



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 495**

November 6, 1997 - Offered by Representative OLSEN.

1 **AN ACT** *to repeal* 346.65 (2) (e); and *to amend* 346.65 (2) (c), 346.65 (2) (d), 346.65
2 (2) (f), 346.65 (2c), 346.65 (2e) and 346.65 (7) of the statutes; **relating to:**
3 driving while under the influence of an intoxicant and providing a penalty.

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

4 **SECTION 1.** 346.65 (2) (c) of the statutes is amended to read:

5 346.65 (2) (c) Except as provided in par. (f), shall be fined not less than \$600
6 \$1,000 nor more than ~~\$2,000~~ \$10,000 and imprisoned for not less than ~~30 days~~ 6
7 months nor more than ~~one year in the county jail~~ 2 years if the total number of
8 suspensions, revocations and convictions counted under s. 343.307 (1) equals 3 in a
9 10-year period, except that suspensions, revocations or convictions arising out of the
10 same incident or occurrence shall be counted as one.

11 **SECTION 2.** 346.65 (2) (d) of the statutes is amended to read:

1 346.65 (2) (d) Except as provided in par. (f), shall be fined not less than \$600
2 ~~\$1,500~~ nor more than ~~\$2,000~~ \$10,000 and imprisoned for not less than ~~60 days~~ 30
3 ~~months~~ nor more than ~~one year in the county jail~~ 5 years if the total number of
4 suspensions, revocations and convictions counted under s. 343.307 (1) equals 4 or
5 ~~more~~ in a 10-year period, except that suspensions, revocations or convictions arising
6 out of the same incident or occurrence shall be counted as one.

7 **SECTION 3.** 346.65 (2) (e) of the statutes is repealed.

8 **SECTION 4.** 346.65 (2) (f) of the statutes is amended to read:

9 346.65 (2) (f) If there was a minor passenger under 16 years of age in the motor
10 vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (1),
11 the applicable minimum and maximum forfeitures, fines or imprisonment under par.
12 (a), (b), (c), or (d) ~~or (e)~~ for the conviction are doubled. ~~An offense under s. 346.63 (1)~~
13 ~~that subjects a person to a penalty under par. (c), (d) or (e) when there is a minor~~
14 ~~passenger under 16 years of age in the motor vehicle is a felony and the place of~~
15 ~~imprisonment shall be determined under s. 973.02.~~

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

17 346.65 (2c) In sub. (2) (b) to ~~(e)~~ (d), the 5-year or 10-year period shall be
18 measured from the dates of the refusals or violations that resulted in the revocation
19 or convictions. If a person has a suspension, revocation or conviction for any offense
20 under a local ordinance or a state statute of another state that would be counted
21 under s. 343.307 (1), that suspension, revocation or conviction shall count as a prior
22 suspension, revocation or conviction under sub. (2) (b) to ~~(e)~~ (d).

23 **SECTION 6.** 346.65 (2e) of the statutes is amended to read:

24 346.65 (2e) If the court determines that a person does not have the ability to
25 pay the costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), (d), ~~(e)~~ or (f),

1 the court may reduce the costs, fine and forfeiture imposed and order the person to
2 pay, toward the cost of the assessment and driver safety plan imposed under s. 343.30
3 (1q) (c), the difference between the amount of the reduced costs and fine or forfeiture
4 and the amount of costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), (d),
5 (e) or (f).

6 **SECTION 7.** 346.65 (7) of the statutes is amended to read:

7 346.65 (7) A person convicted under sub. (2) (b), (c), or (d) ~~or~~ (e) or (2j) (b) or (c)
8 shall be required to remain in the county jail for not less than a 48-consecutive-hour
9 period.

10 **SECTION 8. Initial applicability.**

11 (1) This act first applies to offenses committed on the effective date of this
12 subsection, but does not preclude the counting of other violations as prior
13 convictions, suspensions or revocations for purposes of administrative action by the
14 department of transportation or sentencing by a court.

15 (END)