

**2013 DRAFTING REQUEST**

**Bill**

Received: 1/16/2014 Received By: tdodge  
Wanted: As time permits Same as LRB: -0794  
For: Dale Schultz (608) 266-0703 By/Representing: Sheryl Albers  
May Contact: Drafter: tdodge  
Subject: Drunk Driving - other Addl. Drafters: emueller  
Mental Health - AODA

Extra Copies:

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

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Tribal facility participation in the intoxicated driver program

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**Instructions:**

WLC:0005/2

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**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	tdodge 1/16/2014	scalvin 1/16/2014	jmurphy 1/16/2014	_____	srose 1/16/2014	srose 1/16/2014	State S&L

FE Sent For:

@ Intro.

<END>

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/1	tdodge	/1 sac 01/16/2014	/1 sac 01/16/2014	_____	_____	_____	State S&L

*Jan*  
1/16

FE Sent For:

<END>



State of Wisconsin  
2013 - 2014 LEGISLATURE



-4006/1

LRB-0794/1

TJD&EVM:sac:(s)

today

**2013 ASSEMBLY BILL 32**

Redraft  
comp  
new

no changes

February 18, 2013 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on State Affairs.

refer out

1 **AN ACT to renumber and amend** 346.655 (3); **to amend** 20.435 (5) (hy), 46.03  
2 (18) (f), 343.30 (1q) (c) 1. (intro.), 343.30 (1q) (c) 2., 343.30 (1q) (d) and 345.60  
3 (1); and **to create** 51.01 (2c), 51.45 (7) (h), 343.30 (1q) (c) 1. d. and 346.655 (3)  
4 (b) of the statutes; **relating to:** tribal treatment facility participation in the  
5 intoxicated driver program.

***Analysis by the Legislative Reference Bureau***

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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:***

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council's Special Committee on State-Tribal Relations.

The intoxicated driver program (IDP) is designed to provide education or treatment to persons convicted of operating a motor vehicle while intoxicated, with the intent of reducing recidivism. In brief, upon conviction, the court orders the offender to be assessed by an agency operated or contracted by the county for this purpose. Based

**ASSEMBLY BILL 32**

on the results of the assessment, the offender is referred either to an educational program or to an approved public treatment facility. The plan for an individual's treatment at an approved public treatment facility is termed a "driver safety plan".

This draft does all of the following:

1. Directs the department of health services (DHS) to authorize a tribal facility, termed an "approved tribal treatment facility" in the draft, to conduct assessments and prepare driver safety plans if the tribal facility agrees to notify the county assessment agency of each case it receives and to execute the duties of a treatment facility under the IDP for those cases.

2. Allows an offender who is a tribal member or a relative of a tribal member to receive assessment services from a tribal facility.

3. Specifies that a tribal facility may both conduct assessments and provide treatment services under the IDP. (Current DHS rules regarding conflicts of interest prohibit this, in general.)

4. Expressly states in the statutes that traditional practices may be included in treatment plans.

5. Directs the department of transportation (DOT), at the request of an accredited tribal college, to certify the college as a traffic safety school program, if the college meets all of the requirements of such a program. This requirement applies to traffic safety schools related to any traffic violation.

6. Specifies that a county must remit to a tribal facility the county's share of any driver improvement surcharge paid by an OWI offender who receives treatment at the facility.

7. Specifies that a tribal facility is eligible for a supplemental grant from DHS in proportion to the number of OWI offenders who receive treatment at a facility of the tribe.

1        **SECTION 1.** 20.435 (5) <sup>x</sup>(hy) of the statutes is amended to read:

2            20.435 (5) (hy) *Services for drivers, local assistance.* As a continuing  
3        appropriation, the amounts in the schedule for ~~the purpose of grants to county~~  
4        departments under s. 51.42 and to approved tribal treatment facilities, as defined in  
5        s. 51.01 (2c), for drivers referred through assessment, to be allocated according to a  
6        plan developed by the department of health services. All moneys transferred from  
7        par. (hx) shall be credited to this appropriation.

NOTE: Specifies that tribal facilities are eligible for supplemental grants from the  
DHS.

8        **SECTION 2.** 46.03 (18) (f) of the statutes is amended to read:

9            46.03 (18) (f) Notwithstanding par. (a), any person who submits to an  
10        assessment or airman or driver safety plan under s. 23.33 (13) (e), 30.80 (6) (d), 114.09

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1 (2) (bm), 343.16 (5) (a), 343.30 (1q), 343.305 (10) or 350.11 (3) (d) shall pay a  
2 reasonable fee therefor to the appropriate county department under s. 51.42,  
3 approved tribal treatment facility, as defined in s. 51.01 (2c), or traffic safety school  
4 under s. 345.60. A county may allow the person to pay the assessment fee in 1, 2, 3  
5 or 4 equal installments. The fee for the airman or driver safety plan may be reduced  
6 or waived if the person is unable to pay the complete fee, but no fee for assessment  
7 or attendance at a traffic safety school under s. 345.60 may be reduced or waived.  
8 Nonpayment of the assessment fee is noncompliance with the court order that  
9 required completion of an assessment and airman or driver safety plan. Upon a  
10 finding that the person has the ability to pay, nonpayment of the airman or driver  
11 safety plan fee is noncompliance with the court order that required completion of an  
12 assessment and airman or driver safety plan.

