 all-terrain vehicle law, as defined ins s. 23.33 (1) (ic), the all-terrain vehicle refusal
15 law, as defined in s. 23.33 (1) (br), the intoxicated snowmobiling law, as defined in s.
16 350.01 (9c), or the snowmobiling refusal law, as defined in s. 350.01 (15c), that occur
17 after the effective date of this subdivision [LRB inserts date], shall count as
18 previous convictions.✓

19 **SECTION 52.** 30.80 (6) (cm) of the statutes is created to read:

20 30.80 (6) (cm) *Reporting convictions to the department.* Whenever a person is
21 convicted of a violation of the intoxicated boating law or the boating refusal law, the
22 court in which the conviction occurred shall forward to the department the record of
23 such conviction. The record of conviction forwarded to the department shall state
24 whether the offender was involved in an accident at the time of the offense.✓

25 **SECTION 53.** 30.80 (6) (e) of the statutes is amended to read:

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

10 **SECTION 54.** 59.54 (14) (g) of the statutes is amended to read:

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

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

21 350.01 (9b) “Intoxicated operating law” means the intoxicated operation of an
22 all-terrain vehicle law, as defined in s. 23.33 (1) (ic), the intoxicated boating law, as
23 defined in s. 30.50 (4m), or the intoxicated snowmobiling law.✓

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

25 350.01 (9j) “Legal drinking age” means 21 years of age.✓

1 **SECTION 57.** 350.01 (10p) of the statutes is created to read:

2 350.01 (10p) "Recreational vehicle" means an all-terrain vehicle, as defined
3 in s. 340.01 (2g), a recreational motorboat, as defined in s. 30.50 (9m), or a
4 snowmobile.✓

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

6 350.01 (10q) "Recreational vehicle and boating refusal law" means the
7 all-terrain vehicle refusal law, as defined in s. 23.33 (1) (br), the boating refusal law,
8 as defined in s. 30.50 (2c), or the snowmobiling refusal law.✓

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

11 350.01 (15c) "~~Refusal~~ Snowmobiling refusal law" means s. 350.104 (5) or a local
12 ordinance in conformity therewith.✓

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

14 350.101 (1) (c) *Operating with alcohol concentrations at specified levels; below*
15 *legal drinking age 19.* ~~If a~~ A person who has not attained the legal drinking age of
16 ~~19, the person~~ may not engage in the operation of a snowmobile while he or she has
17 an alcohol concentration of more than 0.0 but ~~not more~~ less than 0.08.✓

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

19 350.101 (1) (d) *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 (b), or (bm) for acts arising out of the same incident or occurrence. If the person is
22 charged with violating any combination of par. (a), (b), or (bm), the offenses shall be
23 joined. If the person is found guilty of any combination of par. (a), (b), or (bm) for acts
24 arising out of the same incident or occurrence, there shall be a single conviction for
25 purposes of sentencing and for purposes of counting convictions under s. 350.11 (3)

1 (a) ~~2. and 3. to 5.~~ Paragraphs (a), (b), and (bm) each require proof of a fact for
2 conviction which the others do not require.✓

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

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

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

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

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

20 **350.1075 Suspension or revocation of operating privileges. (1) ORDERS**
21 **TO SUSPEND OR REVOKE.** (a) If a court imposes a penalty for a violation of the
22 intoxicated snowmobiling law or the snowmobiling refusal law, the court shall order
23 the suspension of the person's privilege to operate a recreational vehicle for a period
24 of not less than 12 months and not more than 16 months. Whenever a court suspends

1 an operating privilege under this paragraph, the court shall notify the department
2 of that action.✓

3 (b) In addition to the order under par. (a), the court shall also order the
4 revocation of the person's privilege to operate a motor vehicle on public premises, as
5 defined in s. 23.33 (1) (jc), if the person, within 5 years prior to the arrest for the
6 current violation of the intoxicated snowmobiling law or the snowmobiling refusal
7 law, was previously found in violation of ^{g violated} the intoxicated operating law or the
8 recreational vehicle and boating refusal law. The period of revocation shall be not
9 less than 6 months and not more than 12 months. Whenever a court revokes an
10 operating privilege under this paragraph, the court may take possession of the
11 revoked license. If the court takes possession of the revoked license, the court shall
12 destroy the license. The court shall forward to the department of transportation the
13 record of the conviction and notice of revocation.✓

14 (2) OPERATING WHILE SUSPENDED OR REVOKED. (a) No person may operate a
15 recreational vehicle in violation of a suspension order imposed under sub. (1) (a).✓

16 (b) No person may operate a snowmobile during the time that the person's
17 motor vehicle operating privilege is suspended or revoked for a conviction counted
18 under s. 343.307 (1).✓

