

**2019 DRAFTING REQUEST**

**Bill**

For: **Jim Ott (608) 266-0486** Drafter: **emueller**  
 By: **Rep. Ott** Secondary Drafters:  
 Date: **12/4/2018** May Contact:

Same as LRB:

Submit via email: **YES**  
 Requester's email: **Rep.OttJ@legis.wisconsin.gov**  
 Carbon copy (CC) to: **eric.mueller@legis.wisconsin.gov**  
**zachary.wyatt@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Require court appearance in person for all OWI charges

**Instructions:**

Redraft ASA 1 to 2015 AB 352

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller 12/10/2018	kfollett 12/11/2018			
/P1	emueller 1/3/2019		dwalker 12/11/2018		State S&L
/1		kfollett 1/3/2019	dwalker 1/3/2019	dwalker 1/3/2019	State S&L

*per EVM*

FE Sent For:

*2  
at  
intro*

<END>



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-1580/1

1009/PI

PJH:cjs

EVM

EF

2019

2015 ASSEMBLY BILL 352

September 25, 2015 - Introduced by Representatives J. OTT, ALLEN, SANFELIPPO, BERCEAU, T. LARSON, ROHRKASTE, E. BROOKS, HORLACHER, MURPHY, EDMING, KITCHENS, GENRICH, KERKMAN, SARGENT and KOOYENGA, cosponsored by Senators DARLING, NASS, CARPENTER and MARKLEIN. Referred to Committee on Criminal Justice and Public Safety.

12/11/18

1 AN ACT to renumber and amend 66.0114 (1) (b); to amend 800.035 (5) (a); and  
2 to create 66.0114 (1) (b) 2., 66.0114 (1) (b) 3., 345.26 (1) (b) 3., 800.035 (5) (am)  
3 and 967.055 (2m) of the statutes; relating to: requiring persons accused of  
4 violating traffic laws and ordinances related to driving while intoxicated to  
5 appear in person in court.

**Analysis by the Legislative Reference Bureau**

Under current law, generally, a first violation of operating a vehicle while under the influence of an intoxicant, with a detectable amount of a restricted controlled substance in one's blood, or with a prohibited alcohol concentration (OWI-related violation), is a traffic violation punishable by a civil forfeiture. Current law allows local units of government to enact ordinances in conformity with the state traffic law that punishes most first OWI-related offenses as a civil violation.

Under current law, a person who receives a citation for an OWI-related civil traffic violation or who receives a citation for an ordinance in conformity with the OWI-related traffic violation may opt to appear in court to plead not guilty to the violation or may opt to pay the forfeiture associated with the violation and avoid an appearance in court. Generally, a person who pays the forfeiture associated with the violation is considered to have pled guilty or no contest to the charge.

Under this bill, a person who receives a citation for an OWI-related civil traffic violation or who receives a citation for an ordinance in conformity therewith is required to appear in court to plead guilty, no contest, or not guilty to the charge.

This bill requires a person who receives a citation for a civil traffic violation related to operating while intoxicated to appear in court to respond to the charge.

**ASSEMBLY BILL 352**

Under the bill, if the person fails to appear in court, the court is required to enter a default judgment against the person and impose the applicable penalties, except that the court must withhold imposing a forfeiture until the person appears in person before the court. Under the bill, the court issues a warrant for the person's arrest so that the person may appear before the court in order for the court to impose a forfeiture. Additionally, under the bill, the person is required to pay a \$300 surcharge that is retained by the municipal court or the clerk of circuit court to offset the costs of holding a hearing to impose the forfeiture.

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

and a \$300 surcharge for the person's failure to appear

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

SECTION 1. 66.0114 (1) (b) of the statutes is renumbered 66.0114 (1) (b) 1. and amended to read:

66.0114 (1) (b) 1. Local ordinances, except as provided in this paragraph or ss. 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any or all violations under those ordinances, may designate the manner in which the stipulation is to be made, and may fix the penalty to be paid. ~~When~~ Except as provided in subd. 2., when a person charged with a violation for which stipulation of guilt or no contest is authorized makes a timely stipulation and pays the required penalty, plus costs, fees, and surcharges imposed under ch. 814, to the designated official, the person need not appear in court and no witness fees or other additional costs, fees, or surcharges may be imposed under ch. 814 unless the local ordinance so provides. ~~A court appearance is required for a violation of a local ordinance in conformity with s. 346.63 (1).~~

SECTION 2. 66.0114 (1) (b) 2. of the statutes is created to read:

66.0114 (1) (b) 2. A person who is charged with a violation of a local ordinance in conformity with s. 346.63 (1) or (5) shall appear, in person, in court to plead guilty,

## ASSEMBLY BILL 352

1 no contest, or not guilty. A person who fails to appear, in person, in court is subject  
2 to arrest and to a \$300 surcharge pursuant to subd. 3.