NOTE: Specifies that the offender pay the fee for assessment to a tribal facility, if  
that is the facility that conducts the assessment.

13 **SECTION 3.** 51.01 (2c) of the statutes is created to read:

14 51.01 (2c) "Approved tribal treatment facility" means a treatment agency that  
15 operates under the direction and control of a federally recognized American Indian  
16 tribe or band in this state and meets the standards prescribed for approved  
17 treatment facilities under s. 51.45 (8) (a) and is approved under s. 51.45 (8) (c).

18 **SECTION 4.** 51.45 (7) (h) of the statutes is created to read:

19 51.45 (7) (h) The department shall authorize approved tribal treatment  
20 facilities to conduct assessments under s. 343.30 (1q) (c) and prepare driver safety  
21 plans under s. 343.30 (1q) (d) if, with regard to each person for whom the approved  
22 tribal treatment facility conducts an assessment under s. 343.30 (1q) (c), the  
23 approved tribal treatment facility agrees in writing to do all of the following:



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1 department of health services shall establish by rule conflict of interest guidelines  
2 for providers. The conflict of interest guidelines may not preclude an approved tribal  
3 treatment facility, as defined in s. 51.02 (2c), from conducting assessments and  
4 providing treatment under this subsection.

5 **SECTION 8.** 343.30 (1q) (d) of the statutes is amended to read:

6 343.30 (1q) (d) 1. The assessment report shall order compliance with a driver  
7 safety plan. The report shall inform the person of the fee provisions under s. 46.03  
8 (18) (f). The driver safety plan may include a component that makes the person  
9 aware of the effect of his or her offense on a victim and a victim's family. The driver  
10 safety plan may include treatment for the person's misuse, abuse or dependence on  
11 alcohol, controlled substances or controlled substance analogs, or attendance at a  
12 school under s. 345.60, or both. If the plan requires treatment at an approved tribal  
13 treatment facility, as defined in s. 51.02 (2c), the plan may include traditional tribal  
14 treatment modes. If the plan requires inpatient treatment, the treatment shall not  
15 exceed 30 days. A driver safety plan under this paragraph shall include a  
16 termination date consistent with the plan which shall not extend beyond one year.

17 2. The county department under s. 51.42 shall assure notification of the  
18 department of transportation and the person of the person's compliance or  
19 noncompliance with assessment and with treatment. The school under s. 345.60  
20 shall notify the department, the county department under s. 51.42, and the person  
21 of the person's compliance or noncompliance with the requirements of the school.  
22 Nonpayment of the assessment fee or, if the person has the ability to pay,  
23 nonpayment of the driver safety plan fee is noncompliance with the court order. If  
24 the department is notified of any noncompliance, other than for nonpayment of the  
25 assessment fee or driver safety plan fee, it shall revoke the person's operating



**ASSEMBLY BILL 32****SECTION 8**

1 privilege until the county department under s. 51.42 or the school under s. 345.60  
2 notifies the department that the person is in compliance with assessment or the  
3 driver safety plan. If the department is notified that a person has not paid the  
4 assessment fee, or that a person with the ability to pay has not paid the driver safety  
5 plan fee, the department shall suspend the person's operating privilege for a period  
6 of 2 years or until it receives notice that the person has paid the fee, whichever occurs  
7 first.

8 3. The department shall notify the person of the suspension or revocation under  
9 subd. 2., the reason for the suspension or revocation and the person's right to a  
10 review. A person may request a review of a revocation based upon failure to comply  
11 with a driver safety plan within 10 days of notification. The review shall be handled  
12 by the subunit of the department of transportation designated by the secretary. The  
13 issues at the review are limited to whether the driver safety plan, if challenged, is  
14 appropriate and whether the person is in compliance with the assessment order or  
15 the driver safety plan. The review shall be conducted within 10 days after a request  
16 is received. If the driver safety plan is determined to be inappropriate, the  
17 department shall order a reassessment and, if the person is otherwise eligible, the  
18 department shall reinstate the person's operating privilege. If the person is  
19 determined to be in compliance with the assessment or driver safety plan, and if the  
20 person is otherwise eligible, the department shall reinstate the person's operating  
21 privilege. If there is no decision within the 10-day period, the department shall issue  
22 an order reinstating the person's operating privilege until the review is completed,  
23 unless the delay is at the request of the person seeking the review.

24 <sup>x</sup>  
**SECTION 9.** 345.60 (1) of the statutes is amended to read:



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**SECTION 11**

1 treasurer is required to transmit to the secretary of administration under sub. (2) (a)  
2 or (b), to the facility for treatment services for drivers referred through assessment.

NOTE: Specifies that the county share of the driver improvement surcharge must  
be paid to a tribal treatment facility for each person it provides treatment to under a  
driver safety plan; that is to say, specifies that "the funding follows the client".

3 **SECTION 12. Initial applicability.**

4 (1) This act first applies to an assessment order issued on the effective date of  
5 this subsection.

6 (END)

**Rose, Stefanie**

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**From:** Albers, Sheryl  
**Sent:** Thursday, January 16, 2014 1:44 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -4006/1 Topic: Tribal facility participation in the intoxicated driver program

Please Jacket LRB -4006/1 for the SENATE.