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

20 350.11 (3) (a) 1. Except as provided under subds. 2. ~~and 3.~~ to 5., a person who
21 violates s. 350.101 (1) (a), (b), or (bm) or s. 350.104 (5) shall forfeit not less than \$400
22 nor more than \$550.✓

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

24 350.11 (3) (a) 2. ~~Except as provided under subd. 3., a~~ A person who violates
25 s. 350.101 (1) (a), (b), or (bm) or 350.104 (5) and who, within 5 years prior to the arrest

1 for the current violation, was convicted one time previously under the intoxicated
2 ~~snowmobiling operating~~ law or the recreational vehicle and boating refusal law shall
3 be fined not less than \$300 nor more than ~~\$1,000~~ \$1,100 and shall be imprisoned not
4 less than 5 days nor more than ~~6 months~~ one year in the county jail.✓

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

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

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

14 350.11 (3) (a) 6. A person who violates s. 350.101 (1) (c) or who violates 350.104
15 (5) and ~~who~~ has not attained the legal drinking age of 19 shall forfeit ~~not more than~~
16 \$50.✓

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

18 350.11 (3) (a) 4b. A person who violates s. 350.101 (1) (a), (b), or (bm) or 350.104
19 (5) and who, within 5 years prior to the arrest for the current violation, was convicted
20 3 times previously under the intoxicated operating law, the recreational vehicle and
21 boating refusal law, or any combination of these laws, shall be fined not less than
22 \$600 nor more than \$2,000 and shall be imprisoned not less than 60 days nor more
23 than one year in the county jail.✓

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

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

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

8 350.11 (3) (am) *Penalties related to operating with underage passengers.* If
9 there is a passenger under 16 years of age on a snowmobile at the time of a violation
10 that gives rise to a conviction under s. 350.101 (1) (a), (b), or (bm) or 350.104 (5), the
11 applicable minimum and maximum forfeitures, fines, and terms of imprisonment
12 under par. (a) 1., 2., 3., 4b., and 5. for the conviction are doubled.✓

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

14 350.11 (3) (ar) *Alcohol and drug treatment alternatives.* 1. In any county that
15 opts to offer a reduced minimum period of imprisonment for the successful
16 completion of a probation period that includes alcohol and other drug treatment, if
17 the number of suspensions, revocations, and convictions for a violation of the
18 intoxicated snowmobiling law or the snowmobiling refusal law within a 5-year
19 period, equals 2, except that suspensions, revocations, or convictions arising out of
20 the same incident or occurrence shall be counted as one, the fine shall be the same
21 as under par. (a) 2., but the period of imprisonment shall be not less than 5 days,
22 except that if the person successfully completes a period of probation that includes
23 alcohol and other drug treatment, the period of imprisonment shall be not less than
24 5 nor more than 7 days.✓

1 2. In any county that opts to offer a reduced minimum period of imprisonment
2 for the successful completion of a probation period that includes alcohol and other
3 drug treatment, if the number of suspensions, revocations, and convictions for a
4 violation of the intoxicated snowmobiling law or the snowmobiling refusal law within
5 a 5-year period equals 3, except that suspensions, revocations, or convictions arising
6 out of the same incident or occurrence shall be counted as one, the fine shall be the
7 same as under par. (a) 3., but the period of imprisonment shall be not less than 30
8 days, except that if the person successfully completes a period of probation that
9 includes alcohol and other drug treatment, the period of imprisonment shall be not
10 less than 14 days.✓

11 3. In any county that opts to offer a reduced minimum period of imprisonment
12 for the successful completion of a probation period that includes alcohol and other
13 drug treatment, if the number of suspensions, revocations, and convictions for a
14 violation of the intoxicated snowmobiling law or the snowmobiling refusal law within
15 a 5-year period equals 4, except that suspensions, revocations, or convictions arising
16 out of the same incident or occurrence shall be counted as one, the fine shall be the
17 same as under par. (a) 4b., but the period of imprisonment shall be not less than 60
18 days, except that if the person successfully completes a period of probation that
19 includes alcohol and other drug treatment, the period of imprisonment shall be not
20 less than 29 days.✓

21 4. A person may be sentenced under this paragraph or under s. 23.33 (13) (bm)
22 or 30.80 (6) (ar) once in his or her lifetime.✓

23 **SECTION 73.** 350.11 (3) (bg) of the statutes is created to read:

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

1 forfeiture of not less than \$50 nor more than \$250. In addition, for each violation
2 under this subdivision, the court may suspend the person's privilege to operate a
3 recreational vehicle for a period of not more than 6 months. Whenever a court
4 suspends an operating privilege under this subdivision, the court shall notify the
5 department of that action.✓

6 2. A person who operates a snowmobile in violation of s. 350.1075 (2) (b) is
7 subject to a forfeiture of not less than \$150 nor more than \$300. In addition, the court
8 may suspend the person's privilege to operate a recreational vehicle for a period of
9 not more than 6 months. Whenever a court suspends an operating privilege under
10 this subdivision, the court shall notify the department of that action.

11 **SECTION 74.** 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 75.** 350.11 (3) (c) of the statutes is renumbered 350.11 (3) (c) 1. and
17 amended to read:

18 350.11 (3) (c) 1. In determining the number of previous convictions under par.
19 (a) 2. ~~and 3. to 5.~~, convictions arising out of the same incident or occurrence shall be
20 counted as one previous conviction.✓

21 **SECTION 76.** 350.11 (3) (c) 2. of the statutes is created to read:

22 350.11 (3) (c) 2. In determining the number of previous convictions under par.
23 (a) 2. to 5., previous convictions under the intoxicated snowmobiling law or the
24 snowmobiling refusal law that occurred before, on, or after the effective date of this
25 subdivision [LRB inserts date], and previous convictions under the intoxicated

1 operation of an all-terrain vehicle law, as defined ins s. 23.33 (1) (ic), the all-terrain
2 vehicle refusal law, as defined in s. 23.33 (1) (br), the intoxicated boating law, as
3 defined in s. 30.50 (4m), or the boating refusal law, as defined in s. 30.50 (2c), that
4 occur after the effective date of this subdivision [LRB inserts date], shall count as
5 previous convictions.✓

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

7 350.11 (3) (cm) *Reporting convictions to the department.* Whenever a person
8 is convicted of a violation of the intoxicated snowmobiling law or the snowmobiling
9 refusal law, the ~~clerk of the court in which the conviction occurred, or the justice,~~
10 ~~judge or magistrate of a court not having a clerk,~~ shall forward to the department the
11 record of such conviction. The record of conviction forwarded to the department shall
12 state whether the offender was involved in an accident at the time of the offense.✓

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

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

22 **SECTION 79.** 350.12 (4) (bg) 2. of the statutes is amended to read:

23 350.12 (4) (bg) 2. For fiscal year ~~2001-02~~ 2009-10, and for each fiscal year
24 thereafter, the department shall calculate an amount equal to the number of trail use
25 stickers issued under sub. (3j) in the previous fiscal year multiplied by \$15 ~~\$32~~ and

1 shall credit this amount to the appropriation account under s. 20.370 (5) (cw). From
2 the appropriation account under s. 20.370 (5) (cw), the department shall make
3 payments to the department or a county for the purposes specified in par. (b). The
4 department shall make payments under par. (bm) for trail maintenance costs that
5 were incurred in the previous fiscal year and that exceed the maximum specified
6 under par. (b) 1. before making payments for any of the other purposes specified in
7 par. (b).[✓]

8 **SECTION 80.** 940.09 (1m) (b) of the statutes is amended to read:

9 940.09 (1m) (b) If a person is charged in an information with any of the
10 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
11 971.12. If the person is found guilty of more than one of the crimes so charged for
12 acts arising out of the same incident or occurrence, there shall be a single conviction
13 for purposes of sentencing and for purposes of counting convictions under s. 23.33
14 (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
15 s. 350.11 (3) (a) 2. ~~and 3. to 5.~~ Subsection (1) (a), (am), (b), (bm), (c), (cm), (d), and (e)
16 each require proof of a fact for conviction which the others do not require, and sub.
17 (1g) (a), (am), (b), (c), (cm), and (d) each require proof of a fact for conviction which
18 the others do not require.[✓]

19 **SECTION 81.** 940.25 (1m) (b) of the statutes is amended to read:

20 940.25 (1m) (b) If a person is charged in an information with any of the
21 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
22 971.12. If the person is found guilty of more than one of the crimes so charged for
23 acts arising out of the same incident or occurrence, there shall be a single conviction
24 for purposes of sentencing and for purposes of counting convictions under s. 23.33
25 (13) (b) 2. ~~and 3. to 5.~~, under s. 30.80 (6) (a) 2. ~~or 3. to 5.~~, under ss. 343.30 (1q) and

1 343.305 or under s. 350.11 (3) (a) 2. ~~and 3.~~ to 5. Subsection (1) (a), (am), (b), (bm), (c),
2 (cm), (d), and (e) each require proof of a fact for conviction which the others do not
3 require.✓

4 **SECTION 82. Effective date.**

5 (1) This act takes effect on the first day of the 4th month beginning after
6 publication.✓

7 (END)

D-note

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4163/lins
MGG&RPN:nwn:md

Insert ANL *2 D-N*

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

Under current law, in imposing a penalty for a violation of the intoxicated operation of an ATV, the intoxicated boating, or the intoxicated snowmobiling law, a court may only count as a previous conviction of the same law, or the applicable refusal law. For example, if a person is before the court for violating the intoxicated snowmobiling law or the snowmobile refusal law, the court may count only previous convictions of the intoxicated snowmobiling law and the snowmobile refusal law as prior convictions. Previous convictions of the intoxicated operation of an ATV law, or of the intoxicated boating law or of the applicable refusal laws may not be counted. Under the bill, a court must count previous convictions of any of these intoxicated operation or refusal laws that occurred within the previous five years when imposing a penalty for a violation of any of these laws.