3 **SECTION 3.** 66.0114 (1) (b) 3. of the statutes is created to read:

4 66.0114 (1) (b) 3. If a person who is required under subd. 2. to appear, in person,  
5 in court to enter a plea fails to appear in court, the court shall do all of the following:

6 a. Enter a default judgment against the person and impose the applicable  
7 penalties, except that the court shall withhold imposing a forfeiture for the violation  
8 until the person appears, in person, before the court.

9 b. Issue a warrant for the person's arrest so that the person may appear before  
10 the court in order for the court to impose a forfeiture for the violation.

11 c. Impose a \$300 surcharge on the person for his or her failure to appear. The  
12 surcharge may be retained by the municipal court to offset the costs of holding a  
13 hearing to impose the forfeiture.

14 **SECTION 4.** 345.26 (1) (b) 3. of the statutes is created to read:

15 345.26 (1) (b) 3. Subdivision 1. does not apply to a person who is charged with  
16 a violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith and who  
17 is required to appear in person pursuant to s. 66.0114 (1) (b) 2., 800.035 (5) (a), or  
18 967.055 (2m).

19 **SECTION 5.** 800.035 (5) (a) of the statutes is amended to read:

20 800.035 (5) (a) If a defendant is charged with a violation of an ordinance in  
21 conformity with s. 346.63 (1) or (5), the municipality ~~may~~ shall, by ordinance, require  
22 the defendant to appear in person before the court. The ordinance shall specify that  
23 a person who fails to appear in person before the court is subject to arrest and to  
24 \$300 surcharge pursuant to par. (am).

25 **SECTION 6.** 800.035 (5) (am) of the statutes is created to read:

## ASSEMBLY BILL 352

1 800.035 (5) (am) If a person who is required under par. (a) to appear in person  
2 before the court to enter a plea fails to appear in court, the court shall do all of the  
3 following:

4 1. Enter a default judgment against the person and impose the applicable  
5 penalties, except that the court shall withhold imposing a forfeiture for the violation  
6 until the person appears in person before the court.

7 2. Issue a warrant for the person's arrest so that the person may appear before  
8 the court in order for the court to impose a forfeiture for the violation.

9 3. Impose a \$300 surcharge on the person for his or her failure to appear. The  
10 surcharge may be retained by the municipal court to offset the costs of holding a  
11 hearing to impose the forfeiture.

12 SECTION 7. 967.055 (2m) of the statutes is created to read:

13 967.055 (2m) PERSONAL APPEARANCE IN COURT. (a) A person who is charged with  
14 a civil violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith shall  
15 appear in person in court to enter a plea of guilty, no contest, or not guilty to the  
16 charge. A person who fails to appear in person in court is subject to arrest and to a  
17 \$300 surcharge pursuant to par. (b). In this subsection, "court" may mean a circuit  
18 court or a municipal court.

19 (b) If a person who is required under par. (a) to appear in person in court to enter  
20 a plea fails to appear in court, the court shall do all of the following:

21 1. Enter a default judgment against the person and impose the applicable  
22 penalties, except that the court shall withhold imposing a forfeiture for the violation  
23 until the person appears in person before the court.

24 2. Issue a warrant for the person's arrest so that the person may appear before  
25 the court in order for the court to impose a forfeiture for the violation.

**ASSEMBLY BILL 352**

1

3. Impose a \$300 surcharge on the person for his or her failure to appear. The

2

surcharge may be retained by the municipal court or the clerk of circuit court to offset

3

the costs of holding a hearing to impose the forfeiture.

4

**SECTION 8. Initial applicability.**

5

(1) This act first applies to violations that occur on the effective date of this

6

subsection.

7

(END)

**Mueller, Eric**

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**From:** Havey, Mike  
**Sent:** Thursday, January 03, 2019 9:06 AM  
**To:** Mueller, Eric  
**Subject:** Jackets

Good Morning Eric,

Rep. Ott has signed off on LRB-1007 and LRB-1009 and would like them jacketed.

Thank you,  
Mike

Michael Havey  
Legislative Assistant  
608-237-9419  
Representative Jim Ott  
23<sup>rd</sup> Assembly District



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-1009/P1  
EVM:kjf

PMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1/3/19

No changes

1 **AN ACT to renumber and amend** 66.0114 (1) (b); **to amend** 800.035 (5) (a); and  
2 **to create** 66.0114 (1) (b) 2., 66.0114 (1) (b) 3., 345.26 (1) (b) 3., 800.035 (5) (am)  
3 and 967.055 (2m) of the statutes; **relating to:** requiring persons accused of  
4 violating traffic laws and ordinances related to driving while intoxicated to  
5 appear in person in court.

