



## 2009 ASSEMBLY BILL 130

March 9, 2009 – Introduced by Representatives GUNDRUM, PETERSEN, ZIEGELBAUER, MONTGOMERY, STASKUNAS, NASS, TOWNSEND, BERCEAU, KLEEFISCH, NERISON, LEMAHIEU, SPANBAUER, BIES, LOTHIAN, PETROWSKI, A. OTT, BROOKS, MURSAU, STRACHOTA, GOTTLIEB, RICHARDS and MOLEPSKE JR., cosponsored by Senators KEDZIE, LAZICH, PLALE, DARLING and SCHULTZ. Referred to Committee on Public Safety.

1     **AN ACT to amend** 343.305 (4); and **to create** 23.33 (13) (b) 1m., 30.80 (6) (a) 1m.,  
2             346.65 (2) (am) 1m., 350.11 (3) (a) 1m. and 973.06 (1) (j) of the statutes; **relating**  
3             **to:** costs of administering tests for intoxication.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a law enforcement officer may request a person to provide a sample of breath, blood, or urine for analysis if the person is arrested for operating while intoxicated a vehicle, an all-terrain vehicle, a boat, or a snowmobile or for injury or homicide by intoxicated use of a vehicle (OWI-related offense). Upon the request of a law enforcement officer, a test facility must perform an analysis of a person's sample of blood.

Under this bill, if the person is convicted of an OWI-related offense, the person must be assessed any costs associated with acquiring a blood sample and administering a blood test or analysis that were charged to or paid by a law enforcement agency. The bill requires a law enforcement officer to inform each person from whom the officer wishes to obtain a blood sample that the person will be responsible for the costs of testing the blood if the person is convicted of an OWI-related offense.

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:***

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1           **SECTION 1.** 23.33 (13) (b) 1m. of the statutes is created to read:

2           23.33 **(13)** (b) 1m. In addition to the forfeiture imposed under subd. 1. or a  
3 forfeiture imposed pursuant to a local ordinance in conformity with sub. (4c) (a), the  
4 person shall pay any costs charged to or paid by a law enforcement agency for the  
5 withdrawal, testing, or analysis of the person's blood under sub. (4p).

6           **SECTION 2.** 30.80 (6) (a) 1m. of the statutes is created to read:

7           30.80 **(6)** (a) 1m. In addition to the forfeiture imposed under subd. 1. or a  
8 forfeiture imposed pursuant to a local ordinance in conformity with s. 346.63 (1), the  
9 person shall pay any costs charged to or paid by a law enforcement agency for the  
10 withdrawal, testing, or analysis of the person's blood under s. 30.684.

11           **SECTION 2m.** 343.305 (4) of the statutes is amended to read:

12           343.305 **(4)** INFORMATION. At the time that a chemical test specimen is  
13 requested under sub. (3) (a), (am), or (ar), the law enforcement officer shall read the  
14 following to the person from whom the test specimen is requested:

15           “You have either been arrested for an offense that involves driving or operating  
16 a motor vehicle while under the influence of alcohol or drugs, or both, or you are  
17 suspected of driving or being on duty time with respect to a commercial motor vehicle  
18 after consuming an intoxicating beverage.

19           This law enforcement agency now wants to test one or more samples of your  
20 breath, blood or urine to determine the concentration of alcohol or drugs in your  
21 system. If any test shows more alcohol in your system than the law permits while  
22 driving, your operating privilege will be suspended. If you refuse to take any test that  
23 this agency requests, your operating privilege will be revoked and you will be subject  
24 to other penalties. The test results or the fact that you refused testing can be used  
25 against you in court.

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1           If you take all the requested tests, you may choose to take further tests. You  
2           may take the alternative test that this law enforcement agency provides free of  
3           charge, but if you are convicted of a violation of s. 346.63, 940.09, or 940.25 where the  
4           offense involved the use of a vehicle, you may be required to pay any costs charged  
5           to or paid by a law enforcement agency for the withdrawal, testing, or analysis of your  
6           blood. You also may have a test conducted by a qualified person of your choice at your  
7           expense. You, however, will have to make your own arrangements for that test.

8           If you have a commercial driver license or were operating a commercial motor  
9           vehicle, other consequences may result from positive test results or from refusing  
10          testing, such as being placed out of service or disqualified.”

11          **SECTION 3.** 346.65 (2) (am) 1m. of the statutes is created to read:

12          346.65 (2) (am) 1m. In addition to the forfeiture imposed under subd. 1. or a  
13          forfeiture imposed pursuant to a local ordinance in conformity with s. 346.63 (1), the  
14          person shall pay any costs charged to or paid by a law enforcement agency for the  
15          withdrawal, testing, or analysis of the person’s blood under s. 343.305.

16          **SECTION 4.** 350.11 (3) (a) 1m. of the statutes is created to read:

17          350.11 (3) (a) 1m. In addition to the forfeiture imposed under subd. 1. or a  
18          forfeiture imposed pursuant to a local ordinance in conformity with s. 350.101 (1),  
19          the person shall pay any costs charged to or paid by a law enforcement agency for the  
20          withdrawal, testing, or analysis of the person’s blood under s. 350.104.

21          **SECTION 5.** 973.06 (1) (j) of the statutes is created to read:

22          973.06 (1) (j) Any costs charged to or paid by a law enforcement agency for the  
23          withdrawal, testing, or analysis of the person’s blood under s. 23.33 (4p), 30.684,  
24          343.305, or 350.104.

25          **SECTION 6. Initial applicability.**

