



2013 SENATE BILL 61

March 4, 2013 – Introduced by Senators DARLING, LEIBHAM and CARPENTER, cosponsored by Representatives J. OTT, STONE, BALLWEG, BIES, T. LARSON, THIESFELDT and TRANEL. Referred to Committee on Transportation, Public Safety, and Veterans and Military Affairs.

1 **AN ACT to amend** 973.075 (1) (b) 2m. b. and 973.075 (2) (intro.); and **to create**
2 346.653, 973.075 (1) (b) 1m. h. and 973.075 (1) (b) 2m. bm. of the statutes;
3 **relating to:** seizure and forfeiture of motor vehicles used in certain
4 operating–while–intoxicated offenses and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a law enforcement agency may acquire certain property involved in the commission of crime through a forfeiture proceeding. The forfeiture law applies to all property directly or indirectly derived from the commission of a crime and certain other property related to the commission of a crime.

Also under current law, no one may operate a motor vehicle while under the influence of an intoxicant or with a prohibited blood alcohol concentration or with a detectable amount of a restricted controlled substance in his or her blood. A person who does so, or who improperly refuses a field sobriety test, is guilty of an offense related to operating while intoxicated (OWI–related offense) and is subject to forfeitures or fines and periods of imprisonment that increase with each subsequent OWI–related offense.

Under this bill, if a person commits a third or subsequent OWI–related offense, the sentencing court may also order that the vehicle used in the offense be seized. If a seizure is ordered, the district attorney prosecuting the offense must then initiate a forfeiture proceeding regarding the vehicle. The seizure and forfeiture provisions in this bill do not apply to a rental vehicle or a vehicle that was operated without the knowledge or consent of the owner.

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

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

1 **SECTION 1.** 346.653 of the statutes is created to read:

2 **346.653 Seizure of motor vehicles.** The court may order a law enforcement
3 officer to seize the motor vehicle used in a violation or improper refusal under s.
4 343.305 (10), 346.63 (1) or (2), 940.09 (1), or 940.25 if the person committing the
5 violation or making the improper refusal has 2 or more prior suspensions,
6 revocations, or convictions, counting convictions under ss. 940.09 (1) and 940.25 in
7 the person's lifetime, plus other suspensions, revocations, or convictions counted
8 under s. 343.307 (1). After seizure of the motor vehicle, the district attorney shall
9 institute proceedings under s. 973.076 regarding the vehicle seized under this
10 section.

11 **SECTION 2.** 973.075 (1) (b) 1m. h. of the statutes is created to read:

12 973.075 (1) (b) 1m. h. In a violation or improper refusal under s. 343.305 (10),
13 346.63 (1) or (2), 940.09 (1), or 940.25 if the person making the improper refusal or
14 committing the violation has 2 or more prior suspensions, revocations, or convictions,
15 counting convictions under s. 940.09 (1) and 940.25 in the person's lifetime, plus
16 other suspensions, revocations, or convictions counted under s. 343.307 (1). A vehicle
17 under this subdivision is subject to seizure only upon court order under s. 346.653.

18 **SECTION 3.** 973.075 (1) (b) 2m. b. of the statutes is amended to read:

19 973.075 (1) (b) 2m. b. ~~No~~ Except a vehicle seized under subd. 1m. h., and subject
20 to subd. 2m. bm., no vehicle is subject to forfeiture under ss. 973.075 to 973.077 by

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1 reason of any act or omission established by the owner of the vehicle to have been
2 committed or omitted without his or her knowledge or consent.

3 **SECTION 4.** 973.075 (1) (b) 2m. bm. of the statutes is created to read:

4 973.075 (1) (b) 2m. bm. No vehicle seized under subd. 1m. h. is subject to
5 forfeiture under ss. 973.075 to 973.077 if the owner of the vehicle establishes that the
6 vehicle is owned by a rental company, as defined in s. 344.51 (1g) (c), the vehicle was
7 operated at the time of the violation or improper refusal by or with the consent of the
8 renter, and the improper refusal or violation was committed without the company's
9 knowledge or consent. No vehicle seized under subd. 1m. h. is subject to forfeiture
10 under ss. 973.075 to 973.077 if the owner of the vehicle establishes that the vehicle
11 was operated at the time of the violation or improper refusal without his or her
12 knowledge or consent.

13 **SECTION 5.** 973.075 (2) (intro.) of the statutes is amended to read:

14 973.075 (2) (intro.) A law enforcement officer may seize property subject to this
15 section upon process issued by any court of record having jurisdiction over the
16 property. Except for vehicles seized under s. 346.653 or used in the commission of
17 a crime in violation of s. 944.30, 944.31, 944.32, 944.33 or 944.34, seizure without
18 process may be made under any of the following circumstances:

19 **SECTION 6. Initial applicability.**

20 (1) This act first applies to refusals made or violations committed on the
21 effective date of this subsection.

22 (END)