State of Misconsin 2015 - 2016 LEGISLATURE

LRB-2188/2 PJH:ahe&wlj

2015 ASSEMBLY BILL 445

October 22, 2015 – Introduced by Representatives J. Ott, Kooyenga, Horlacher, Sanfelippo, T. Larson, Petryk, Berceau and Craig, cosponsored by Senators Darling, Carpenter and Nass. Referred to Committee on Criminal Justice and Public Safety.

- 1 AN ACT to amend 346.65 (2) (am) 5. of the statutes; relating to: committing a
- fifth or sixth offense related to operating a vehicle while intoxicated and providing a criminal penalty.

Analysis by the Legislative Reference Bureau

This bill imposes a mandatory minimum period of confinement in prison for certain repeat offenders. Under current law, no person may operate a motor vehicle under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination thereof, under the influence of any substance to a degree that renders him or her incapable of safely driving, with a detectable amount of a restricted controlled substance in his or her blood, or with a prohibited alcohol concentration (OWI offense). Penalties for committing an OWI offense increase with each prior violation. Under current law, a person who commits a fifth or sixth OWI offense is guilty of a Class H felony and may be fined up to \$10,000, imprisoned for up to six years, or both. Under current law, a person who commits a fifth or sixth OWI offense must be fined at least \$600 and imprisoned for at least six months.

Under this bill, the maximum fine and maximum period of imprisonment for a person who commits a fifth or sixth OWI offense are not changed. The bill requires a sentencing court to impose a sentence that orders the person to spend at least 18 months confined in prison.

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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:

SECTION 1. 346.65 (2) (am) 5. of the statutes is amended to read:

346.65 (2) (am) 5. Except as provided in pars. (f) and (g), is guilty of a Class H felony and shall be fined not less than \$600 and imprisoned for not less than 6 months if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and other convictions counted under s. 343.307 (1), equals 5 or 6, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one. The court shall impose a bifurcated sentence under s. 973.01, and the confinement portion of the bifurcated sentence imposed on the person shall be not less than one year and 6 months.

SECTION 2. Initial applicability.

(1) This act first applies to violations committed or refusals occurring on the effective date of this subsection, but does not preclude the counting of other violations, convictions, suspensions, or revocations for purposes of administrative action by the department of transportation, sentencing by a court, or revocation or suspension of motor vehicle operating privileges.

17 (END)