

1987 Assembly Bill 30

Date of enactment: February 17, 1987  
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## 1987 Wisconsin Act 3

AN ACT to repeal 343.21 (1) (k), 343.30 (1q) (bn), 343.305 (6m), (6p), (6x) and (6z), 345.20 (2) (e), 346.63 (1m), 885.235 (1) (d) to (f) and 885.235 (5) (am); to renumber and amend 343.30 (1q) (c) and 343.305 (9) (c); to amend 30.50 (13m), 30.684 (2) (d), 46.03 (18) (f), 51.42 (3) (ar) 4. b, 121.555 (2) (c) 5, 343.10 (1), 343.10 (1r), 343.10 (2), (3), (4) and (5), 343.12 (2) (d), 343.16 (2) (a), 343.21 (1) (e) and (j), 343.30 (1p), 343.30 (1q) (a), 343.30 (1q) (b) 1, 343.30 (1q) (b) 2, 343.30 (1q) (b) 3 to 5, 343.30 (1q) (e), 343.30 (1q) (g), 343.30 (1q) (h), 343.303, 343.305 (2) (b) and (c), (3) (a) (intro.) and 2 and (b) (intro.), 1 and 5. a, (5) and (6) (a), 343.305 (7), (8) and (9) (a), (b) 1 to 5 and (em), 343.305 (9) (d), 343.305 (9) (e), 343.307, 343.31 (3) (b), 344.18 (1) (intro.) and (3) (intro.), 345.20 (1) (b), 345.24, 345.60 (3), 346.63 (2m), 346.65 (2) (b) and (c), 346.65 (2g), 346.655 (1), 349.03 (2), 349.06 (1), 351.02 (1) (a) 3, 885.235 (1) (intro.), 885.235 (4), 967.055 (2) (a) and 973.073; to repeal and recreate 343.10 (1) (g), 343.30 (1q) (b) 1, 343.30 (1q) (h), 343.303, 343.305, 343.307, 346.63 (2m), 346.65 (2) (b) and (c) and 346.65 (2m); and to create 25.40 (1) (im), 59.20 (8r), 343.10 (1) (c) 2 and (d), 343.23 (4), 343.30 (1q) (c) 1. a to c, 343.305 (9) (c) 1. a to c, 346.65 (2q), 346.65 (2r) and 757.69 (1m) of the statutes, relating to operating a motor vehicle while under the influence of an intoxicant, drugs or both, administrative suspension and court-ordered revocation of operating privileges, chemical tests for intoxication, occupational licenses, granting rule-making authority, requiring a study by the department of transportation and providing penalties.

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

SECTION 1. 25.40 (1) (im) of the statutes is created to read:

25.40 (1) (im) All moneys forwarded by county treasurers from fees under s. 343.10 (2), as provided in ss. 59.20 (8r) and 343.10 (2), and all moneys forwarded by municipal treasurers from fees under s. 343.10 (2), as provided in s. 343.10 (2).

SECTION 2. 30.50 (13m) of the statutes is amended to read:

30.50 (13m) "Test facility" means a test facility or agency prepared to administer tests under s. 343.305 (4) (2).

SECTION 3. 30.684 (2) (d) of the statutes is amended to read:

30.684 (2) (d) *Validity; procedure.* A chemical test of blood or urine conducted for the purpose of authorized analysis is valid as provided under s. 343.305 (4) (6). The duties and responsibilities of the laboratory of hygiene, department of health and social services and department of transportation under s. 343.305 (4) (6) apply to a chemical test of blood or urine conducted for the purpose of authorized analysis under this section. Blood may be withdrawn from a person arrested for a violation of the intoxicated boating law only by a physician, registered nurse, medical technologist, physician's assistant or person acting under the direction of a physician and the person who withdraws the blood, the employer of that person and any hospital where blood is withdrawn have immunity from civil or criminal liability as provided under s. 895.53.

SECTION 4. 46.03 (18) (f) of the statutes is amended to read:

46.03 (18) (f) Notwithstanding par. (a), any person who submits to an assessment or driver safety plan under s. 30.80 (6) (d), 343.16 (2) (a), 343.30 (1q) or 343.305 (9) (10) shall pay a reasonable fee therefor to the appropriate county department under s. 51.42 or traffic safety school under s. 345.60. The fee for the driver safety plan may be reduced or waived if the person is unable to pay the complete fee, but no fee for assessment or attendance at a traffic safety school under s. 345.60 may be reduced or waived.

SECTION 5. 51.42 (3) (ar) 4. b of the statutes is amended to read:

51.42 (3) (ar) 4. b. Comprehensive diagnostic and evaluation services, including assessment as specified under ss. 343.30 (1q) and 343.305 (9) (10).

SECTION 6. 59.20 (8r) of the statutes is created to read:

59.20 (8r) Forward one-half of the fees received under s. 343.10 (2) to the department of transportation for deposit in the transportation fund under s. 25.40 (1) (im).

SECTION 7. 121.555 (2) (c) 5 of the statutes is amended to read:

121.555 (2) (c) 5. May not be a person convicted within a 2-year period of reckless driving under s. 346.62, operating a motor vehicle while under the influence of an intoxicant or of a controlled substance under s. 346.63 (1), ~~a violation of s. 346.63 (1m) or a local ordinance in conformity therewith, a violation of s. 346.63 (1m), 1985 stats.,~~ or any of the offenses enumerated under s. 343.31 (1), ~~within a 2-year period.~~ Upon request of the operator or school, the depart-

ment shall certify whether the operator meets this requirement.

SECTION 8. 343.10 (1) of the statutes is amended to read:

343.10 (1) (a) (title) *Petition for limited chauffeur's license.* If a ~~person has had his or her~~ the chauffeur's license of a person is revoked or suspended, he or she may file a petition with the department for a limited chauffeur's license under s. 343.126.

(b) (title) *Petition for occupational license.* If a ~~person has had his or her~~ person's license or operating privilege is revoked or suspended under this chapter and if the person is engaged in an occupation, including full-time or part-time study, or a trade making it essential that he or she operate a motor vehicle, the person ~~may~~, after complying with sub. (2), may file with a judge of a circuit court of record in the county of his or her residence or of a municipal court in the county of his or her residence a petition setting forth in detail the need for operating a motor vehicle. ~~Thereupon, if the petitioner has not had his or her~~

(c) (title) *Conditions for issuance of occupational license.* Upon receipt of a petition under par. (b), the judge may order the department to issue an occupational license to the person if the conditions under subs. 1 and 2 are satisfied:

1. Except for a revocation or suspension that arose out of the same incident or occurrence for which the person's license or operating privilege is currently revoked or suspended, the person's license or operating privilege was not revoked or suspended previously under this chapter within the one-year period immediately preceding the present revocation or suspension, the judge may order the department to issue an occupational license to the person.

(e) (title) *Restrictions.* The order for issuance of an occupational license shall contain definite restrictions as to hours of the day, not to exceed 12, hours per week, not to exceed 60, type of occupation and areas or routes of travel ~~to be~~ which are permitted under the license. If the ~~petitioner~~ person holds a valid chauffeur's license at the time of filing the petition, the order for issuance shall ~~further restrict~~ contain restrictions permitting operation under the occupational license to of a motor vehicle by the person only for travel only between the licensee's place of residence and his or her place of employment, in addition to operation permitted under the chauffeur's license. The order may permit travel to and from church ~~but the order shall specify the hours during which specified hours if the travel is to be permitted~~ does not exceed the restrictions as to hours of the day and hours per week in this paragraph. The order may permit travel necessary to comply with a driver safety plan ordered under s. 343.30 (1q) or 343.305 if the travel does not exceed the restrictions as to hours of the day and hours per week in this paragraph.

(f) (title) *Considerations in issuance.* The judge shall consider the number and seriousness of prior traffic convictions shall be considered in determining whether ~~or when to order the issuance of an occupational license shall be issued~~ and what restrictions to specify. A copy of the petition and the order for the occupational license shall be forwarded to the department. ~~If a certificate of insurance issued by the insurer or an agent of the insurer is submitted to the court and at least 15 days have elapsed since the date of suspension or revocation or, in the case of an appeal which is subsequently dismissed or affirmed, until at least 15 days have elapsed since the date of revocation or suspension following the dismissal or affirmation of the appeal, the court may issue a 30-day temporary occupational license. The license shall be on forms provided to the court by the department.~~

(g) (title) *Limitations.* Occupational licenses are subject to the limitations specified in ss. 343.30 (1q) (b) ~~and (bn)~~, 343.305 (9) (b) and (em) and 343.31 (3m).

SECTION 9. 343.10 (1) (c) 2 and (d) of the statutes are created to read:

343.10 (1) (c) 2. The person files proof of financial responsibility as specified under s. 343.38 (1) (c) covering all vehicles for which the person seeks permission to operate.

(d) *Conditions for issuance of temporary occupational license.* Upon receipt of a petition under par. (b), the judge may issue a 30-day temporary occupational license to the person on forms provided to the court by the department if the conditions under par. (c) are satisfied and at least 15 days have elapsed since the date of revocation or suspension, or, in the case of an appeal which is subsequently dismissed or affirmed, at least 15 days have elapsed since the date of revocation or suspension following the dismissal or affirmation of the appeal.

SECTION 10. 343.10 (1) (g) of the statutes, as affected by 1987 Wisconsin Act ... (this act), is repealed and recreated to read:

343.10 (1) (g) *Limitations.* Occupational licenses are subject to the limitations specified in ss. 343.30 (1q) (b), 343.305 (8) (d) and (10) (b) and (em) and 343.31 (3m).

SECTION 11. 343.10 (1r) of the statutes is amended to read:

343.10 (1r) If a person has had his or her license revoked as a habitual traffic offender under ch. 351 and the person has complied with sub. (2) and s. 351.07 (1), if the judge grants the person's petition as provided in s. 351.07 (1) the judge shall issue an order authorizing the department to issue an occupational license to the person. ~~The order authorizing the issuance of an~~ An occupational license shall contain definite restrictions as to hours of the day, not to exceed 12, hours per week, not to exceed 60, type of occupation and areas or routes of travel to be permitted under the license. The order may permit travel to and from church but the order shall specify the hours dur-

~~ing which the travel is to be permitted issued under this subsection is subject to the restrictions and limitations specified in sub. (1).~~

SECTION 12. 343.10 (2), (3), (4) and (5) of the statutes are amended to read:

343.10 (2) No person may file a petition for an occupational license unless he or she first pays a fee of \$40 to the county treasurer a fee of \$5 if the petition is to a judge of the circuit court or to the municipal treasurer if the petition is to a judge of the municipal court. The treasurer shall give the person a receipt and shall ~~pay the full amount forward 50%~~ of the fee to the state treasurer department for deposit in the general transportation fund. The treasurer shall forward the remainder of the fee to the clerk of the circuit court or municipal court, respectively.

(3) (a) The department shall issue an occupational license as soon as practicable upon receipt of an order for such a license if at least 30 days have elapsed since the date of revocation or suspension, or, in the case of an appeal which is subsequently dismissed or affirmed, if at least 30 days have elapsed since the date of revocation or suspension following the dismissal or affirmance of the appeal and if proof of financial responsibility covering all vehicles which the applicant will be permitted to operate has been furnished as specified in s. 343.38 the conditions for issuance under sub. (1) (c) are satisfied.

(b) If the department determines that the person is eligible for and has been issued a temporary occupational license under sub. (1) ~~(d)~~, the department may issue an occupational license to the person upon receipt of an order for such a license ~~without regard to the dates set forth under par. (a).~~

(4) The occupational license issued by the department shall contain such restrictions as are ordered by the judge. In addition to such restrictions an occupational license authorizes the licensee to operate a motor vehicle not to exceed 12 hours per day and then only when such operation is an essential part of the licensee's occupation or trade. ~~Unless sooner revoked, suspended or canceled, an~~ An occupational license is valid from the date of issuance until termination of the period of revocation or suspension, as provided by law, unless the occupational license is revoked, suspended or canceled prior to termination of that period.

(5) An occupational license is not renewable when it expires. If an occupational license expires ~~without having been~~ and is not revoked, suspended or canceled, the licensee may obtain a new license upon such that expiration but only if he or she complies with the conditions specified in s. 343.38. Revocation, suspension or cancellation of an occupational license has the same effect as revocation, suspension or cancellation of any other license.

SECTION 13. 343.12 (2) (d) of the statutes is amended to read:

343.12 (2) (d) Subject to ss. 111.321, 111.322 and 111.335, has not been convicted of reckless driving under s. 346.62, any of the offenses enumerated under s. 346.63 (1) or under s. 346.63 (1m), 1985 stats., or any of the offenses enumerated under s. 343.31 (1), within the 2-year period immediately preceding the date of application.

SECTION 14. 343.16 (2) (a) of the statutes is amended to read:

343.16 (2) (a) The secretary may require any applicant for a license or any licensed operator to submit to a special examination by such persons or agencies as the secretary may direct to determine incompetency, physical or mental disability, disease or any other condition which might prevent such applicant or licensed person from exercising reasonable and ordinary control over a motor vehicle. When the department requires the applicant to submit to an examination, the applicant shall pay the cost thereof. If the department has a report of 2 or more arrests within a one-year period for any combination of violations of s. 346.63 (1), or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the department shall determine, by interview or otherwise, whether the operator should submit to an examination under this subsection. The examination may consist of an assessment. If the examination indicates that education or treatment for a disability, disease or condition concerning the use of alcohol or a controlled substance is appropriate, the department may order a driver safety plan in accordance with s. 343.30 (1q). If there is noncompliance with assessment and the driver safety plan, the department shall suspend the person's operating privilege in the manner specified in s. 343.30 (1q) (d).

SECTION 15. 343.21 (1) (e) and (j) of the statutes are amended to read:

343.21 (1) (e) For the reinstatement of a license previously revoked, ~~\$30~~ \$50.

(j) For the reinstatement of a license previously suspended ~~under this chapter or under ch. 345, \$20, \$50.~~

SECTION 16. 343.21 (1) (k) of the statutes is repealed.

SECTION 16g. 343.23 (4) of the statutes is created to read:

343.23 (4) The department shall purge from the file of a licensee any record of an administrative suspension upon receipt of a report from the court hearing the action arising out of the same incident or occurrence that the action has been dismissed or the person has been found innocent of the charge arising out of that incident or occurrence.

SECTION 16m. 343.30 (1p) of the statutes is amended to read:

343.30 (1p) Notwithstanding sub. (1), a court shall suspend the operating privilege of a person for 3 months upon the person's conviction by the court for

violation of s. 346.63 (2m) or a local ordinance in conformity therewith.

SECTION 17. 343.30 (1q) (a) of the statutes is amended to read:

343.30 (1q) (a) If a person is convicted under s. 346.63 (1) or a local ordinance in conformity therewith, ~~or s. 346.63 (1m)~~, the court shall proceed under this subsection. If a person is convicted under s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the court shall proceed under pars. (c) and (d). If a person is referred by the department acting under s. 343.16 (2) (a), the department shall proceed under pars. (c) and (d) without the order of the court.

SECTION 18. 343.30 (1q) (b) 1 of the statutes is amended to read:

343.30 (1q) (b) 1. The court shall suspend or revoke the person's operating privilege under this paragraph according to the number of previous improper refusals ~~or sets of high test results~~ under s. 343.305 (8) or convictions under s. 346.63 (1), or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle. ~~Refusals or sets of high test results~~ and convictions arising out of the same incident shall be counted as one. If a person has a conviction for any offense under a local ordinance in or a state statute of another state which is in conformity with s. 346.63 (1) (a) or (b) or both, that conviction shall count as a prior conviction under this subdivision.

SECTION 19. 343.30 (1q) (b) 1 of the statutes, as affected by 1987 Wisconsin Act .... (this act), is repealed and recreated to read:

343.30 (1q) (b) 1. The court shall suspend or revoke the person's operating privilege under this paragraph according to the number of previous improper refusals under s. 343.305 (9) (d) or convictions under s. 346.63 (1), or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle. Refusals and convictions arising out of the same incident shall be counted as one. If a person has a conviction for any offense under a local ordinance in or a state statute of another state which is in conformity with s. 346.63 (1) (a) or (b) or both, that conviction shall count as a prior conviction under this subdivision.

SECTION 20. 343.30 (1q) (b) 2 of the statutes is amended to read:

343.30 (1q) (b) 2. Except as provided in subd. 3 or 4, for the first such conviction, the court shall ~~revoke~~ suspend the person's operating privilege for not less than 6 months. ~~After the first 15 days of the revocation period, the~~ nor more than 9 months. The person is eligible for an occupational license under s. 343.10 at any time.

SECTION 21. 343.30 (1q) (b) 3 to 5 of the statutes are amended to read:

343.30 (1q) (b) 3. If the number of refusals, ~~sets of high of high test results~~ and convictions within a 5-year period equals 2, the court shall revoke the person's operating privilege for not less than one year nor more than 18 months. After the first 60 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

4. If the number of refusals, ~~sets of high test results~~ and convictions within a 5-year period equals 3 or more, the court shall revoke the person's operating privilege for not less than 2 years nor more than 3 years. After the first 90 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

5. The 5-year period under this paragraph shall be measured from the dates of the refusals, ~~last test results~~ or violations which resulted in the revocations or convictions.

SECTION 23. 343.30 (1q) (bn) of the statutes is repealed.

SECTION 23g. 343.30 (1q) (c) of the statutes is renumbered 343.30 (1q) (c) 1. (intro.) and amended to read:

343.30 (1q) (c) 1. (intro.) The ~~Except as provided in subd. 1. a or b,~~ the court shall order the person to submit to and comply with an assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for examination of the person's use of alcohol or controlled substances and development of a driver safety plan for the person. The court shall notify the department of transportation of the assessment order. The court shall notify the person that noncompliance with assessment or the driver safety plan will result in license suspension until the person is in compliance. The assessment order shall:

2. The department of health and social services shall establish standards for assessment procedures and the driver safety plan programs by rule. The department of health and social services shall establish by rule conflict of interest guidelines for providers.

3. Prior to developing a plan which specifies treatment, the facility shall make a finding that treatment is necessary and appropriate services are available. The facility shall submit a report of the assessment and the driver safety plan within 14 days to the county department under s. 51.42 ~~or its approved agency,~~ the plan provider, the department of transportation and the person, except that upon request by the facility and the person, the county department may extend the period for assessment for not more than 20 additional workdays. The county department shall notify the department of transportation regarding any such extension.

SECTION 23m. 343.30 (1q) (c) 1. a to c of the statutes are created to read:

343.30 (1q) (c) 1. a. If the person is a resident, refer the person to an approved public treatment facility in

the county in which the person resides. The facility named in the order may provide for assessment of the person in another approved public treatment facility. The order shall provide that if the person is temporarily residing in another state, the facility named in the order may refer the person to an appropriate treatment facility in that state for assessment and development of a driver safety plan for the person satisfying the requirements of that state.

b. If the person is a nonresident, refer the person to an approved public treatment facility in this state. The order shall provide that the facility named in the order may refer the person to an appropriate treatment facility in the state in which the person resides for assessment and development of a driver safety plan for the person satisfying the requirements of that state.

c. Require a person who is referred to a treatment facility in another state under subd. 1. a or b to furnish the department written verification of his or her compliance from the agency which administers the assessment and driver safety plan program. The person shall provide initial verification of compliance within 60 days after the date of his or her conviction. The requirement to furnish verification of compliance may be satisfied by receipt by the department of such verification from the agency which administers the assessment and driver safety plan program.

SECTION 23r. 343.30 (1q) (e) of the statutes is amended to read:

343.30 (1q) (e) Notwithstanding par. (c), if the court finds that the person is already covered by an assessment or is participating in a driver safety plan or has had evidence presented to it by a county department under s. 51.42 ~~or its approved agency~~ that the person has recently completed assessment, a driver safety plan or both, the court is not required to make an order under par. (c). This paragraph does not prohibit the court from making an order under par. (c), if it deems such an order advisable.

SECTION 24. 343.30 (1q) (g) of the statutes is amended to read:

343.30 (1q) (g) If a person licensed as a chauffeur is convicted of a violation of s. 346.63 (1) or a local ordinance in conformity therewith ~~or s. 346.63 (1m)~~ and the person was not operating a vehicle as a chauffeur at the time of violation, his or her chauffeur's license shall not be suspended or revoked under this subsection.

SECTION 25. 343.30 (1q) (h) of the statutes is amended to read:

343.30 (1q) (h) The court shall provide that the period of suspension or revocation imposed under this subsection be reduced by any period of suspension or revocation previously imposed under s. 343.305 if the suspension or revocation under s. 343.305 and the conviction for violation of s. 346.63 (1) or a local ordinance in conformity therewith ~~or s. 346.63 (1m)~~ arise out of the same incident or occurrence.

SECTION 26. 343.30 (1q) (h) of the statutes, as affected by 1987 Wisconsin Act .... (this act), is repealed and recreated to read:

343.30 (1q) (h) The court shall provide that the period of suspension or revocation imposed under this subsection be reduced by any period of suspension or revocation previously imposed under s. 343.305 if the suspension or revocation under s. 343.305 and the conviction for violation of s. 346.63 (1) or a local ordinance in conformity therewith arise out of the same incident or occurrence. The court may modify an occupational license authorized under s. 343.305 (8) (d) in accordance with this subsection.

SECTION 27. 343.303 of the statutes is amended to read:

**343.303 Preliminary breath screening test.** If a law enforcement officer has probable cause to believe that the person is violating or has violated s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, or s. 346.63 ~~(1m)~~, (2) ~~or (2m)~~ or 940.25 or s. 940.09 where the offense involved the use of a vehicle, the officer, prior to an arrest, may request the person to provide a sample of his or her breath for a preliminary breath screening test using a device approved by the department for this purpose. The result of this preliminary breath screening test may be used by the law enforcement officer for the purpose of deciding whether or not the person shall be arrested for a violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, or s. 346.63 ~~(1m)~~, (2) ~~or (2m)~~, 940.09 or 940.25 and whether or not to require or request chemical tests as authorized under s. 343.305 (2) (b). The result of the preliminary breath screening test shall not be admissible in any action or proceeding except to show probable cause for an arrest, if the arrest is challenged, or to prove that a chemical test was properly required or requested of a person under s. 343.305 (2) (b) or (c). Following the screening test, additional tests may be required or requested of the driver under s. 343.305 (2) (b) or (c). The general penalty provision under s. 939.61 (1) does not apply to a refusal to take a preliminary breath screening test.

SECTION 28. 343.303 of the statutes, as affected by 1987 Wisconsin Act .... (this act), is repealed and recreated to read:

**343.303 Preliminary breath screening test.** If a law enforcement officer has probable cause to believe that the person is violating or has violated s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, or s. 346.63 (2) or 940.25 or s. 940.09 where the offense involved the use of a vehicle, the officer, prior to an arrest, may request the person to provide a sample of his or her breath for a preliminary breath screening test using a device approved by the department for this purpose. The result of this preliminary breath screening test may be used by the law enforcement officer for the purpose of deciding whether or not the person shall be arrested for a violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith,

or s. 346.63 (2), 940.09 or 940.25 and whether or not to require or request chemical tests as authorized under s. 343.305 (3). The result of the preliminary breath screening test shall not be admissible in any action or proceeding except to show probable cause for an arrest, if the arrest is challenged, or to prove that a chemical test was properly required or requested of a person under s. 343.305 (3). Following the screening test, additional tests may be required or requested of the driver under s. 343.305 (3). The general penalty provision under s. 939.61 (1) does not apply to a refusal to take a preliminary breath screening test.

SECTION 29. 343.305 of the statutes, as affected by 1987 Wisconsin Act .... (this act), is repealed and recreated to read:

**343.305 Tests for intoxication; administrative suspension and court-ordered revocation.** (1) DEFINITIONS. In this section:

(a) "Blood alcohol concentration of 0.1% or more" means a blood alcohol concentration of 0.1% or more by weight of alcohol in a person's blood or 0.1 grams or more of alcohol in 210 liters of a person's breath.

(b) "Drive" means the exercise of physical control over the speed and direction of a motor vehicle while it is in motion.

(c) "Operate" means the physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.

(2) IMPLIED CONSENT. Any person who drives or operates a motor vehicle upon the public highways of this state, or in those areas enumerated in s. 346.61, is deemed to have given consent to one or more tests of his or her breath, blood or urine, for the purpose of determining the presence or quantity in his or her blood or breath, of alcohol, controlled substances, a combination of alcohol and controlled substances, other drugs or a combination of alcohol and other drugs when requested to do so by a law enforcement officer under sub. (3) (a) or when required to do so under sub. (3) (b). Any such tests shall be administered upon the request of a law enforcement officer. The law enforcement agency by which the officer is employed shall be prepared to administer, either at its agency or any other agency or facility, 2 of the 3 tests under sub. (3) (a), and may designate which of the tests shall be administered first.

(3) REQUESTED OR REQUIRED. (a) Upon arrest of a person for violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, or for a violation of s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, a law enforcement officer may request the person to provide one or more samples of his or her breath, blood or urine for the purpose specified under sub. (2).

(b) A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subsection, and if a law enforcement officer has probable cause to believe that the person has violated s. 346.63 (1) or

(2m) or a local ordinance in conformity therewith, or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, one or more tests under par. (a) may be administered to the person.

(c) This section does not limit the right of a law enforcement officer to obtain evidence by any other lawful means.

(4) INFORMATION. At the time a chemical test specimen is requested under sub. (3) (a), the person shall be orally informed by the law enforcement officer that:

(a) He or she is deemed to have consented to tests under sub. (2);

(b) If testing is refused, the person's operating privilege will be revoked under this section;

(c) If one or more tests are taken and the results of any test indicate that the person has a blood alcohol concentration of 0.1% or more, the person will be subject to penalties and the person's operating privilege will be suspended under this section; and

(d) After submitting to testing, the person tested has the right to have an additional test made by a person of his or her own choosing.

(5) ADMINISTERING THE TEST; ADDITIONAL TESTS. (a) If the person submits to a test under this section, the officer shall direct the administering of the test. A blood test is subject to par. (b). The person who submits to the test is permitted, upon his or her request, the alternative test provided by the agency under sub. (2) or, at his or her own expense, reasonable opportunity to have any qualified person of his or her own choosing administer a chemical test for the purpose specified under sub. (2). If the person has not been requested to provide a sample for a test under sub. (3) (a), the person may request a breath test to be administered by the agency or, at his or her own expense, reasonable opportunity to have any qualified person administer any test specified under sub. (3) (a). The failure or inability of a person to obtain a test at his or her own expense does not preclude the admission of evidence of the results of any test administered under sub. (3) (a). If a person requests the agency to administer a breath test and if the agency is unable to perform that test, the person may request the agency to perform a test under sub. (3) (a) that it is able to perform. The agency shall comply with a request made in accordance with this paragraph.

(b) Blood may be withdrawn from the person arrested for violation of s. 30.68 (1), 346.63 (1), (2) or (2m), 350.10 (3) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1) or (2m) or 350.10 (3), or as provided in sub. (3) (b) to determine the presence or quantity of alcohol, a controlled substance, a combination of alcohol and a controlled substance, any other drug or a combination of alcohol and any other drug in the blood only by a physician, registered nurse, medical technologist, physician's assistant or person acting under the direction of a physician.

(c) A person acting under par. (b), the employer of any such person and any hospital where blood is withdrawn by any such person have immunity from civil or criminal liability under s. 895.53.

(d) At the trial of any civil or criminal action or proceeding arising out of the acts committed by a person alleged to have been driving or operating a motor vehicle while under the influence of an intoxicant or a controlled substance or a combination of alcohol and a controlled substance, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, or having a blood alcohol concentration of 0.1% or more, the results of a test administered under sub. (3) or this subsection are admissible on the issue of whether the person was under the influence of an intoxicant or a controlled substance or a combination of alcohol and a controlled substance, under the influence of any other drug to a degree which renders him or her incapable of safely driving or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or any issue relating to the person's blood alcohol concentration. Test results shall be given the effect required under s. 885.235.

(6) REQUIREMENTS FOR TESTS. (a) Chemical analyses of blood or urine to be considered valid under this section shall have been performed substantially according to methods approved by the laboratory of hygiene and by an individual possessing a valid permit to perform the analyses issued by the department of health and social services. The department of health and social services shall approve laboratories for the purpose of performing chemical analyses of blood or urine for alcohol or controlled substances and shall develop and administer a program for regular monitoring of the laboratories. A list of approved laboratories shall be provided to all law enforcement agencies in the state. Urine specimens are to be collected by methods specified by the laboratory of hygiene. The laboratory of hygiene shall furnish an ample supply of urine and blood specimen containers to permit all law enforcement officers to comply with the requirements of this section.

(b) The department of transportation shall approve techniques or methods of performing chemical analysis of the breath and shall:

1. Approve training manuals and courses throughout the state for the training of law enforcement officers in the chemical analysis of a person's breath;

2. Certify the qualifications and competence of individuals to conduct the analysis;

3. Have trained technicians, approved by the secretary, test and certify the accuracy of the equipment to be used by law enforcement officers for chemical analysis of a person's breath under sub. (3) (a) before regu-

lar use of the equipment and periodically thereafter at intervals of not more than 60 days; and

4. Issue permits to individuals according to their qualifications.

(c) For purposes of this section, if a breath test is administered using an infrared breath-testing instrument:

1. The test shall consist of analyses in the following sequence: one adequate breath sample analysis, one calibration standard analysis, and a 2nd, adequate breath sample analysis.

2. A sample is adequate if the instrument analyzes the sample and does not indicate the sample is deficient.

3. Failure of a person to provide 2 separate, adequate breath samples in the proper sequence constitutes a refusal.

(d) The department of transportation may promulgate rules pertaining to the calibration and testing of preliminary breath screening test devices.

(7) CHEMICAL TEST; ADMINISTRATIVE SUSPENSION. If a person submits to chemical testing administered in accordance with this section and any test results indicate a blood alcohol concentration of 0.1% or more, the law enforcement officer shall report the results to the department and take possession of the person's license and forward it to the department. The person's operating privilege is administratively suspended for 6 months.

(8) CHEMICAL TEST; ADMINISTRATIVE SUSPENSION; ADMINISTRATIVE AND JUDICIAL REVIEW. (a) The law enforcement officer shall notify the person of the administrative suspension under sub. (7). The notice shall advise the person that his or her operating privilege will be administratively suspended and that he or she has the right to obtain administrative and judicial review under this subsection. The notice shall include a form for the person to use to request administrative review under this subsection. This notice of administrative suspension serves as a 30-day temporary license. An administrative suspension under sub. (7) becomes effective at the time the 30-day temporary license expires. The officer shall submit or mail a copy of the notice to the department.

(b) 1. Within 10 days after the notification under par. (a), the person may request, in writing, that the department review the administrative suspension. The review procedure is not subject to ch. 227. If the offense allegedly occurred in the county of Milwaukee, Waukesha or Dane, the department shall refer the matter to the office of the commissioner of transportation and the office of the commissioner of transportation shall hold the hearing on the matter. The department shall hold the hearing on the matter if the offense allegedly occurred in any other county. Hearings by the department shall be held in the county in which the offense allegedly occurred or at the nearest office of the department if the offense allegedly occurred in a county in which the department does not

maintain an office. The department or the office of the commissioner of transportation, respectively, shall hold a hearing regarding the administrative suspension within 30 days after the date of notification under par. (a). The person may present evidence and may be represented by counsel. The arresting officer need not appear, but the hearing officer must have a copy of the officer's report and the results of the chemical test.

2. The administrative hearing under this paragraph is limited to the following issues:

a. The correct identity of the person.

b. Whether the person was informed of the options regarding tests under this section as required under sub. (4).

bm. Whether the person had a blood alcohol concentration of 0.1% or more at the time the offense allegedly occurred.

c. Whether one or more tests were administered in accordance with this section.

d. If one or more tests were administered in accordance with this section, whether each of the test results for those tests indicate the person had a blood alcohol concentration of 0.1% or more.

e. Whether probable cause existed for the arrest.

3. If the hearing examiner finds that the criteria for administrative suspension have not been satisfied or that the person did not have a blood alcohol concentration of 0.1% or more at the time the offense allegedly occurred, the examiner shall order that the administrative suspension of the person's operating privilege be rescinded without payment of the fee under s. 343.21 (1) (j). If the hearing examiner finds that the criteria for administrative suspension have been satisfied and that the person had a blood alcohol concentration of 0.1% or more at the time the offense allegedly occurred, the administrative suspension shall continue.

(c) 1. An individual aggrieved by the determination of the hearing examiner may have the determination reviewed by the court hearing the action relating to the applicable violation listed under sub. (3) (a) or by a court commissioner authorized to review the determination as provided in s. 757.69 (1m). If the review is by the court and the person submits a petition for prompt review, the court shall conduct the review as expeditiously as possible to minimize the impact upon the individual of any delay. If the individual does not submit a petition for prompt review, the court shall conduct the review in conjunction with the trial or sentencing for the action. If the review is by a court commissioner and the person submits a petition for prompt review, the court commissioner shall conduct the review as expeditiously as possible. The judicial review is limited to the issues specified in par. (b) 2.

2. The court or court commissioner shall order that the administrative suspension be either rescinded or sustained. The court or court commissioner shall file its order with the department within 14 days after the hearing.

3. Any party aggrieved by the order of a circuit court or a court commissioner under subd. 2 may appeal to the court of appeals. Any party aggrieved by the order of a municipal court under subd. 2 may appeal to the circuit court for the county where the offense allegedly occurred.

4. A request for judicial review under this subsection does not stay any administrative suspension order.

5. If any court or court commissioner orders under this subsection that the administrative suspension of the person's operating privilege be rescinded, the person need not pay the fee under s. 343.21 (1) (j).

(d) A person who has his or her operating privilege administratively suspended under this subsection is eligible for an occupational license under s. 343.10 at any time.

(9) REFUSALS; NOTICE AND COURT HEARING. (a) In addition to the requirements under subs. (1) to (8), if a person refuses to take a test under sub. (3) (a), the law enforcement officer shall immediately prepare a notice of intent to revoke, by court order under sub. (10), the person's operating privilege. The officer shall issue a copy of the notice of intent to revoke the privilege to the person and submit or mail a copy to the circuit court for the county in which the refusal is made, the district attorney for that county and the department. The notice of intent to revoke the person's operating privilege shall contain substantially the following information:

1. That prior to a request under sub. (3) (a), the officer had placed the person under arrest and issued a citation, if appropriate, for a violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith or s. 346.63 (2), 940.09 or 940.25.

2. That the officer complied with sub. (4).

3. That the person refused a request under sub. (3) (a).

4. That the person may request a hearing on the revocation within 10 days by mailing or delivering a written request to the court whose address is specified in the notice. If no request for a hearing is received within the 10-day period, the revocation period commences 30 days after the notice is issued.

5. That the issues of the hearing are limited to:

a. Whether the officer had probable cause to believe the person was driving or operating a motor vehicle while under the influence of alcohol, a controlled substance or a combination of both, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of alcohol and any other drug to a degree which renders him or her incapable of safely driving or having a blood alcohol concentration of 0.1% or more and whether the person was lawfully placed under arrest for violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith or s. 346.63 (2), 940.09 or 940.25.

b. Whether the officer complied with sub. (4).



c. Whether the person refused to permit the test.

d. The person shall be deemed not to have refused the test if it is shown by a preponderance of evidence that the refusal was due to a physical inability to submit to the test due to a physical disability or disease unrelated to the use of alcohol, controlled substances or other drugs.

6. That, if it is determined that the person refused the test, there will be an order for the person to comply with assessment and a driver safety plan.

(b) The use of the notice under par. (a) by a law enforcement officer in connection with the enforcement of this section is adequate process to give the appropriate court jurisdiction over the person.

(c) If a law enforcement officer informs the circuit court that a person has refused to submit to a test under sub. (3) (a), the court shall be prepared to hold any requested hearing to determine if the refusal was proper. The scope of the hearing shall be limited to the issues outlined in par. (a) 5. Section 967.055 applies to any hearing under this subsection.

(d) At the close of the hearing, or within 5 days thereafter, the court shall determine the issues under par. (a) 5. If all issues are determined adversely to the person, the court shall proceed under sub. (10). If one or more of the issues is determined favorably to the person, the court shall order that no action be taken on the operating privilege on account of the person's refusal to take the test in question. This section does not preclude the prosecution of the person for violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, s. 346.63 (2), 940.09 or 940.25.

(10) REFUSALS; COURT-ORDERED REVOCATION. (a) If the court determines under sub. (9) (d) that a person improperly refused to take a test or if the person does not request a hearing within 10 days after the person has been served with the notice of intent to revoke the person's operating privilege, the court shall proceed under this subsection. If no hearing was requested, the revocation period shall begin 30 days after the date of the refusal. If a hearing was requested, the revocation period shall commence 30 days after the date of refusal or immediately upon a final determination that the refusal was improper, whichever is later.

(b) 1. The court shall revoke the person's operating privilege under this paragraph according to the number of previous improper refusals under sub. (9) (d) or convictions under s. 346.63 (1) or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle. Refusals and convictions arising out of the same incident shall be counted as one. If a person has a conviction for any offense under a local ordinance in or a state statute of another state which is in conformity with s. 346.63 (1) (a) or (b) or both, that conviction shall count as a prior conviction under this subdivision.

2. Except as provided in subd. 3 or 4, for the first improper refusal, the court shall revoke the person's

operating privilege for one year. After the first 30 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

3. If the number of refusals and convictions in a 5-year period equals 2, the court shall revoke the person's operating privilege for 2 years. After the first 90 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

4. If the number of refusals and convictions in a 5-year period equals 3 or more, the court shall revoke the person's operating privilege for 3 years. After the first 120 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

5. The 5-year period under this paragraph shall be measured from the dates of the refusals or violations which resulted in revocations or convictions.

6. The court may not order a temporary occupational license under s. 343.10 (1) to a person under this subsection before he or she is eligible for an occupational license.

(c) 1. Except as provided in subd. 1. a or b, the court shall order the person to submit to and comply with an assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for examination of the person's use of alcohol or controlled substances and development of a driver safety plan for the person. The court shall notify the person and the department of transportation of the assessment order. The court shall also notify the person that noncompliance with assessment or the driver safety plan will result in license suspension until the person is in compliance. The assessment order shall:

a. If the person is a resident, refer the person to an approved public treatment facility in the county in which the person resides. The facility named in the order may provide for assessment of the person in another approved public treatment facility. The order shall provide that if the person is temporarily residing in another state, the facility named in the order may refer the person to an appropriate treatment facility in that state for assessment and development of a driver safety plan for the person satisfying the requirements of that state.

b. If the person is a nonresident, refer the person to an approved public treatment facility in this state. The order shall provide that the facility named in the order may refer the person to an appropriate treatment facility in the state in which the person resides for assessment and development of a driver safety plan for the person satisfying the requirements of that state.

c. Require a person who is referred to a treatment facility in another state under subd. 1. a or b to furnish the department written verification of his or her compliance from the agency which administers the assessment and driver safety plan program. The person shall provide initial verification of compliance within 60 days after the date of his or her conviction. The requirement to furnish verification of compliance may

be satisfied by receipt by the department of such verification from the agency which administers the assessment and driver safety plan program.

2. The department of health and social services shall establish standards for assessment procedures and the driver safety plan programs by rule. The department of health and social services shall establish by rule conflict of interest guidelines for providers.

3. Prior to developing a plan which specifies treatment, the facility shall make a finding that treatment is necessary and appropriate services are available. The facility shall submit a report of the assessment and the driver safety plan within 14 days to the county department under s. 51.42, the plan provider, the department of transportation and the person, except that upon request by the facility and the person, the county department may extend the period for assessment for not more than 20 additional workdays. The county department shall notify the department of transportation regarding any such extension.

(d) The assessment report shall order compliance with a driver safety plan. The report shall inform the person of the fee provisions under s. 46.03 (18) (f). The driver safety plan may include treatment for the person's misuse, abuse or dependence on alcohol or controlled substances, attendance at a school under s. 345.60, or both. If the plan requires inpatient treatment, the treatment shall not exceed 30 days. A driver safety plan under this paragraph shall include a termination date consistent with the plan which shall not extend beyond one year. The county department under s. 51.42 shall assure notification of the department of transportation and the person of the person's compliance or noncompliance with assessment and treatment. The school under s. 345.60 shall notify the department, the county department under s. 51.42 and the person of the person's compliance or noncompliance with the requirements of the school. Nonpayment of the assessment fee is noncompliance with the court order. If the department is notified of noncompliance, it shall suspend the person's operating privilege until the county department under s. 51.42 or the school under s. 345.60 notifies the department that the person is in compliance with assessment or the driver safety plan. The department shall notify the person of the suspension, the reason for the suspension and the person's right to a review. A person may request a review of a suspension based upon failure to comply with a driver safety plan within 10 days of notification. The review shall be handled by the subunit of the department of transportation designated by the secretary. The issues at the review are limited to whether the driver safety plan, if challenged, is appropriate and whether the person is in compliance with the assessment order or the driver safety plan. The review shall be conducted within 10 days after a request is received. If the driver safety plan is determined to be inappropriate, the department shall order a reassessment and if the person is otherwise eligible, the department shall

reinstate the person's operating privilege. If the person is determined to be in compliance with the assessment or driver safety plan, and if the person is otherwise eligible, the department shall reinstate the person's operating privilege. If there is no decision within the 10-day period, the department shall issue an order reinstating the person's operating privilege until the review is completed, unless the delay is at the request of the person seeking the review.

(e) Notwithstanding par. (c), if the court finds that the person is already covered by an assessment or is participating in a driver safety plan or has had evidence presented to it by a county department under s. 51.42 that the person has recently completed assessment, a driver safety plan or both, the court is not required to make an order under par. (c). This paragraph does not prohibit the court from making an order under par. (c), if it deems such an order advisable.

(em) One penalty for improperly refusing to submit to a test for intoxication regarding a person arrested for a violation of s. 346.63 (2m) or a local ordinance in conformity therewith is revocation of the person's operating privilege for 6 months. After the first 15 days of the revocation period, the person is eligible for an occupational license under s. 343.10. Any such improper refusal or revocation for the refusal does not count as a prior refusal or a prior revocation under this section or ss. 343.30 (1q), 343.307 and 346.65 (2). The person shall not be required to submit to and comply with any assessment or driver safety plan under pars. (c) and (d).

(f) The department may make any order which the court is authorized or required to make under this subsection if the court fails to do so.

(g) The court shall provide that the period of revocation imposed under this subsection be reduced by any period of suspension or revocation previously imposed under s. 343.30 (1q) if both suspensions or revocations arose out of the same incident or occurrence.

(11) RULES. The department shall promulgate rules under ch. 227 necessary to administer this section. The rules shall include provisions relating to the expeditious exchange of information under this section between the department, the office and law enforcement agencies, circuit courts and district attorneys. The rules may not affect any provisions relating to court procedure.

SECTION 30. 343.305 (2) (b) and (c), (3) (a) (intro.) and 2 and (b) (intro.), 1 and 5. a, (5) and (6) (a) of the statutes are amended to read:

343.305 (2) (b) A law enforcement officer may, upon arrest of a person for violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, or for a violation of s. 346.63 (~~1m~~), (2) or (~~2m~~) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, request the person to provide one or more

samples of his or her breath, blood or urine for the purpose specified under sub. (1).

(c) A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subsection, and if a law enforcement officer has probable cause to believe that the person has violated s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, or s. 346.63 ~~(1m), (2) or (2m)~~ or 940.25, or s. 940.09 where the offense involved the use of a vehicle, one or more tests may be administered to the person.

(3) (a) (intro.) A law enforcement officer requesting a person to take a test under sub. (2) (b) shall, at the time of the request and prior to the administration of any such test, orally inform the person:

2. That if he or she refuses to submit to any such test ~~or takes one or more tests and the results of each test indicate that the person had a blood alcohol concentration of 0.2% or more,~~ his or her operating privilege shall be revoked under sub. (9); and

(b) (intro.) If the person refuses the request of a law enforcement officer to submit to a test under sub. (2) (b), the officer shall immediately prepare a notice of intent to revoke the person's operating privilege, take possession of the person's operator's license, issue a dated receipt and a copy of the notice of intent to revoke the person's operator's license to the operator and submit or mail a copy of the receipt, a copy of the notice of intent to revoke the person's operating privilege and the operator's license to the circuit court for the county in which the refusal is made. The officer shall submit or mail copies of the notice of intent to revoke the person's operating privilege to the department and the district attorney. The notice of intent to revoke the person's operating privilege shall contain substantially the following information:

1. That prior to a request under sub. (2) (b), the officer had placed the person under arrest and issued a citation, if appropriate, for a violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith or s. 346.63 ~~(1m), (2) or (2m)~~, 940.09 or 940.25.

5. a. Whether the officer had probable cause to believe the person was driving or operating a motor vehicle while under the influence of alcohol, a controlled substance or a combination of both, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of alcohol and any other drug to a degree which renders him or her incapable of safely driving or having a blood alcohol concentration of 0.1% or more ~~or 0.2% or more, as applicable,~~ and whether the person was lawfully placed under arrest for violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith or s. 346.63 ~~(1m), (2) or (2m)~~, 940.09 or 940.25.

(5) In addition to a test administered upon the request of a law enforcement officer under sub. (2) (b) or required under sub. (2) (c), a person who was the operator of a motor vehicle involved in an accident

resulting in great bodily harm or death to any person or a person arrested for a violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, or s. 346.63 ~~(1m), (2) or (2m)~~ or 940.25, or s. 940.09 if the offense involved the use of a vehicle, shall be permitted, upon his or her request, the alternative test provided by the agency under sub. (1) or, at his or her own expense, reasonable opportunity to have any qualified person of his or her own choosing administer a chemical test for the purpose specified under sub. (1). If a person has been arrested for such a violation and he or she has not been requested to provide a sample for a test under sub. (2) (b), the person may request a breath test to be administered by the agency or, at his or her own expense, reasonable opportunity to have any qualified person administer any test specified under sub. (2) (b). The failure or inability of a person to obtain a test at his or her own expense shall not preclude the admission of evidence of the results of any test administered under sub. (2) (b). If a person requests the agency to administer a breath test and if the agency is unable to perform that test, the person may request the agency to perform a test under sub. (2) (b) that it is able to perform. The agency shall comply with a request made in accordance with this subsection.

(6) (a) Blood may be withdrawn from the person arrested for violation of s. 346.63 (1), ~~(1m), (2) or (2m)~~, 350.10 (3) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1) or (2m) or 350.10 (3), or as provided in sub. (2) (c) to determine the presence or quantity of alcohol or controlled substance or a combination of alcohol and a controlled substance in the blood only by a physician, registered nurse, medical technologist, physician's assistant or person acting under the direction of a physician.

SECTION 31. 343.305 (6m), (6p), (6x) and (6z) of the statutes are repealed.

SECTION 32. 343.305 (7), (8) and (9) (a), (b) 1 to 5 and (em) of the statutes are amended to read:

343.305 (7) At the trial of any civil or criminal action or proceeding arising out of the acts committed by a person alleged to have been driving or operating a motor vehicle while under the influence of an intoxicant or a controlled substance or a combination of alcohol and a controlled substance, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, or having a blood alcohol concentration of 0.1% or more ~~or 0.2% or more, as applicable,~~ the results of a test administered under sub. (2) (b) or (c) or (5) are admissible on the issue of whether the person was under the influence of an intoxicant or a controlled substance or a combination of alcohol and a controlled substance, under the influence of any other drug or under the combined influence of an intoxicant

and any other drug. Test results shall be given the effect required under s. 885.235.

(8) (a) If a law enforcement officer informs the circuit court that a person has refused to submit to a test under sub. (2) (b), the court shall be prepared to hold any requested hearing to determine if the refusal was proper. The scope of the hearing shall be limited to the issues outlined in sub. (3) (b) 5. ~~If the department informs the circuit court that a person has taken one or more tests administered under this section and the results of each test indicate the person had a blood alcohol concentration of 0.2% or more, the court shall be prepared to determine if the department's allegations are true. The scope of the hearing shall be limited to the issues outlined in sub. (6m). At any hearing limited to the issues outlined in sub. (6m), the officer who placed the person under arrest shall either be present or submit a deposition.~~ Section 967.055 applies to any hearing under this subsection.

(b) At the close of the hearing, or within 5 days thereafter, the court shall determine the issues under sub. (3) (b) 5 ~~or (6m), as applicable~~. If all issues are determined adversely to the person, the court shall proceed under sub. (9). If one or more of the issues is determined favorably to the person, the court shall order that no action be taken on the operating privilege on account of the person's refusal to take the test in question ~~or the person's test results~~. This section does not preclude the prosecution of the person for violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, s. 346.63 ~~(1m)~~, (2) ~~or (2m)~~, 940.09 or 940.25.

(9) (a) If the court determines under sub. (8) that a person improperly refused to take a test ~~or that a person's test results all indicated a blood alcohol concentration of 0.2% or more, as applicable~~, or if the person does not request a hearing within 10 days after the person has been served with the notice of intent to revoke the person's operating privilege, the court shall proceed under this subsection. If no hearing was requested, the revocation period shall begin 30 days after the date of the refusal ~~or the date of the last test, as applicable~~. If a hearing was requested, the revocation period shall commence 30 days after the date of refusal ~~or the date of the last test, as applicable~~, or immediately upon a final determination that the refusal was improper ~~or that a person's test results all indicated a blood alcohol concentration of 0.2% or more, as applicable~~, whichever is later.

(b) 1. The court shall revoke the person's operating privilege under this paragraph according to the number of previous improper refusals ~~or sets of high test results~~ under sub. (8) or convictions under s. 346.63 (1) or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle. Refusals ~~or sets of high test results~~ and convictions arising out of the same incident shall be counted as one. If a person has a conviction for any

offense under a local ordinance in or a state statute of another state which is in conformity with s. 346.63 (1) (a) or (b) or both, that conviction shall count as a prior conviction under this subdivision.

2. Except as provided in subd. 3 or 4, for the first improper refusal ~~or set of high test results~~, the court shall revoke the person's operating privilege for ~~6 months~~ one year. After the first ~~15~~ 30 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

3. If the number of refusals, ~~sets of high test results~~ and convictions in a 5-year period equals 2, the court shall revoke the person's operating privilege for ~~one year~~ 2 years. After the first ~~60~~ 90 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

4. If the number of refusals, ~~sets of high test results~~ and convictions in a 5-year period equals 3 or more, the court shall revoke the person's operating privilege for ~~2~~ 3 years. After the first ~~90~~ 120 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

5. The 5-year period under this paragraph shall be measured from the dates of the refusals, ~~last test results~~ or violations which resulted in revocations or convictions.

(em) ~~The only~~ One penalty for improperly refusing to submit to a test for intoxication regarding a person arrested for a violation of s. 346.63 (2m) or a local ordinance in conformity therewith is revocation of the person's operating privilege for 6 months. After the first 15 days of the revocation period, the person is eligible for an occupational license under s. 343.10. Any such improper refusal or revocation for the refusal does not count as a prior refusal or a prior revocation under this section or ss. 343.30 (1q), 343.307 and 346.65 (2). The person shall not be required to submit to and comply with any assessment or driver safety plan under pars. (c) and (d).

SECTION 32d. 343.305 (9) (c) of the statutes is renumbered 343.305 (9) (c) 1. (intro.) and amended to read:

343.305 (9) (c) 1. (intro.) ~~The~~ Except as provided in subd. 1. a or b, the court shall order the person to submit to and comply with an assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for examination of the person's use of alcohol or controlled substances and development of a driver safety plan for the person. The court shall notify the person and the department of transportation of the assessment order. The court shall also notify the person that noncompliance with assessment or the driver safety plan will result in license suspension until the person is in compliance. The assessment order shall:

2. The department of health and social services shall establish standards for assessment procedures and the driver safety plan programs by rule. The department of health and social services shall establish by rule conflict of interest guidelines for providers.

3. Prior to developing a plan which specifies treatment, the facility shall make a finding that treatment is necessary and appropriate services are available. The facility shall submit a report of the assessment and the driver safety plan within 14 days to the county department under s. 51.42 ~~or its approved agency~~, the plan provider, the department of transportation and the person, except that upon request by the facility and the person, the county department may extend the period for assessment for not more than 20 additional workdays. The county department shall notify the department of transportation regarding any such extension.

SECTION 32h. 343.305 (9) (c) 1. a to c of the statutes are created to read:

343.305 (9) (c) 1. a. If the person is a resident, refer the person to an approved public treatment facility in the county in which the person resides. The facility named in the order may provide for assessment of the person in another approved public treatment facility. The order shall provide that if the person is temporarily residing in another state, the facility named in the order may refer the person to an appropriate treatment facility in that state for assessment and development of a driver safety plan for the person satisfying the requirements of that state.

b. If the person is a nonresident, refer the person to an approved public treatment facility in this state. The order shall provide that the facility named in the order may refer the person to an appropriate treatment facility in the state in which the person resides for assessment and development of a driver safety plan for the person satisfying the requirements of that state.

c. Require a person who is referred to a treatment facility in another state under subd. 1. a or b to furnish the department written verification of his or her compliance from the agency which administers the assessment and driver safety plan program. The person shall provide initial verification of compliance within 60 days after the date of his or her conviction. The requirement to furnish verification of compliance may be satisfied by receipt by the department of such verification from the agency which administers the assessment and driver safety plan program.

SECTION 32p. 343.305 (9) (d) of the statutes is amended to read:

343.305 (9) (d) The assessment report shall order compliance with a driver safety plan. The report shall inform the person of the fee provisions under s. 46.03 (18) (f). The driver safety plan may include treatment for the person's misuse, abuse or dependence on alcohol or controlled substances, attendance at a school under s. 345.60, or both. If the plan requires inpatient treatment, the treatment shall not exceed 30 days. A driver safety plan under this paragraph shall include a termination date consistent with the plan which shall not extend beyond one year. The county department under s. 51.42 ~~or its approved agency~~ shall assure noti-

fication of the department of transportation and the person of the person's compliance or noncompliance with assessment and treatment. The school under s. 345.60 shall notify the department, the county department under s. 51.42 ~~or its approved agency~~ and the person of the person's compliance or noncompliance with the requirements of the school. Nonpayment of the assessment fee is noncompliance with the court order. If the department is notified of noncompliance, it shall suspend the person's operating privilege until the county department under s. 51.42 ~~or its approved agency~~ or the school under s. 345.60 notifies the department that the person is in compliance with assessment or the driver safety plan. The department shall notify the person of the suspension, the reason for the suspension and the person's right to a review. A person may request a review of a suspension based upon failure to comply with a driver safety plan within 10 days of notification. The review shall be handled by the subunit of the department of transportation designated by the secretary. The issues at the review are limited to whether the driver safety plan, if challenged, is appropriate and whether the person is in compliance with the assessment order or the driver safety plan. The review shall be conducted within 10 days after a request is received. If the driver safety plan is determined to be inappropriate, the department shall order a reassessment and if the person is otherwise eligible, the department shall reinstate the person's operating privilege. If the person is determined to be in compliance with the assessment or driver safety plan, and if the person is otherwise eligible, the department shall reinstate the person's operating privilege. If there is no decision within the 10-day period, the department shall issue an order reinstating the person's operating privilege until the review is completed, unless the delay is at the request of the person seeking the review.

SECTION 32t. 343.305 (9) (e) of the statutes is amended to read:

343.305 (9) (e) Notwithstanding par. (c), if the court finds that the person is already covered by an assessment or is participating in a driver safety plan or has had evidence presented to it by a county department under s. 51.42 ~~or its approved agency~~ that the person has recently completed assessment, a driver safety plan or both, the court is not required to make an order under par. (c). This paragraph does not prohibit the court from making an order under par. (c), if it deems such an order advisable.

SECTION 33. 343.307 of the statutes is amended to read:

**343.307 Prior convictions to be counted.** For purposes of counting the number of refusals, ~~sets of high test results~~, revocations and convictions under s. 343.30 (1q), 343.305 (8) or (9) or 346.65 (2) ~~or (2m)~~ on and after July 1, 1978, convictions for violations under s. 346.63 (1), or a local ordinance in conformity therewith or a local ordinance in or a state statute of

another state in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, prior to and after the treatment of any of those sections by chapter 193, laws of 1977, shall be counted and given the effect specified under s. 343.30 (1q), 343.305 (8) or (9) or 346.65 (2) ~~or (2m)~~ on and after July 1, 1978. If the same elements of the offense must be proved under a local ordinance or state statute of another state as under s. 346.63 (1) (a) or (b) or both, the local ordinance or state statute of the other state shall be considered to be in conformity with s. 346.63 (1) (a) or (b) or both for purposes of ss. 343.30 (1q) (b) 1 and ~~(bn) 1~~, 343.305 (9) (b) 1 and 346.65 (2) (b) and (c) and ~~(2m) (b)~~.

SECTION 34. 343.307 of the statutes, as affected by 1987 Wisconsin Act .... (this act), is repealed and recreated to read:

**343.307 Prior convictions to be counted.** For purposes of counting the number of refusals, revocations and convictions under s. 343.30 (1q), 343.305 (9) (d) or (10) or 346.65 (2) on and after July 1, 1978, convictions for violations under s. 346.63 (1), or a local ordinance in conformity therewith or a local ordinance in conformity therewith or a state statute of another state in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, refusals under s. 343.305 (9) (d) and revocations under s. 343.305 (10) prior to and after the treatment of any of those sections by chapter 193, laws of 1977, shall be counted and given the effect specified under s. 343.30 (1q), 343.305 (9) (d) or (10) or 346.65 (2) on and after July 1, 1978. If the same elements of the offense must be proved under a local ordinance or state statute of another state as under s. 346.63 (1) (a) or (b) or both, the local ordinance or state statute of the other state shall be considered to be in conformity with s. 346.63 (1) (a) or (b) or both for purposes of ss. 343.30 (1q) (b) 1, 343.305 (10) (b) 1 and 346.65 (2) (b) and (c).

SECTION 34m. 343.31 (3) (b) of the statutes is amended to read:

343.31 (3) (b) If the suspension results from a first conviction of operation of a motor vehicle while under the influence of an intoxicant or controlled substance or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving and the conviction occurs in another jurisdiction, the period of suspension shall be ~~90 days~~ 6 months.

SECTION 35. 344.18 (1) (intro.) and (3) (intro.) of the statutes are amended to read:

344.18 (1) (intro.) Any operating privilege or registration suspended as provided in s. 344.14 shall remain suspended and shall not be renewed or reinstated until the fee required under s. 343.21 (1) ~~(k)~~ (j)

has been paid and one of the following requirements has been met:

(3) (intro.) If there is any default in the payment of any instalment under a duly acknowledged written agreement, the secretary, upon notice of such default given in no event later than 30 days after the time for final instalment, shall forthwith suspend the operating privilege and registrations of the defaulting person, which suspension shall remain in effect until the fee required under s. 343.21 (1) ~~(k)~~ (j) has been paid and one of the following requirements has been met:

SECTION 35m. 345.20 (1) (b) of the statutes is amended to read:

345.20 (1) (b) "Traffic regulation" means s. ~~346.63 (2m)~~, a provision of chs. 194 or 341 to 349 for which the penalty for violation is a forfeiture or an ordinance enacted in accordance with s. 349.06. Except as otherwise specifically provided, "traffic regulation" does not include a nonmoving traffic violation as defined in s. 345.28 (1).

SECTION 35p. 345.20 (2) (e) of the statutes is repealed.

SECTION 36. 345.24 of the statutes is amended to read:

**345.24 Officer's action after arrest for driving under influence of intoxicant.** A person arrested under s. 346.63 (1) or an ordinance in conformity therewith or s. 346.63 ~~(1m)~~ ~~or~~ (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, may not be released until 12 hours have elapsed from the time of his or her arrest or unless a chemical test administered under s. 343.305 ~~(2)~~ ~~(b)~~ shows that there is 0.05% or less by weight of alcohol in the person's blood or 0.05 grams or less of alcohol in 210 liters of the person's breath, but the person may be released to his or her attorney, spouse, relative or other responsible adult at any time after arrest.

SECTION 37. 345.60 (3) of the statutes is amended to read:

345.60 (3) In addition to other penalties provided by law for violation of s. 346.63 (1) or a local ordinance in conformity therewith, or s. 346.63 ~~(1m)~~ ~~or~~ (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the convicted person may be required under s. 343.30 (1q) to attend, for a certain number of school days, a school under sub. (1).

SECTION 38. 346.63 (1m) of the statutes is repealed.

SECTION 39. 346.63 (2m) of the statutes is amended to read:

346.63 (2m) If a person has not attained the age of 19, the person may not drive or operate a motor vehicle while he or she has a blood alcohol concentration of more than 0.0% but not more than 0.1% by weight of alcohol in the person's blood or more than 0.0 grams but not more than 0.1 grams of alcohol in 210 liters of that person's breath. ~~The only One~~ penalty for violation of this subsection is suspension of a person's operating privilege under s. 343.30 (1p). ~~Not~~

withstanding s. 343.10 (1), for the first offense under this subsection, the The person is eligible for an occupational license under s. 343.10 (1) at any time. If a person arrested for a violation of this subsection refuses to take a test under s. 343.305, the refusal is a separate violation and the person is subject to revocation of the person's operating privilege under s. 343.305 (9) (em).

SECTION 40. 346.63 (2m) of the statutes, as affected by 1987 Wisconsin Act .... (this act), is repealed and recreated to read:

346.63 (2m) If a person has not attained the age of 19, the person may not drive or operate a motor vehicle while he or she has a blood alcohol concentration of more than 0.0% but not more than 0.1% by weight of alcohol in the person's blood or more than 0.0 grams but not more than 0.1 grams of alcohol in 210 liters of that person's breath. One penalty for violation of this subsection is suspension of a person's operating privilege under s. 343.30 (1p). The person is eligible for an occupational license under s. 343.10 (1). If a person arrested for a violation of this subsection refuses to take a test under s. 343.305, the refusal is a separate violation and the person is subject to revocation of the person's operating privilege under s. 343.305 (10) (em).

SECTION 41. 346.65 (2) (b) and (c) of the statutes are amended to read:

346.65 (2) (b) Shall be fined not less than \$300 nor more than \$1,000 and imprisoned not less than 5 days nor more than 6 months if the total of revocations under s. 343.305 and convictions under s. 346.63 (1) or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, equals 2 in a 5-year period, except that revocations or convictions arising out of the same incident or occurrence shall be counted as one. The 5-year period shall be measured from the dates of the refusals, ~~last test results~~ or violations which resulted in the revocation or convictions. If a person has a conviction for any offense under a local ordinance in or a state statute of another state which is in conformity with s. 346.63 (1) (a) or (b) or both, that conviction shall count as a prior conviction under this paragraph.

(c) Shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one year in the county jail if the total of revocations under s. 343.305 and convictions under s. 346.63 (1) or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, equals 3 or more in a 5-year period, except that revocations or convictions arising out of the same incident or occurrence shall be counted as one. The 5-year period shall be measured from the dates of the refusals, ~~last test results~~ or violations which resulted in the revocation or convictions. If a person has a conviction for any offense under a local ordinance in or a

state statute of another state which is in conformity with s. 346.63 (1) (a) or (b) or both, that conviction shall count as a prior conviction under this paragraph.

SECTION 42. 346.65 (2) (b) and (c) of the statutes, as affected by 1987 Wisconsin Act .... (this act), are repealed and recreated to read:

346.65 (2) (b) Shall be fined not less than \$300 nor more than \$1,000 and imprisoned not less than 5 days nor more than 6 months if the total of revocations under s. 343.305 (10) (b) and convictions under s. 346.63 (1) or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, equals 2 in a 5-year period, except revocations or convictions arising out of the same incident or occurrence shall be counted as one. The 5-year period shall be measured from the dates of the refusals or violations which resulted in the revocation or convictions. If a person has a conviction for any offense under a local ordinance in or a state statute of another state which is in conformity with s. 346.63 (1) (a) or (b) or both, that conviction shall count as a prior conviction under this paragraph.

(c) Shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one year in the county jail if the total of revocations under s. 343.305 (10) (b) and convictions under s. 346.63 (1) or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, equals 3 or more in a 5-year period, except that revocations or convictions arising out of the same incident or occurrence shall be counted as one. The 5-year period shall be measured from the dates of the refusals or violations which resulted in the revocation or convictions. If a person has a conviction for any offense under a local ordinance in or a state statute of another state which is in conformity with s. 346.63 (1) (a) or (b) or both, that conviction shall count as a prior conviction under this paragraph.

SECTION 43. 346.65 (2g) of the statutes is amended to read:

346.65 (2g) In addition to the authority of the court under s. 973.05 (3) (a) to provide that a defendant perform community service work for a public agency or a nonprofit charitable organization in lieu of part or all of a fine imposed under sub. (2) (b) or (c), the court may provide that a defendant perform community service work for a public agency or a nonprofit charitable organization in lieu of part or all of a forfeiture under sub. (2) (a), ~~the court shall order or may require a person who is subject to sub. (2) (a) to perform 20 hours of community service work for a public agency or a nonprofit charitable organization in addition to the penalties specified under sub. (2).~~ Notwithstanding s. 973.05 (3) (b), an order may only apply if agreed to by the defendant and the organization or agency. The court shall ensure that the defendant is provided a written statement of the terms of the com-

munity service order and that the community service order is monitored. Any organization or agency acting in good faith to which a defendant is assigned pursuant to an order under this subsection has immunity from any civil liability in excess of \$25,000 for acts or omissions by or impacting on the defendant.

SECTION 44. 346.65 (2m) of the statutes is repealed and recreated to read:

346.65 (2m) In imposing a sentence under sub. (2) for a violation of s. 346.63 (1) (b) or a local ordinance in conformity therewith, the court shall review the record and consider the aggravating and mitigating factors in the matter. If the level of the person's blood alcohol level is known, the court shall consider that level as a factor in sentencing. The chief judge of each judicial administrative district shall adopt guidelines, under the chief judge's authority to adopt local rules under SCR 70.34, for the consideration of mitigating factors.

SECTION 44m. 346.65 (2q) of the statutes is created to read:

346.65 (2q) Any person violating s. 346.63 (2m) shall forfeit \$10.

SECTION 44r. 346.65 (2r) of the statutes is created to read:

346.65 (2r) (a) In this subsection, "pecuniary loss" means:

1. All special damages, but not general damages, substantiated by evidence in the record, which a person could recover against the defendant in a civil action arising out of the facts or events constituting the offense, including, without limitation because of enumeration, the money equivalent of loss resulting from property damaged, destroyed, broken or otherwise harmed and out-of-pocket losses, but not including medical expenses; and

2. Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of the offense.

(b) In addition to the other penalties provided for violation of s. 346.63 (1), a judge may order a defendant to pay restitution to a victim regardless of whether the defendant is placed on probation under s. 973.09. In determining the method of payment, the court shall consider the financial resources and future ability of the defendant to pay. The court shall provide for payment of an amount equal to the pecuniary loss caused by the offense. Upon the application of any interested party, the court shall schedule and hold an evidentiary hearing to determine the value of the victim's pecuniary loss resulting from the offense.

(c) The victim may file a restitution order under par. (b) with the clerk of circuit court. Upon payment of the fee under s. 814.61 (5) (a), the clerk shall enter the order on the judgment docket under s. 806.10 in the same manner as for a judgment in a civil action. Thereafter, the victim may enforce the order against

the defendant in the same manner as for a judgment in a civil action.

(d) This subsection is applicable in actions concerning violations of ordinances in conformity with s. 346.63 (1).

SECTION 45. 346.655 (1) of the statutes is amended to read:

346.655 (1) On or after October 1, 1985, if a court imposes a fine or a forfeiture for a violation of s. 346.63 (1), or a local ordinance in conformity therewith, or s. 346.63 ~~(1m)~~ or (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall impose a driver improvement surcharge in an amount of \$200 in addition to the fine or forfeiture and penalty assessment.

SECTION 45g. 349.03 (2) of the statutes is amended to read:

349.03 (2) No local authority may enact or enforce any traffic regulation providing for suspension or revocation of motor vehicle operator's licenses or requiring local registration of vehicles, except as authorized by s. 341.35, or in any manner excluding or prohibiting any motor vehicle, mobile home, trailer or semi-trailer whose owner has complied with chs. 341 to 348 from the free use of all highways, except as authorized by sub. (3) and ss. 66.046 (1), 349.13, 349.17, 349.22 and 349.23. A municipal court may revoke or suspend a license for a violation of a local ordinance in conformity with s. 346.63 (1) or suspend a license for a violation of a local ordinance in conformity with s. 346.63 (2m).

SECTION 45r. 349.06 (1) of the statutes is amended to read:

349.06 (1) Except for the suspension or revocation of motor vehicle operator's licenses, any local authority may enact and enforce any traffic regulation which is in strict conformity with one or more provisions of chs. 341 to 348 and 350 for which the penalty for violation thereof is a forfeiture. A municipal court may revoke or suspend a license for a violation of a local ordinance in conformity with s. 346.63 (1) or suspend a license for a violation of a local ordinance in conformity with s. 346.63 (2m).

SECTION 46. 351.02 (1) (a) 3 of the statutes is amended to read:

351.02 (1) (a) 3. Driving or operating a motor vehicle in violation of s. 346.63 (1), ~~(1m)~~ or (2) or s. 346.63 (1m), 1985 stats.

SECTION 47. 757.69 (1m) of the statutes is created to read:

757.69 (1m) On authority delegated by a judge, which may be by a standard order, and with the approval of the chief judge of the judicial administrative district, a court commissioner appointed under s. 757.68 (1) may review an administrative suspension of operating privileges under s. 343.305 (8) (c).

SECTION 48. 885.235 (1) (intro.) of the statutes is amended to read:



885.235 (1) (intro.) In any action or proceeding in which it is material to prove that a person was under the influence of an intoxicant or had a blood alcohol concentration of 0.1% or more ~~or 0.2% or more~~ while operating or driving a motor vehicle, while operating a motorboat, except a sailboat operating under sail alone, or while handling a firearm, evidence of the amount of alcohol in the person's blood at the time in question, as shown by chemical analysis of a sample of the person's blood or urine or evidence of the amount of alcohol in the person's breath, is admissible on the issue of whether he or she was under the influence of an intoxicant or had a blood alcohol concentration of 0.1% or more ~~or 0.2% or more~~ if the sample was taken within 3 hours after the event to be proved. The chemical analysis shall be given effect as follows without requiring any expert testimony as to its effect:

SECTION 49. 885.235 (1) (d) to (f) of the statutes are repealed.

SECTION 50. 885.235 (4) of the statutes is amended to read:

885.235 (4) The provisions of this section relating to the admissibility of chemical tests for intoxication or blood alcohol concentration shall not be construed as limiting the introduction of any other competent evidence bearing on the question of whether or not a person was under the influence of an intoxicant ~~or had any particular blood alcohol concentration or a blood alcohol concentration within any particular range,~~ had a blood alcohol concentration of 0.1% or more or had a blood alcohol concentration in the range specified in s. 346.63 (2m).

SECTION 51. 885.235 (5) (am) of the statutes is repealed.

SECTION 52. 967.055 (2) (a) of the statutes is amended to read:

967.055 (2) (a) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss or amend a charge under s. 346.63 (1) or a local ordinance in conformity therewith, or s. 346.63 ~~(1m)~~ or (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle or an improper refusal under s. 343.305, the prosecutor shall apply to the court. The application shall state the reasons for the proposed amendment or dismissal. The court may approve the application only if the court finds that the proposed amendment or dismissal is consistent with the public's interest in deterring the operation of motor vehicles by persons who are under the influence of an intoxicant, a controlled substance or both, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving.

SECTION 54. **Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

SECTION 52g. 973.073 of the statutes is amended to read:

**973.073 Restitution; various violations.** A court may require the payment of restitution under s. 97.72 (1), 346.65 (2r), 943.24 (5) or 943.50 (5) regardless of whether the violator is placed on probation under s. 973.09.

SECTION 53. **Nonstatutory provisions; transportation.** (1) **RULE MAKING.** The department of transportation shall promulgate the rules required under section 343.305 (11) of the statutes, as affected by this act, to be effective on January 1, 1988.

(1m) **STUDY; PROPOSAL.** (a) The department of transportation shall study the use in other jurisdictions of videotaped evidence in cases involving intoxicated drivers. The study shall include an examination of the use of video equipment and videotaped evidence to establish probable cause for the arrest of an intoxicated driver and to provide other evidence for use in the prosecution of cases involving intoxicated drivers. The study shall include an examination of legal problems which may be associated with the use of video equipment and videotaped evidence in the prosecution of intoxicated drivers in this state.

(b) The department of transportation shall develop a proposal for a demonstration project for the use of video equipment in this state for the purpose of establishing probable cause for arrest and evidence of intoxication in cases involving intoxicated drivers. The proposal shall recommend specific counties and municipalities for participation in the project, specify the time period of the project, provide details for administration, including evaluation, of the project, estimate the cost of conducting the project and recommend sources of funding for the project.

(c) The department of transportation shall submit its recommendations from the study under paragraph (a) and the proposal under paragraph (b) to the chief clerk of each house of the legislature for distribution to the appropriate standing committees by July 1, 1987.

(2) **ADMINISTRATIVE SUSPENSION POSITIONS.** (a) The authorized FTE positions for the department of transportation are increased by 18.0 FTE SEG positions on June 30, 1987, for the purpose of performing the administrative suspension services and other duties assigned to the department of transportation under this act.

(b) The authorized FTE positions for the office of the commissioner of transportation are increased by 1.0 FTE SEG position on June 30, 1987, for the purpose of performing the administrative suspension services assigned to the office of the commissioner of transportation under this act.

<b>A</b>	<b>B</b>	<b>C</b>
Statute Sections	References Deleted	References Inserted
15.191 (intro.)	343.305 (9)(c) and (10) (a)	343.305 (6)(a) and (10) (c)
15.461 (1)	none	343.305

**SECTION 55. Initial applicability.** (1) Except as provided in subsection (3), this act applies to offenses or arrests occurring on or after the effective date of this subsection and to fees related to those offenses or arrests but does not preclude the counting of other violations for sentencing a person.

(3) The repeal and recreation of sections 343.10 (1) (g), 343.30 (1q) (b) 1 and (h), 343.303, 343.305, 343.307 and 346.65 (2) (b) and (c) of the statutes first applies to offenses or arrests occurring on January 1, 1988.

**SECTION 56. Effective dates.** This act takes effect on March 1, 1987, except as follows:

(1) The treatment of sections 30.50 (13m), 30.684 (2) (d), 46.03 (18) (f), 51.42 (3) (ar) 4. b and 757.69 (1m) of the statutes, the repeal and recreation of sections 343.10 (1) (g), 343.30 (1q) (b) 1 and (h), 343.303, 343.305, 343.307, 346.63 (2m) and 346.65 (2) (b) and (c) of the statutes and SECTION 54 of this act take effect on January 1, 1988.