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

This bill requires a person who receives a citation for a civil traffic violation related to operating while intoxicated to appear in court to respond to the charge.

Under current law, generally, a first violation of operating a vehicle while under the influence of an intoxicant, with a detectable amount of a restricted controlled substance in one's blood, or with a prohibited alcohol concentration (OWI-related violation), is a traffic violation punishable by a civil forfeiture. Current law allows local units of government to enact ordinances in conformity with the state traffic law that punishes most first OWI-related offenses as a civil violation.

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Under this bill, a person who receives a citation for an OWI-related civil traffic violation or who receives a citation for an ordinance in conformity therewith is



required to appear in court to plead guilty, no contest, or not guilty to the charge. If the person fails to appear in court, the court is required to enter a default judgment against the person and impose the applicable penalties and a \$300 surcharge for the person's failure to appear.

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

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

1           **SECTION 1.** 66.0114 (1) (b) of the statutes is renumbered 66.0114 (1) (b) 1. and  
2 amended to read:

3           66.0114 (1) (b) 1. Local ordinances, except as provided in ~~this paragraph or ss.~~  
4 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any  
5 or all violations under those ordinances, may designate the manner in which the  
6 stipulation is to be made, and may fix the penalty to be paid. ~~When~~ Except as  
7 provided in subd. 2., when a person charged with a violation for which stipulation  
8 of guilt or no contest is authorized makes a timely stipulation and pays the required  
9 penalty, plus costs, fees, and surcharges imposed under ch. 814, to the designated  
10 official, the person need not appear in court and no witness fees or other additional  
11 costs, fees, or surcharges may be imposed under ch. 814 unless the local ordinance  
12 so provides. ~~A court appearance is required for a violation of a local ordinance in~~  
13 ~~conformity with s. 346.63 (1).~~

14           **SECTION 2.** 66.0114 (1) (b) 2. of the statutes is created to read:

15           66.0114 (1) (b) 2. A person who is charged with a violation of a local ordinance  
16 in conformity with s. 346.63 (1) or (5) shall appear, in person, in court to plead guilty,  
17 no contest, or not guilty. A person who fails to appear, in person, in court is subject  
18 to a \$300 surcharge pursuant to subd. 3.

19           **SECTION 3.** 66.0114 (1) (b) 3. of the statutes is created to read:

1           66.0114 (1) (b) 3. If a person who is required under subd. 2. to appear, in person,  
2 in court to enter a plea fails to appear in court, the court shall do all of the following:

3           a. Enter a default judgment against the person and impose the applicable  
4 penalties.

5           b. Impose a \$300 surcharge on the person for his or her failure to appear.

6           **SECTION 4.** 345.26 (1) (b) 3. of the statutes is created to read:

7           345.26 (1) (b) 3. Subdivision 1. does not apply to a person who is charged with  
8 a violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith and who  
9 is required to appear in person pursuant to s. 66.0114 (1) (b) 2., 800.035 (5) (a), or  
10 967.055 (2m).

11           **SECTION 5.** 800.035 (5) (a) of the statutes is amended to read:

12           800.035 (5) (a) If a defendant is charged with a violation of an ordinance in  
13 conformity with s. 346.63 (1) or (5), the municipality ~~may~~ shall, by ordinance, require  
14 the defendant to appear in person before the court. The ordinance shall specify that  
15 a person who fails to appear in person before the court is subject to a \$300 surcharge  
16 pursuant to par. (am).

17           **SECTION 6.** 800.035 (5) (am) of the statutes is created to read:

18           800.035 (5) (am) If a person who is required under par. (a) to appear in person  
19 before the court to enter a plea fails to appear in court, the court shall do all of the  
20 following:

21           1. Enter a default judgment against the person and impose the applicable  
22 penalties.

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24           **SECTION 7.** 967.055 (2m) of the statutes is created to read:

1           967.055 (2m) PERSONAL APPEARANCE IN COURT. (a) A person who is charged with  
2 a civil violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith shall  
3 appear in person in court to enter a plea of guilty, no contest, or not guilty to the  
4 charge. A person who fails to appear in person in court is subject to a \$300 surcharge  
5 pursuant to par. (b). In this subsection, “court” may mean a circuit court or a  
6 municipal court.

7           (b) If a person who is required under par. (a) to appear in person in court to enter  
8 a plea fails to appear in court, the court shall do all of the following:

9           1. Enter a default judgment against the person and impose the applicable  
10 penalties.

11           2. Impose a \$300 surcharge on the person for his or her failure to appear.

12           **SECTION 8. Initial applicability.**

13           (1) This act first applies to violations that occur on the effective date of this  
14 subsection.

15   (END)