



2005 ASSEMBLY BILL 344

April 22, 2005 – Introduced by Representatives MUSSER, KAUFERT, HAHN, POCAN, BIES and TOWNSEND, cosponsored by Senators GROTHMAN and BRESKE. Referred to Committee on Transportation.

1 **AN ACT** *to amend* 343.23 (2) (b), 343.307 (1) (intro.) and 343.307 (2) (intro.); and
2 **to create** 343.307 (1m) and 343.307 (2m) of the statutes; **relating to:** operating
3 certain vehicles with a prohibited blood alcohol content.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT) maintains a driving record for every person who possesses a driver's license. When DOT receives notice that a person was convicted of an offense relating to operating certain vehicles while intoxicated or operating certain vehicles with a prohibited blood alcohol concentration, (OWI-related offense), that information is kept permanently in the person's driving record.

2003 Wisconsin Act 30 requires DOT to purge the record of a first violation from a driver's record if the person who committed the violation had a blood alcohol concentration between 0.08 and 0.1 at the time of the violation, if the person does not have a commercial driver license, if the violation was not committed by a person operating a commercial motor vehicle, and if the person does not commit another alcohol-related driving offense during the ten-year period following the violation.

This bill requires DOT to purge a person's driving record of a first conviction for operating certain vehicles with a prohibited alcohol concentration after ten years, if the person does not commit another offense within that time period and if the person does not hold a commercial driver's license or was not operating a commercial motor vehicle at the time of the violation. Further, if a person is convicted of another OWI-related offense after an earlier violation has been purged by DOT, a court may

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not consider the purged violation when it determines the appropriate penalties for the second or subsequent OWI-related offense.

For further information see the *state* 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.** 343.23 (2) (b) of the statutes, as affected by 2003 Wisconsin Act 320,
2 is amended to read:

3 343.23 (2) (b) The information specified in pars. (a) and (am) must be filed by
4 the department so that the complete operator's record is available for the use of the
5 secretary in determining whether operating privileges of such person shall be
6 suspended, revoked, canceled, or withheld, or the person disqualified, in the interest
7 of public safety. The record of suspensions, revocations, and convictions that would
8 be counted under s. 343.307 (2) shall be maintained permanently, except that the
9 department shall purge the record of a first violation of s. 23.33 (4c) (a) 1. or 2., 30.681
10 (1) (a) or (b) 1., 346.63 (1) (b), or 350.101 (1) (a) or (b), or a violation of a law of a
11 federally recognized American Indian tribe or band within this state in conformity
12 with s. 23.33 (4c) (a) 1. or 2., 30.681 (1) (a) or (b) 1., 346.63 (1), or 350.101 (1) (a) or
13 (b), after 10 years, if the person who committed the violation had a blood alcohol
14 concentration of 0.08 or more but less than 0.1 at the time of the violation, if the
15 person does not have a commercial driver license, if the violation was not committed
16 by a person operating a commercial motor vehicle, and if the person has no other
17 suspension, revocation, or conviction that would be counted under s. 343.307 during
18 that 10-year period. The record of convictions for disqualifying offenses under s.
19 343.315 (2) (h) shall be maintained for at least 10 years. The record of convictions
20 for disqualifying offenses under s. 343.315 (2) (f) and (j), and all records specified in

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1 par. (am), shall be maintained for at least 3 years. The record of convictions for
2 disqualifying offenses under s. 343.315 (2) (a) to (e) shall be maintained permanently,
3 except that 5 years after a licensee transfers residency to another state such record
4 may be transferred to another state of licensure of the licensee if that state accepts
5 responsibility for maintaining a permanent record of convictions for disqualifying
6 offenses. Such reports and records may be cumulative beyond the period for which
7 a license is granted, but the secretary, in exercising the power of suspension granted
8 under s. 343.32 (2) may consider only those reports and records entered during the
9 4-year period immediately preceding the exercise of such power of suspension.

10 **SECTION 2.** 343.307 (1) (intro.) of the statutes is amended to read:

11 343.307 (1) (intro.) The Except as provided in sub. (1m), the court shall count
12 the following to determine the length of a revocation under s. 343.30 (1q) (b) and to
13 determine the penalty under s. 346.65 (2):

14 **SECTION 3.** 343.307 (1m) of the statutes is created to read:

15 343.307 (1m) The court shall not count a conviction for a violation of s. 346.63
16 (1) or of a law of a federally recognized American Indian tribe or band in this state
17 in conformity with s. 346.63 (1) that has been purged by the department under s.
18 343.23 (2) (b) to determine the length of a revocation under s. 343.30 (1q) (b) or to
19 determine the penalty under s. 346.65 (2).

20 **SECTION 4.** 343.307 (2) (intro.) of the statutes is amended to read:

21 343.307 (2) (intro.) The Except as provided in sub. (2m), the court shall count
22 the following to determine the length of a revocation under s. 343.305 (10) and to
23 determine the penalty under s. 346.65 (2j) and to determine the prohibited alcohol
24 concentration under s. 340.01 (46m):

25 **SECTION 5.** 343.307 (2m) of the statutes is created to read:

