



1997 ASSEMBLY BILL 495

September 2, 1997 - Introduced by Representatives OLSEN, WALKER, WASSERMAN, HANSON, KELSO, GREEN, DOBYNS, GUNDERSON, HAHN, ZIEGELBAUER, ROBSON, RYBA, OTTE, GARD, GROTHMAN, HUEBSCH, LAZICH, HARSDORF, POWERS, LADWIG, VRAKAS, ZUKOWSKI, OTT, AINSWORTH, STASKUNAS, HUTCHISON, PLOUFF and PLALE, cosponsored by Senators DRZEWIECKI, CLAUSING, ROESSLER, HUELSMAN, RISSER, COWLES, A. LASEE, FARROW and DARLING. Referred to Committee on Criminal Justice and Corrections.

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

Analysis by the Legislative Reference Bureau

Under current law, the penalties that a person is subject to for the offense of driving while under the influence of an intoxicant (OWI) depend on the number of OWI-related convictions, suspensions or revocations that were imposed on the person during the previous 5-year or 10-year period. Currently, if a person is convicted of an OWI-related offense and he or she has 2 prior OWI-related convictions, suspensions or revocations in the past 10 years, the person is subject to a fine of not less than \$600 nor more than \$2,000 and imprisonment in a county jail for not less than 30 days nor more than one year. If the OWI-related offense is the person's 4th OWI-related conviction, suspension or revocation in the past 10 years, the only change in the penalties is an increase in the minimum jail sentence to 60 days. If the OWI-related offense is the person's 5th or greater OWI-related conviction, suspension or revocation in the past 10 years, the only change in the penalties is an increase in the minimum jail sentence to 6 months.

This bill consolidates the separate penalties for persons with 3, 4, 5 or more OWI-related convictions, suspensions or revocations in the past 10 years into one penalty provision for persons with 3 or more OWI-related convictions, suspensions or revocations in the past 10 years. Under the bill, the penalty for persons with 3 or more OWI-related convictions, suspensions or revocations in the past 10 years is a

fine of not more than \$10,000 and imprisonment of not more than 2 years, the same fine and imprisonment as for a Class E felony.

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

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

8 **SECTION 2.** 346.65 (2) (d) and (e) of the statutes are repealed.

9 **SECTION 3.** 346.65 (2) (f) of the statutes is amended to read:

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

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

18 346.65 (2c) In sub. (2) (b) ~~to (e)~~ and (c), the 5-year or 10-year period shall be
19 measured from the dates of the refusals or violations that resulted in the revocation
20 or convictions. If a person has a suspension, revocation or conviction for any offense

1 under a local ordinance or a state statute of another state that would be counted
2 under s. 343.307 (1), that suspension, revocation or conviction shall count as a prior
3 suspension, revocation or conviction under sub. (2) (b) ~~to (e)~~ and (c).

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

5 346.65 **(2e)** If the court determines that a person does not have the ability to
6 pay the costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), ~~(d)~~, ~~(e)~~ or (f),
7 the court may reduce the costs, fine and forfeiture imposed and order the person to
8 pay, toward the cost of the assessment and driver safety plan imposed under s. 343.30
9 (1q) (c), the difference between the amount of the reduced costs and fine or forfeiture
10 and the amount of costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), ~~(d)~~,
11 ~~(e)~~ or (f).

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

13 346.65 **(7)** A person convicted under sub. (2) (b), or (c), ~~(d)~~ ~~or (e)~~ or (2j) (b) or (c)
14 shall be required to remain in the county jail for not less than a 48-consecutive-hour
15 period.

16 **SECTION 7. Initial applicability.**

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

21 (END)