

# State of Wisconsin



2009 Senate Bill 303

Date of enactment: **March 15, 2010**  
Date of publication\*: **March 29, 2010**

## 2009 WISCONSIN ACT 163

AN ACT *to renumber and amend* 343.305 (3) (ar); *to amend* 343.305 (4); and *to create* 343.305 (3) (ar) 2. of the statutes; **relating to:** requesting a person who operates a vehicle that is involved in an accident that causes death or injury to submit to a test for intoxication.

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

**SECTION 1.** 343.305 (3) (ar) of the statutes is renumbered 343.305 (3) (ar) 1. and amended to read:

343.305 (3) (ar) 1. If a person is the operator of a vehicle that is involved in an accident that causes the ~~death of or great~~ substantial bodily harm, ~~as defined in s. 939.22 (38)~~, to any person, and a law enforcement officer detects any presence of alcohol, a controlled substance, a controlled substance analog or other drug, or a combination thereof, the law enforcement officer may request the operator to provide one or more samples of his or her breath, blood, or urine for the purpose specified under sub. (2). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample. A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this ~~paragraph subdivision~~ and one or more samples specified in par. (a) or (am) may be administered to the person. If a person refuses to take a test under this ~~paragraph subdivision~~, he or she may be arrested under par. (a).

**SECTION 2.** 343.305 (3) (ar) 2. of the statutes is created to read:

343.305 (3) (ar) 2. If a person is the operator of a vehicle that is involved in an accident that causes the

death of or great bodily harm to any person and the law enforcement officer has reason to believe that the person violated any state or local traffic law, the officer may request the operator to provide one or more samples of his or her breath, blood, or urine for the purpose specified under sub. (2). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample. A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subdivision and one or more samples specified in par. (a) or (am) may be administered to the person. If a person refuses to take a test under this subdivision, he or she may be arrested under par. (a).

**SECTION 3.** 343.305 (4) of the statutes is amended to read:

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

"You have either been arrested for an offense that involves driving or operating a motor vehicle while under the influence of alcohol or drugs, or both, or you are the operator of a vehicle that was involved in an accident that caused the death of, great bodily harm to, or substantial bodily harm to a person, or you are suspected of driving

\* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

or being on duty time with respect to a commercial motor vehicle after consuming an intoxicating beverage.

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

in court.

If you take all the requested tests, you may choose to take further tests. You may take the alternative test that this law enforcement agency provides free of charge. You also may have a test conducted by a qualified person of your choice at your expense. You, however, will have to make your own arrangements for that test.

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

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