



2011 ASSEMBLY BILL 80

1 **AN ACT** *to repeal* 343.05 (5) (b) 3., 343.44 (1) (am), 343.44 (2) (am) and 343.44
2 (2) (e) to (h); *to renumber* 343.05 (5) (a); *to renumber and amend* 343.44 (2)
3 (a) and 343.44 (2) (as); *to amend* 343.05 (5) (b) 1., 343.30 (1g) (a), 343.30 (1g)
4 (b), 343.30 (2j) (a), 343.31 (2m) and 343.44 (2) (b) (intro.); and *to create* 343.05
5 (5) (ag), 343.05 (5) (b) 4. and 5., 343.30 (1d), 343.30 (1g) (c), 343.44 (2) (ad),
6 343.44 (2) (ag) 2. and 3., 343.44 (2) (ar) 3. and 4. and 343.44 (2) (br) of the
7 statutes; **relating to:** operating a motor vehicle without a valid driver's license
8 or after suspension or revocation of an operating privilege and providing
9 penalties.

Analysis by the Legislative Reference Bureau

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

10 **SECTION 1.** 343.05 (5) (a) of the statutes is renumbered 343.05 (5) (am).

ASSEMBLY BILL 80

1 **SECTION 2.** 343.05 (5) (ag) of the statutes is created to read:

2 343.05 (5) (ag) In this subsection, “great bodily harm” has the meaning given
3 in s. 939.22 (14).

4 **SECTION 3.** 343.05 (5) (b) 1. of the statutes is amended to read:

5 343.05 (5) (b) 1. Except as provided in ~~subd. 2. or 3. to 5.~~ subds. 2. and 5. and sub. (6),
6 any person who violates sub. (3) (a) may be required to forfeit not more than \$200 for
7 the first offense, may be fined not more than \$300 and imprisoned for not more than
8 30 days for the 2nd offense occurring within 3 years, and may be fined not more than
9 \$500 and imprisoned for not more than 6 months for the 3rd or subsequent offense
10 occurring within 3 years. ~~A- In this paragraph, a violation of a local ordinance in~~
11 ~~conformity with this section or a violation of a law of a federally recognized American~~
12 ~~Indian tribe or band in this state in conformity with this section shall count as a~~
13 ~~previous offense.~~

14 **SECTION 4.** 343.05 (5) (b) 3. of the statutes is repealed.

15 **SECTION 5.** 343.05 (5) (b) 4. and 5. of the statutes are created to read:

16 343.05 (5) (b) 4. Except as provided in subd. 2. and sub. (6), any person who
17 violates sub. (3) (a) and, in the course of the violation, causes great bodily harm to
18 another person is required to forfeit not less than \$5,000 nor more than \$7,500,
19 except that, if the person knows at the time of the violation that he or she does not
20 possess a valid operator’s license, the person is guilty of a Class I felony.

21 5. Except as provided in subd. 2. and sub. (6), any person who violates sub. (3)
22 (a) and, in the course of the violation, causes the death of another person is required
23 to forfeit not less than \$7,500 nor more than \$10,000, except that, if the person knows
24 at the time of the violation that he or she does not possess a valid operator’s license,
25 the person is guilty of a Class H felony.

ASSEMBLY BILL 80

1 **SECTION 6.** 343.30 (1d) of the statutes is created to read:

2 343.30 **(1d)** A court shall revoke a person's operating privilege upon the
3 person's conviction for violating s. 343.05 (3) (a) or a local ordinance in conformity
4 therewith if the person, in the course of the violation, causes great bodily harm, as
5 defined in s. 939.22 (14), to another person or the death of another person. Any
6 revocation under this subsection shall be for a period of 6 months, unless the court
7 orders a period of revocation of less than 6 months and places its reasons for ordering
8 the lesser period of revocation on the record.

9 **SECTION 7.** 343.30 (1g) (a) of the statutes is amended to read:

10 343.30 **(1g)** (a) ~~Except as provided in par.~~ Subject to pars. (b) and (c), a court
11 may suspend a person's operating privilege for any period not exceeding 6 months
12 upon the person's conviction for violating s. 343.44 (1) (a), (b),¹ or (d) or a local
13 ordinance in conformity therewith.

14 **SECTION 8.** 343.30 (1g) (b) of the statutes is amended to read:

15 343.30 **(1g)** (b) ~~A~~ Except as provided in par. (c), a court may revoke a person's
16 operating privilege upon the person's conviction for violating s. 343.44 (1) (a), (b), or
17 (d) or a local ordinance in conformity therewith if the person has been convicted of
18 3 or more prior violations of s. 343.44 (1) (a), (b), or (d), or similar violations under
19 s. 343.44 (1), 1997 stats., or a local ordinance in conformity therewith, within the
20 5-year period preceding the violation.

21 (d) Any revocation under this ~~paragraph~~ subsection shall be for a period of 6
22 months, unless the court orders a period of revocation of less than 6 months and
23 places its reasons for ordering the lesser period of revocation on the record.

24 **SECTION 9.** 343.30 (1g) (c) of the statutes is created to read:

ASSEMBLY BILL 80**SECTION 9**

1 343.30 (1g) (c) A court shall revoke a person's operating privilege upon the
2 person's conviction for violating s. 343.44 (1) (a) or (b), or a local ordinance in
3 conformity with s. 343.44 (1) (a), if the person, in the course of the violation, causes
4 great bodily harm, as defined in s. 939.22 (14), to another person or the death of
5 another person.

