



1997 ASSEMBLY BILL 467

August 12, 1997 - Introduced by Representatives LA FAVE, OTTE, BRANDEMUEHL, GOETSCH, HUBER, WILLIAMS, BOCK, LORGE, STASKUNAS, M. LEHMAN, R. YOUNG, PORTER, BAUMGART, SERATTI, PLOUFF, OLSEN, GROTHMAN, WALKER, KELSO, POWERS, HARSDORF and OTT, cosponsored by Senators WIRCH, HUELSMAN, DRZEWIECKI, A. LASEE and ROESSLER. Referred to Committee on Government Operations.

1 **AN ACT to repeal** 343.305 (4m); **to amend** 343.305 (8) (b) 2. b., 343.305 (9) (a) 2.,
2 343.305 (9) (a) 5. b., 343.305 (9) (am) 2. and 343.305 (9) (am) 5. b.; and **to repeal**
3 **and recreate** 343.305 (4) of the statutes; **relating to:** information provided to
4 a person accused of operating a motor vehicle while under the influence of an
5 intoxicant, controlled substance or other drug.

Analysis by the Legislative Reference Bureau

Under current law, if a person is stopped for allegedly driving or operating a motor vehicle while under the influence of an intoxicant, controlled substance or other drug, the law enforcement officer may request that the person provide samples of his or her breath, blood or urine for the purpose of determining the presence of an intoxicant, controlled substance or other drug. The law enforcement officer is required, under current law, to orally inform the person of all of the following:

1. That he or she is considered to have consented to the tests.
2. That if testing is refused, certain penalties may result, including possible immobilization, ignition interlock equipping or seizure of his or her vehicle.
3. If any of the tests are positive, that the person's operating privilege will be suspended and additional penalties will be imposed, including possible immobilization, ignition interlock equipping or seizure of his or her vehicle.
4. That he or she has the right to have additional tests made by a person of his or her choosing.

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5. If the person possesses a commercial motor vehicle license or if the incident is related to driving a commercial motor vehicle, that certain additional penalties will result from a positive test result.

The department of transportation has created an "Informing the Accused" form for law enforcement officers to read to the alleged violator to ensure that all of the requirements of current law are met.

This bill replaces the specific required information that the alleged violator must be informed of with a requirement that the law enforcement officer read the alleged violator a statement that tells him or her all of the following:

1. Why the breath, blood or urine test is being requested.
2. That if any test shows that the person had more alcohol in his or her system than permitted, the person's operating privilege will be suspended.
3. That if the person refuses to take any requested test, his or her operating privilege will be revoked.
4. That the person may request additional tests from the law enforcement agency or from a person he or she selects.

5. That, if the person has a commercial driver license or was operating a commercial motor vehicle at the time of the alleged violation, he or she may suffer additional consequences from a positive test, including being placed out of service or disqualified.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 343.305 (4) of the statutes is repealed and recreated to read:

2 343.305 (4) INFORMATION. At the time that a chemical test specimen is
3 requested under sub. (3) (a) or (am), the law enforcement officer shall read the
4 following to the person from whom the test specimen is requested:

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

9 This law enforcement agency now wants to test one or more samples of your
10 breath, blood or urine to determine the concentration of alcohol or drugs in your

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1 system. If any test shows more alcohol in your system than the law permits while
2 driving, your operating privilege will be suspended. If you refuse to take any test that
3 this agency requests, your operating privilege will be revoked and you will be subject
4 to other penalties. The test results or the fact that you refused testing can be used
5 against you in court.

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

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

13 **SECTION 2.** 343.305 (4m) of the statutes is repealed.

14 **SECTION 3.** 343.305 (8) (b) 2. b. of the statutes is amended to read:

15 343.305 (8) (b) 2. b. Whether the person was informed of the options regarding
16 tests under this section as required under sub. (4) ~~or under subs. (4) and (4m).~~

17 **SECTION 4.** 343.305 (9) (a) 2. of the statutes is amended to read:

18 343.305 (9) (a) 2. That the officer complied with sub. (4) ~~or both subs. (4) and~~
19 ~~(4m).~~

20 **SECTION 5.** 343.305 (9) (a) 5. b. of the statutes is amended to read:

21 343.305 (9) (a) 5. b. Whether the officer complied with sub. (4) ~~or both subs. (4)~~
22 ~~and (4m).~~

23 **SECTION 6.** 343.305 (9) (am) 2. of the statutes is amended to read:

24 343.305 (9) (am) 2. That the officer complied with sub. (4) ~~or both subs. (4) and~~
25 ~~(4m).~~