The bill provides that when counting the number of convictions within the previous 5 years, the previous convictions for intoxicated operation of that same type of recreational vehicle that occurred before the effective date of this bill are counted, but previous convictions for intoxicated operation of the other 2 types of recreational vehicles that occurred before the effective date of this bill are not counted.

The bill also requires a court to enter an order to suspend the person's privilege to operate a snowmobile, an ATV, and a motorboat for a period of not less than 12 months and not more than 16 months if the court imposes a penalty for a violation of the intoxicated operation of an ATV, the intoxicated boating, or the intoxicated snowmobiling law or the related refusal law. The bill also provides a forfeiture and additional 6-month period of operating privilege suspension for violating the order of suspension.

If the person is found guilty of a violation of the intoxicated operation of an ATV, the intoxicated boating, or the intoxicated snowmobiling law or the related refusal law and has, within the previous 6 years, violated one of these laws, the bill requires the court to revoke the person's privilege to operate a motor vehicle for not less than 6 months and not more than 12 months. The bill also provides a forfeiture and an

or the related refusal law

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Under current law as amended by 2009 Wisconsin Act 1005 the sentences of

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additional ^{to six} 6-month period of operating privilege suspension for violating the order of suspension.

Under the bill, if a person has had his or her privilege to operate a motor vehicle suspended or revoked for a violation of a prohibition against operating a motor vehicle while intoxicated, the person may not operate a snowmobile, an ATV, or a motorboat during the period of that motor vehicle operating privilege suspension or revocation.

2005 Wisconsin Act 389 created a pilot program for sentencing persons in Winnebago County who are convicted of certain second or third offenses involving the operation of a motor vehicle while under the influence of an intoxicant. Under that act, the period of imprisonment for an offense in Winnebago County involving the operation of a motor vehicle while under the influence of an intoxicant may be reduced if the violator successfully completes a period of probation that includes alcohol and other drug treatment. A person may complete a treatment program and receive a reduced period of imprisonment only once. 2009 Wisconsin Act 100 expanded the sentencing option to any county that opts to allow a violator to successfully complete a period of probation that includes alcohol and other drug treatment in exchange for a shorter period of imprisonment. This bill allows this option to be used for persons convicted of a violation of the intoxicated operation of an ATV, the intoxicated boating, the intoxicated snowmobiling law, or the applicable refusal law.

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

1. Raising the age of absolute sobriety for the operation of snowmobiles and ATVs to 21. Current law requires absolute sobriety for persons under the age of 19 who are operating snowmobiles and ATVs and for persons under the age of 21 for motorboats.
2. Adopting the higher penalties for various violations where the penalties for violations of the intoxicated operation of an ATV law, the intoxicated boating law, the intoxicated snowmobiling law, and the refusal law conflict.
3. Imposing increased penalties for violating the intoxicated boating law or the intoxicated snowmobiling law if the motorboat or snowmobile is operated with a passenger under 16 years of age. The increased penalty already exists for a violation of the intoxicated operation of an all-terrain vehicle law and the ATV refusal law.
4. The bill repeals the provisions that imposed increased penalties for operating an all-terrain vehicle with an alcohol concentration level that is 0.17 or more. Under current law, these increased penalties are not imposed for violations of the intoxicated boating or the intoxicated snowmobiling laws.

A snowmobile trail use sticker issued by the Department of Natural Resources is required on all snowmobiles that are operated in this state but that are not registered in this state. Current law requires that \$15 of each fee collected for a trail use sticker be credited to an appropriation to provide funding for the development and maintenance of snowmobile trails and routes. This bill increases the \$15 of each fee collected to \$32.

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Repealing

CRIME

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

D-N
Date

LRB-4163/1dn
RPN:nwn:

Please read the analysis carefully to make sure we followed your intent. ✓

RPN
~
~

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4163/1dn
RPN:nwn:ph

February 24, 2010

Please read the analysis carefully to make sure we followed your intent.

Robert P. Nelson
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Basford, Sarah

From: Van de Bogert, Abigail
Sent: Wednesday, February 24, 2010 6:29 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-4163/1 Topic: Operations of sport recreational vehicles while intoxicated

Please Jacket LRB 09-4163/1 for the ASSEMBLY.