6 **SECTION 10.** 343.30 (2j) (a) of the statutes is amended to read:

7 343.30 (2j) (a) A court may ~~revoke~~ suspend a person's operating privilege upon
8 the person's first conviction for violating s. 346.44 or 346.62 (2m) and shall ~~revoke~~
9 suspend a person's operating privilege upon the person's 2nd or subsequent
10 conviction within a 5-year period for violating s. 346.44 or 346.62 (2m). The
11 ~~revocation~~ suspension shall be for a period of 6 months. For purposes of determining
12 prior convictions for purposes of this paragraph, the 5-year period shall be measured
13 from the dates of the violations that resulted in the convictions. Each conviction
14 under s. 346.44 or 346.62 (2m) shall be counted, except that convictions under s.
15 346.44 and 346.62 (2m) arising out of the same incident or occurrence shall be
16 counted as a single conviction.

17 **SECTION 11.** 343.31 (2m) of the statutes is amended to read:

18 343.31 (2m) The department may suspend or revoke, respectively, the
19 operating privilege of any resident upon receiving notice of the conviction of that
20 person under a law of another jurisdiction or a federally recognized American Indian
21 tribe or band in this state for an offense which, if the person had committed the
22 offense in this state and been convicted of the offense under the laws of this state,
23 would have permitted suspension or revocation of the person's operating privilege
24 under s. 343.30 (1d) or (1g). Upon receiving similar notice with respect to a
25 nonresident, the department may suspend or revoke the privilege of the nonresident

ASSEMBLY BILL 80

1 to operate a motor vehicle in this state. The suspension or revocation shall not apply
2 to the operation of a commercial motor vehicle by a nonresident who holds a valid
3 commercial driver license issued by another state. A suspension or revocation under
4 this subsection shall be for any period not exceeding 6 months.

5 **SECTION 12.** 343.44 (1) (am) of the statutes is repealed.

6 **SECTION 13.** 343.44 (2) (a) of the statutes is renumbered 343.44 (2) (ag) 1. and
7 amended to read:

8 343.44 (2) (ag) 1. Any Except as provided in subs. 2. and 3., any person who
9 violates sub. (1) (a) ~~or a local ordinance in conformity therewith~~ shall be required to
10 forfeit not less than \$50 nor more than \$200.

11 **SECTION 14.** 343.44 (2) (ad) of the statutes is created to read:

12 343.44 (2) (ad) In this subsection, “great bodily harm” has the meaning given
13 in s. 939.22 (14).

14 **SECTION 15.** 343.44 (2) (ag) 2. and 3. of the statutes are created to read:

15 343.44 (2) (ag) 2. Any person who violates sub. (1) (a) and, in the course of the
16 violation, causes great bodily harm to another person is required to forfeit not less
17 than \$5,000 nor more than \$7,500, except that, if the person knows at the time of the
18 violation that his or her operating privilege has been suspended, the person is guilty
19 of a Class I felony.

20 3. Any person who violates sub. (1) (a) and, in the course of the violation, causes
21 the death of another person is required to forfeit not less than \$7,500 nor more than
22 \$10,000, except that, if the person knows at the time of the violation that his or her
23 operating privilege has been suspended, the person is guilty of a Class H felony.

24 **SECTION 16.** 343.44 (2) (am) of the statutes is repealed.

25 **SECTION 17.** 343.44 (2) (ar) 3. and 4. of the statutes are created to read:

ASSEMBLY BILL 80**SECTION 17**

1 343.44 (2) (ar) 3. Any person who violates sub. (1) (b) and, in the course of the
2 violation, causes great bodily harm to another person shall be fined not less than
3 \$5,000 nor more than \$7,500 or imprisoned for not more than one year in the county
4 jail or both, except that, if the person knows at the time of the violation that his or
5 her operating privilege has been revoked, the person is guilty of a Class I felony.

6 4. Any person who violates sub. (1) (b) and, in the course of the violation, causes
7 the death of another person shall be fined not less than \$7,500 nor more than \$10,000
8 or imprisoned for not more than one year in the county jail or both, except that, if the
9 person knows at the time of the violation that his or her operating privilege has been
10 revoked, the person is guilty of a Class H felony.

11 **SECTION 18.** 343.44 (2) (as) of the statutes is renumbered 343.44 (2) (ar) 1. and
12 amended to read:

13 343.44 (2) (ar) 1. Any Except as provided in subds. 2. to 4., any person who
14 violates sub. (1) (b) after July 27, 2005, shall forfeit not more than \$2,500, except that,

15 2. Except as provided in subds. 3. and 4., any person who violates sub. (1) (b)
16 shall be fined not more than \$2,500 or imprisoned for not more than one year in the
17 county jail or both if the revocation identified under sub. (1) (b) resulted from an
18 offense that may be counted under s. 343.307 (2), ~~the penalty under par. (b) shall~~
19 ~~apply.~~

20 **SECTION 19.** 343.44 (2) (b) (intro.) of the statutes is amended to read:

21 343.44 (2) (b) (intro.) ~~Except as provided in pars. (am) and (as), any person who~~
22 ~~violates sub. (1) (b) or (d) shall be fined not more than \$2,500 or imprisoned for not~~
23 ~~more than one year in the county jail or both.~~ In imposing a sentence under this
24 paragraph, ~~or a local ordinance in conformity with this paragraph, par. (ar) or (br),~~
25 the court shall review the record and consider the following:

