

2013 DRAFTING REQUEST

Bill

Received: 4/29/2013 Received By: emueller
Wanted: As time permits Same as LRB: -2234
For: Alberta Darling (608) 266-5830 By/Representing: Andrew Evenson
May Contact: Drafter: emueller
Subject: Drunk Driving - penalties Addl. Drafters:
Drunk Driving - refusals/testing Extra Copies: PJH, RPN

Submit via email: YES
Requester's email: Sen.Darling@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Mandatory minimum sentences for certain OWI offenses; persons who can perform a blood draw

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	emueller 4/29/2013	kfollett 4/29/2013	jmurphy 4/29/2013	_____	srose 4/29/2013	lparisi 5/1/2013	Crime

FE Sent For:

*None
Needed*

<END>

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/1	emueller	1/16f					Crime
	EJM 4/29/13	4/29	jm 4/29	self			

FE Sent For:

<END>



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2234/2 2266/1
EVM:kjf:ph

2013 ASSEMBLY BILL 180

No Charges/
Companion Bill

In 4/29/13

RMNR

April 29, 2013 - Introduced by Representatives J. OTT and RICHARDS, cosponsored by Senator DARLING. Referred to Committee on Judiciary.

Def
4/29
Jim

Regen ✓

Soon

1 AN ACT to amend 23.33 (4p) (b) 4., 30.684 (2) (d), 343.305 (5) (b), 346.65 (2) (am)
2 6., 346.65 (2) (am) 7., 346.65 (3m) and 350.104 (2) (d) of the statutes; relating
3 to: penalties and testing for operating-while-intoxicated offenses and
4 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who commits a seventh, eighth, or ninth offense related to drunken driving or driving under the influence of an intoxicant or other drug (OWI) is guilty of a Class G felony. The penalty for a Class G felony is a fine not to exceed \$25,000 or imprisonment not to exceed ten years, or both. The confinement portion of a bifurcated sentence imposed on a person convicted of a seventh, eighth, or ninth OWI may not be less than three years. A person who commits a tenth or subsequent OWI is guilty of a Class F felony. The penalty for a Class F felony is a fine not to exceed \$25,000 or imprisonment not to exceed 12 years and 6 months, or both. The confinement portion of a bifurcated sentence imposed on a person convicted of a tenth or subsequent OWI may not be less than four years.

This bill specifies that a person who is convicted of a seventh, eighth, or ninth OWI must be given a bifurcated sentence and that the confinement portion of the sentence may not be less than three years and that a person who is convicted of a tenth or subsequent OWI must be given a bifurcated sentence and that the confinement portion of the sentence may not be less than four years.

Current law specifies that a person who is convicted of causing injury to another while committing an OWI or while operating a commercial motor vehicle while the

ASSEMBLY BILL 180

person has an alcohol concentration of 0.04 or more but less than 0.08 must be fined not less than \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more than one year in the county jail. This bill specifies that the convicted person must be imprisoned for not less than 30 days nor more than one year.

Current law also specifies that a blood draw for alcohol or other controlled substance testing may be performed only by a physician, registered nurse, medical technologist, physician assistant, or person acting under the direction of a physician. This bill adds phlebotomists and other medical professionals who are authorized to draw blood to the list of persons who may perform a blood draw.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

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

2 23.33 (4p) (b) 4. 'Validity; procedure.' A chemical test of blood or urine
3 conducted for the purpose of authorized analysis is valid as provided under s. 343.305
4 (6). The duties and responsibilities of the laboratory of hygiene, department of
5 health services and department of transportation under s. 343.305 (6) apply to a
6 chemical test of blood or urine conducted for the purpose of authorized analysis
7 under this subsection. Blood may be withdrawn from a person arrested for a
8 violation of the intoxicated operation of an all-terrain vehicle or utility terrain
9 vehicle law only by a physician, registered nurse, medical technologist, physician
10 assistant, phlebotomist, or other medical professional who is authorized to draw
11 blood, or person acting under the direction of a physician and the person who
12 withdraws the blood, the employer of that person and any hospital where blood is
13 withdrawn have immunity from civil or criminal liability as provided under s. 895.53

14 SECTION 2. 30.684 (2) (d) of the statutes is amended to read:

ASSEMBLY BILL 180

1 plus the total number of suspensions, revocations, and other convictions counted
2 under s. 343.307 (1), equals 7, 8, or 9, except that suspensions, revocations, or
3 convictions arising out of the same incident or occurrence shall be counted as one.
4 The court shall impose a bifurcated sentence under s. 973.01 and the confinement
5 portion of ~~a~~ the bifurcated sentence imposed on the person ~~under s. 973.01~~ shall be
6 not less than 3 years. ✓

7 **SECTION 5.** 346.65 (2) (am) 7. of the statutes is amended to read:

8 346.65 (2) (am) 7. Except as provided in par. (f), is guilty of a Class F felony if
9 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
10 plus the total number of suspensions, revocations, and other convictions counted
11 under s. 343.307 (1), equals 10 or more except that suspensions, revocations, or
12 convictions arising out of the same incident or occurrence shall be counted as one.
13 The court shall impose a bifurcated sentence under s. 973.01 and the confinement
14 portion of ~~a~~ the bifurcated sentence imposed on the person ~~under s. 973.01~~ shall be
15 not less than 4 years.

16 **SECTION 6.** 346.65 (3m) of the statutes is amended to read: ✓

17 346.65 (3m) Except as provided in sub. (3p) or (3r), any person violating s.
18 346.63 (2) or (6) shall be fined not less than \$300 nor more than \$2,000 and ~~may~~ shall
19 be imprisoned for not less than 30 days nor more than one year in the county jail.
20 If there was a minor passenger under 16 years of age in the motor vehicle at the time
21 of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense
22 is a felony, the applicable minimum and maximum fines or periods of imprisonment
23 for the conviction are doubled and the place of imprisonment shall be determined
24 under s. 973.02.

25 **SECTION 7.** 350.104 (2) (d) of the statutes is amended to read: ✓

ASSEMBLY BILL 180

1 350.104 (2) (d) *Validity; procedure.* A chemical test of blood or urine conducted
2 for the purpose of authorized analysis is valid as provided under s. 343.305 (6). The
3 duties and responsibilities of the laboratory of hygiene, department of health
4 services and department of transportation under s. 343.305 (6) apply to a chemical
5 test of blood or urine conducted for the purpose of authorized analysis under this
6 section. Blood may be withdrawn from a person arrested for a violation of the
7 intoxicated snowmobiling law only by a physician, registered nurse, medical
8 technologist, physician assistant, phlebotomist, or other medical professional who is
9 authorized to draw blood, or person acting under the direction of a physician and the
10 person who withdraws the blood, the employer of that person and any hospital where
11 blood is withdrawn have immunity from civil or criminal liability as provided under
12 s. 895.53

SECTION 8. Initial applicability.

14 (1) The treatment of section 346.65 (2) (am) 6. and 7. and (3m) of the statutes
15 first applies to violations committed or refusals occurring on the effective date of this
16 subsection, but does not preclude the counting of other convictions, suspensions, or
17 revocations as prior convictions, suspensions, or revocations for purposes of
18 administrative action by the department of transportation, sentencing by a court, or
19 revocation or suspension of motor vehicle operating privileges.

(END)

20

Barman, Mike

From: Evenson, Andrew
Sent: Wednesday, May 01, 2013 8:47 AM
To: LRB.Legal
Subject: Draft Review: LRB -2266/1 Topic: Mandatory minimum sentences for certain OWI offenses; persons who can perform a blood draw

Please Jacket LRB -2266/1 for the SENATE.