



2009 ASSEMBLY BILL 151

March 17, 2009 - Introduced by Representatives ZEPNICK, HIXSON and BIES,
cosponsored by Senator SULLIVAN. Referred to Committee on Public Safety.

1 **AN ACT to repeal** 343.301 (1) (title) and 343.301 (2); **to renumber and amend**
2 343.301 (1) (a) 1., 343.301 (1) (a) 2., 343.301 (1) (c) and 343.301 (1) (d); **to**
3 **consolidate, renumber and amend** 343.301 (1) (b) 1. and 2.; **to amend**
4 343.10 (5) (a) 3., 343.30 (1q) (b) 2., 343.30 (1q) (b) 3., 343.30 (1q) (b) 4., 343.30
5 (1q) (d), 343.301 (title), 343.305 (10) (d), 343.305 (10m) (a), 343.305 (10m) (b),
6 346.65 (2) (am) 1., 346.65 (2) (am) 2., 346.65 (2) (am) 3., 346.65 (2) (am) 4., 346.65
7 (2) (am) 5., 346.65 (2) (am) 6., 346.65 (2) (am) 7., 346.65 (6) (a) 1., 346.70 (3m)
8 (b), 347.417 (1), 347.417 (2), 940.09 (1d) (a) 1., 940.09 (1d) (a) 2., 940.25 (1d) (a)
9 1., 940.25 (1d) (a) 2. and 973.05 (3) (a); and **to create** 85.54, 346.65 (2) (am) 1m.
10 and 346.65 (2) (am) 5m. of the statutes; **relating to:** drunk driving penalties,
11 consumption reports, and intoxicated driver deterrence.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes regarding the operation of a motor vehicle while intoxicated or under the influence of a controlled substance (OWI), including the following:

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1. Currently, an occupational license is issued for limited purposes to persons who do not have a regular license to operate a motor vehicle because that license is suspended or revoked. Under current law, if an occupational license applicant's suspension or revocation is because of an OWI offense and the OWI offense is the person's second OWI offense, the occupational license restricts the person to operating a vehicle equipped with an ignition interlock device. This bill requires the occupational license to restrict the person to operating a vehicle equipped with an ignition interlock device after the first OWI offense.

2. Currently, a person who commits an OWI offense is required to submit to an assessment of the offender's use of an intoxicant. If the assessing facility determines that the offender needs treatment, it submits a report of the assessment and driver safety plan to the offender, the county agency involved in alcohol treatment, and the Department of Transportation (DOT). The driver safety plan may require treatment for the offender's misuse of intoxicants or controlled substances and attendance at a traffic safety school. This bill requires the driver safety plan to include treatment for the offender's misuse of intoxicants or controlled substances or attendance at a traffic safety school, or both, if the offender has more than one OWI offense.

3. Under current law, if a person who commits an OWI offense, including a refusal to submit to a test to determine his or her blood alcohol concentration (BAC), has one or more previous OWI offenses, the court may order that the vehicle used during the offense be immobilized or that the offender's operating privilege be limited to driving a vehicle equipped with an ignition interlock device. This bill removes the option of immobilization of the motor vehicle. Instead, the bill allows the court, as part of the penalty for a first OWI offense in which the offender had a BAC of 0.12 or more, to restrict the offender's operating privilege to driving a vehicle equipped with an ignition interlock device. The bill also requires the court to restrict the offender's operating privilege to driving a vehicle equipped with an ignition interlock device if the person has one or more previous OWI offenses.

4. Current law requires the DOT to tabulate and analyze all accident reports and not less than annually publish statistical information about the number and circumstances of traffic accidents. This bill requires DOT to publish that information at least monthly and requires that the information include the number of accidents in which the consumption of intoxicants or controlled substances were contributing factors and the amount of intoxicants or controlled substances that were in the blood of the drivers involved in those accidents.

5. The bill changes the operating privilege restrictions and monetary and imprisonment penalties for OWI offenses as follows:

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	<i>Current law</i>	<i>Proposed</i>
First offense	<p>Forfeiture of: \$150-\$300</p> <p>No imprisonment</p> <p>6- to 9-month license revocation</p>	<p>If BAC is less than 0.12: forfeiture of \$500-\$2,500</p> <p>If BAC is greater than or equal to 0.12: fine of \$500-\$2,500</p> <p>If BAC is less than 0.12: no imprisonment</p> <p>If BAC is greater than or equal to 0.12: imprisonment of 5 days to 6 months</p> <p>12- to 18-month license revocation</p>
Second offense	<p>Fine of: \$350-\$1,100</p> <p>Imprisonment of: 5 days to 6 months</p> <p>12- to 18-month license revocation</p>	<p>\$700-\$2,500</p> <p>15 days to 9 months</p> <p>2- to 3-year license revocation</p>
Third offense	<p>Fine of: \$600-\$2,000</p> <p>Imprisonment of: 30 days to 1 year</p> <p>2- to 3-year license revocation</p>	<p>\$1,000-\$2,500</p> <p>60 days to 1 year</p> <p>3- to 4-year license revocation</p>
Fourth offense	<p>Fine of: \$600-\$2,000</p> <p>Imprisonment of: 60 days to 1 year</p> <p>2- to 3-year license revocation</p>	<p>\$1,500-\$10,000</p> <p>1 year to 3-1/2 years</p> <p>3- to 4-year license revocation</p>
Fifth offense	<p>Fine of: \$600-\$10,000</p> <p>Imprisonment of: 6 months to 6 years</p> <p>2- to 3-year license revocation</p>	<p>\$2,000-\$10,000</p> <p>2 to 6 years</p> <p>3- to 4-year license revocation</p>

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	<i>Current law</i>	<i>Proposed</i>
Sixth offense	(Same as fifth offense)	\$2,500-\$25,000 3 to 10 years 3- to 4-year license revocation
Seventh-ninth offense	Fine of: not greater than \$25,000 Imprisonment of: not greater than 10 years 2- to 3-year license revocation	\$3,000-\$25,000 4 to 12-1/2 years 3- to 4-year license revocation
Tenth or more offenses	Fine of: not greater than \$25,000 Imprisonment of: not greater than 12-1/2 years 2- to 3-year license revocation	\$3,500-\$50,000 5 to 15 years 3- to 4-year license revocation

Under the bill, each time DOT receives a record of conviction from a court showing that a person has been convicted of OWI, DOT must publish a notice in the official newspaper of the county where the conviction occurred or the person resides containing the person’s name, age, and last-known residence address and the person’s total number of OWI convictions.

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.** 85.54 of the statutes is created to read:
 2 **85.54 Intoxicated driver deterrence.** (1) The department shall make
 3 efforts to deter the intoxicated operation of motor vehicles in this state. The
 4 department’s efforts may include any program designed to provide high visibility of

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1 law enforcement on those highways where the department determines that drivers
2 are most likely to operate motor vehicles while intoxicated.

3 (2) No later than the end of the 2nd month after receiving a record of conviction
4 showing that a person has been convicted under s. 346.63 (1) or a local ordinance in
5 conformity with s. 346.63 (1), the department shall cause a class 1 notice, under ch.
6 985, to be published in a county where the conviction occurred or the person resides.
7 This notice shall contain the person's name, age, and last-known residence address
8 and the total number of times the person has been convicted under s. 346.63 (1) or
9 a local ordinance in conformity with s. 346.63 (1).

10 **SECTION 2.** 343.10 (5) (a) 3. of the statutes is amended to read:

11 343.10 (5) (a) 3. ~~If the applicant has 2 or more prior convictions, suspensions,~~
12 ~~or revocations, as counted under s. 343.307 (1), the~~ The occupational license of the
13 applicant shall restrict the applicant's operation under the occupational license to
14 vehicles that are equipped with a functioning ignition interlock device if the court
15 has ordered under s. 343.301 (1) (a) 1. ~~or 2.~~ that the person's operating privilege for
16 Class D vehicles be restricted to operating vehicles that are equipped with an
17 ignition interlock device or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the
18 motor vehicle owned by the person and used in the violation or improper refusal be
19 equipped with an ignition interlock device. A person to whom a restriction under this
20 subdivision applies violates that restriction if he or she requests or permits another
21 to blow into an ignition interlock device or to start a motor vehicle equipped with an
22 ignition interlock device for the purpose of providing the person an operable motor
23 vehicle without the necessity of first submitting a sample of his or her breath to
24 analysis by the ignition interlock device. If the occupational license restricts the
25 applicant's operation to a vehicle that is equipped with an ignition interlock device,

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1 the applicant shall be liable for the reasonable costs of equipping the vehicle with the
2 ignition interlock device.

3 **SECTION 3.** 343.30 (1q) (b) 2. of the statutes is amended to read:

4 343.30 (1q) (b) 2. Except as provided in subd. 3., 4. or 4m., for the first
5 conviction, the court shall revoke the person's operating privilege for not less than
6 ~~6 months~~ one year nor more than ~~9~~ 18 months. The person is eligible for an
7 occupational license under s. 343.10 at any time.

8 **SECTION 4.** 343.30 (1q) (b) 3. of the statutes is amended to read:

9 343.30 (1q) (b) 3. Except as provided in subd. 4m., if the number of convictions
10 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
11 convictions, suspensions, and revocations counted under s. 343.307 (1) within a
12 10-year period, equals 2, the court shall revoke the person's operating privilege for
13 not less than ~~one year~~ 2 years nor more than ~~18 months~~ 3 years. After the first 60
14 days of the revocation period or, if the total number of convictions, suspensions, and
15 revocations counted under this subdivision within any 5-year period equals 2 or
16 more, after one year of the revocation period has elapsed, the person is eligible for
17 an occupational license under s. 343.10 if he or she has completed the assessment and
18 is complying with the driver safety plan ordered under par. (c).

19 **SECTION 5.** 343.30 (1q) (b) 4. of the statutes is amended to read:

20 343.30 (1q) (b) 4. Except as provided in subd. 4m., if the number of convictions
21 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
22 convictions, suspensions, and revocations counted under s. 343.307 (1), equals 3 or
23 more, the court shall revoke the person's operating privilege for not less than ~~2~~ 3
24 years nor more than ~~3~~ 4 years. After the first 90 days of the revocation period or, if
25 the total number of convictions, suspensions, and revocations counted under this

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1 subdivision within any 5-year period equals 2 or more, after one year of the
2 revocation period has elapsed, the person is eligible for an occupational license under
3 s. 343.10 if he or she has completed the assessment and is complying with the driver
4 safety plan ordered under par. (c).

5 **SECTION 6.** 343.30 (1q) (d) of the statutes is amended to read:

6 343.30 (1q) (d) The assessment report shall order compliance with a driver
7 safety plan. The report shall inform the person of the fee provisions under s. 46.03
8 (18) (f). The driver safety plan may include a component that makes the person
9 aware of the effect of his or her offense on a victim and a victim's family. The driver
10 safety plan may include treatment for the person's misuse, abuse, or dependence on
11 alcohol, controlled substances, or controlled substance analogs, or attendance at a
12 school under s. 345.60, or both. If the person has a total of one or more prior
13 convictions, suspensions, or revocations counted under s. 343.307 (1), the driver
14 safety plan shall include treatment for the person's misuse, abuse, or dependence on
15 alcohol, controlled substances, or controlled substance analogs, or attendance at a
16 school under s. 345.60, or both. If the plan requires inpatient treatment, the
17 treatment shall not exceed 30 days. A driver safety plan under this paragraph shall
18 include a termination date consistent with the plan which shall not extend beyond
19 one year. The county department under s. 51.42 shall assure notification of the
20 department of transportation and the person of the person's compliance or
21 noncompliance with assessment and with treatment. The school under s. 345.60
22 shall notify the department, the county department under s. 51.42 and the person
23 of the person's compliance or noncompliance with the requirements of the school.
24 Nonpayment of the assessment fee or, if the person has the ability to pay,
25 nonpayment of the driver safety plan fee is noncompliance with the court order. If

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1 the department is notified of any noncompliance, other than for nonpayment of the
2 assessment fee or driver safety plan fee, it shall revoke the person's operating
3 privilege until the county department under s. 51.42 or the school under s. 345.60
4 notifies the department that the person is in compliance with assessment or the
5 driver safety plan. If the department is notified that a person has not paid the
6 assessment fee, or that a person with the ability to pay has not paid the driver safety
7 plan fee, the department shall suspend the person's operating privilege for a period
8 of 2 years or until it receives notice that the person has paid the fee, whichever occurs
9 first. The department shall notify the person of the suspension or revocation, the
10 reason for the suspension or revocation and the person's right to a review. A person
11 may request a review of a revocation based upon failure to comply with a driver safety
12 plan within 10 days of notification. The review shall be handled by the subunit of
13 the department of transportation designated by the secretary. The issues at the
14 review are limited to whether the driver safety plan, if challenged, is appropriate and
15 whether the person is in compliance with the assessment order or the driver safety
16 plan. The review shall be conducted within 10 days after a request is received. If the
17 driver safety plan is determined to be inappropriate, the department shall order a
18 reassessment and if the person is otherwise eligible, the department shall reinstate
19 the person's operating privilege. If the person is determined to be in compliance with
20 the assessment or driver safety plan, and if the person is otherwise eligible, the
21 department shall reinstate the person's operating privilege. If there is no decision
22 within the 10-day period, the department shall issue an order reinstating the
23 person's operating privilege until the review is completed, unless the delay is at the
24 request of the person seeking the review.

25 **SECTION 7.** 343.301 (title) of the statutes is amended to read:

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1 **343.301** (title) **Installation of ignition interlock device or**
2 **immobilization of a motor vehicle.**

3 **SECTION 8.** 343.301 (1) (title) of the statutes is repealed.

4 **SECTION 9.** 343.301 (1) (a) 1. of the statutes is renumbered 343.301 (1) (a) and
5 amended to read:

6 343.301 (1) (a) ~~Except as provided in subd. 2., if~~ If a person improperly refuses
7 to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25,
8 and the person has ~~a total of one or more prior convictions, suspensions, or~~
9 ~~revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's~~
10 ~~lifetime and other convictions, suspensions, and revocations counted under s.~~
11 343.307 (1) an alcohol concentration of less than 0.12 at the time of the offense, the
12 court may order that the person's operating privilege for the operation of "Class D"
13 vehicles be restricted to operating "Class D" vehicles that are equipped with an
14 ignition interlock device.

15 **SECTION 10.** 343.301 (1) (a) 2. of the statutes is renumbered 343.301 (1) (bm)
16 and amended to read:

17 343.301 (1) (bm) ~~If~~ Except as provided in par. (a), if a person improperly refuses
18 to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25,
19 ~~and the person has a total of 2 or more convictions, suspensions, or revocations,~~
20 ~~counted under s. 343.307 (1) within any 5-year period,~~ the court shall order that the
21 person's operating privilege for the operation of "Class D" vehicles be restricted to
22 operating vehicles that are equipped with an ignition interlock device and shall order
23 that each motor vehicle for which the person's name appears on the vehicle's
24 certificate of title or registration be equipped with an ignition interlock device. If
25 equipping each motor vehicle with an ignition interlock device under this subdivision

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1 paragraph would cause an undue financial hardship, the court may order that one
2 or more motor vehicles subject to this subdivision paragraph not be equipped with
3 an ignition interlock device. This subdivision paragraph does not apply if the court
4 enters an order under sub. (2) (a) 2. or, if the person has 2 or more prior convictions,
5 suspensions, or revocations for purposes of this subdivision paragraph, to the motor
6 vehicle owned by the person and used in the violation or refusal if the court orders
7 the vehicle to be seized and forfeited under s. 346.65 (6).

8 **SECTION 11.** 343.301 (1) (b) 1. and 2. of the statutes are consolidated,
9 renumbered 343.301 (2m) and amended to read:

10 343.301 **(2m)** The court ~~may~~ shall restrict the operating privilege restriction
11 under ~~par. (a) 1.~~ sub. (1) for a period of not less than one year nor more than the
12 maximum operating privilege revocation period permitted for the refusal or
13 violation. ~~2. The court shall order the operating privilege restriction and the~~
14 ~~installation of an ignition interlock device under par. (a) 2. for a period of not less than~~
15 ~~one year nor more than the maximum operating privilege revocation period~~
16 ~~permitted for the refusal or violation, beginning one year after the operating~~
17 ~~privilege revocation period begins~~ on the date that the department issues any license
18 granted under this chapter. The court may order the installation of an ignition
19 interlock device under sub. (1) immediately upon issuing an order under sub. (1).

20 **SECTION 12.** 343.301 (1) (c) of the statutes is renumbered 343.301 (3) and
21 amended to read:

22 343.301 **(3)** If the court enters an order under ~~par. (a)~~ sub. (1), the person shall
23 be liable for the reasonable cost of equipping and maintaining any ignition interlock
24 device installed on his or her motor vehicle.

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1 **SECTION 13.** 343.301 (1) (d) of the statutes is renumbered 343.301 (4) and
2 amended to read:

3 343.301 (4) A person to whom an order under ~~par. (a)~~ sub. (1) applies violates
4 that order if he or she requests or permits another to blow into an ignition interlock
5 device or to start a motor vehicle equipped with an ignition interlock device for the
6 purpose of providing the person an operable motor vehicle without the necessity of
7 first submitting a sample of his or her breath to analysis by the ignition interlock
8 device.

9 **SECTION 14.** 343.301 (2) of the statutes is repealed.

10 **SECTION 15.** 343.305 (10) (d) of the statutes is amended to read:

11 343.305 (10) (d) The assessment report shall order compliance with a driver
12 safety plan. The report shall inform the person of the fee provisions under s. 46.03
13 (18) (f). The driver safety plan may include a component that makes the person
14 aware of the effect of his or her offense on a victim and a victim's family. The driver
15 safety plan may include treatment for the person's misuse, abuse, or dependence on
16 alcohol, controlled substances, or controlled substance analogs, or attendance at a
17 school under s. 345.60, or both. If the person has a total of one or more prior
18 convictions, suspensions, or revocations counted under s. 343.307 (1), the driver
19 safety plan shall include treatment for the person's misuse, abuse, or dependence on
20 alcohol, controlled substances, or controlled substance analogs, or attendance at a
21 school under s. 345.60, or both. If the plan requires inpatient treatment, the
22 treatment shall not exceed 30 days. A driver safety plan under this paragraph shall
23 include a termination date consistent with the plan which shall not extend beyond
24 one year. The county department under s. 51.42 shall assure notification of the
25 department of transportation and the person of the person's compliance or

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1 noncompliance with assessment and treatment. The school under s. 345.60 shall
2 notify the department, the county department under s. 51.42 and the person of the
3 person's compliance or noncompliance with the requirements of the school.
4 Nonpayment of the assessment fee or, if the person has the ability to pay,
5 nonpayment of the driver safety plan fee is noncompliance with the court order. If
6 the department is notified of noncompliance, other than for nonpayment of the
7 assessment fee or driver safety plan fee, it shall revoke the person's operating
8 privilege until the county department under s. 51.42 or the school under s. 345.60
9 notifies the department that the person is in compliance with assessment or the
10 driver safety plan. If the department is notified that a person has not paid the
11 assessment fee, or that a person with the ability to pay has not paid the driver safety
12 plan fee, the department shall suspend the person's operating privilege for a period
13 of 2 years or until it receives notice that the person has paid the fee, whichever occurs
14 first. The department shall notify the person of the suspension or revocation, the
15 reason for the suspension or revocation and the person's right to a review. A person
16 may request a review of a revocation based upon failure to comply with a driver safety
17 plan within 10 days of notification. The review shall be handled by the subunit of
18 the department of transportation designated by the secretary. The issues at the
19 review are limited to whether the driver safety plan, if challenged, is appropriate and
20 whether the person is in compliance with the assessment order or the driver safety
21 plan. The review shall be conducted within 10 days after a request is received. If the
22 driver safety plan is determined to be inappropriate, the department shall order a
23 reassessment and if the person is otherwise eligible, the department shall reinstate
24 the person's operating privilege. If the person is determined to be in compliance with
25 the assessment or driver safety plan, and if the person is otherwise eligible, the

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1 department shall reinstate the person's operating privilege. If there is no decision
2 within the 10-day period, the department shall issue an order reinstating the
3 person's operating privilege until the review is completed, unless the delay is at the
4 request of the person seeking the review.

5 **SECTION 16.** 343.305 (10m) (a) of the statutes is amended to read:

6 343.305 (10m) (a) Except as provided in par. (b), if the ~~person whose~~ person's
7 operating privilege is revoked under sub. (10) ~~has one or more prior convictions,~~
8 ~~suspensions, or revocations, as counted under s. 343.307 (1),~~ the procedure under s.
9 343.301 shall be followed if the court enters an order regarding operating privilege
10 restriction ~~or enters an order regarding immobilization.~~ If the number of convictions
11 under ss. 940.09 (1) and 940.25 in the lifetime of the person whose operating privilege
12 is revoked under sub. (10), plus the total number of other convictions, suspensions,
13 and revocations counted under s. 343.307 (1), equals 2 or more, the procedure under
14 s. 346.65 (6) shall be followed if the court orders seizure and forfeiture of the motor
15 vehicle used in the improper refusal and owned by the person.

16 **SECTION 17.** 343.305 (10m) (b) of the statutes is amended to read:

17 343.305 (10m) (b) If the person whose operating privilege is revoked under sub.
18 (10) has 2 or more convictions, suspensions, or revocations, as counted under s.
19 343.307 (1) within any 5-year period, the procedure under s. 343.301 shall be
20 followed if the court enters an order regarding operating privilege restriction and the
21 installation of an ignition interlock device ~~or enters an order regarding~~
22 ~~immobilization.~~ If the number of convictions under ss. 940.09 (1) and 940.25 in the
23 lifetime of the person whose operating privilege is revoked under sub. (10), plus the
24 total number of other convictions, suspensions, and revocations counted under s.
25 343.307 (1), equals 2 or more, the procedure under s. 346.65 (6) shall be followed if

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1 the court orders seizure and forfeiture of the motor vehicle used in the improper
2 refusal and owned by the person.

3 **SECTION 18.** 346.65 (2) (am) 1. of the statutes is amended to read:

4 346.65 (2) (am) 1. ~~Shall~~ If the person had an alcohol concentration of less than
5 0.12, shall forfeit not less than ~~\$150~~ \$500 nor more than ~~\$300~~ \$2,500, except as
6 provided in subds. 2. to ~~5.~~ 7. and par. (f).

7 **SECTION 19.** 346.65 (2) (am) 1m. of the statutes is created to read:

8 346.65 (2) (am) 1m. If the person had an alcohol concentration of 0.12 or more,
9 shall be fined not less than \$500 nor more than \$2,500 and imprisoned for not less
10 than 5 days nor more than 6 months, except as provided in subds. 2. to 7. and par.
11 (f).

12 **SECTION 20.** 346.65 (2) (am) 2. of the statutes is amended to read:

13 346.65 (2) (am) 2. Except as provided in pars. (bm) and (f), shall be fined not
14 less than ~~\$350~~ \$700 nor more than ~~\$1,100~~ \$2,500 and imprisoned for not less than
15 ~~5~~ 15 days nor more than ~~6~~ 9 months if the number of convictions under ss. 940.09 (1)
16 and 940.25 in the person's lifetime, plus the total number of suspensions,
17 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
18 period, equals 2, except that suspensions, revocations, or convictions arising out of
19 the same incident or occurrence shall be counted as one.

20 **SECTION 21.** 346.65 (2) (am) 3. of the statutes is amended to read:

21 346.65 (2) (am) 3. Except as provided in pars. (cm), (f), and (g), shall be fined
22 not less than ~~\$600~~ \$1000 nor more than ~~\$2,000~~ \$2,500 and imprisoned for not less
23 than ~~30~~ 60 days nor more than one year in the county jail if the number of convictions
24 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
25 suspensions, revocations, and other convictions counted under s. 343.307 (1), equals

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1 3, except that suspensions, revocations, or convictions arising out of the same
2 incident or occurrence shall be counted as one.

3 **SECTION 22.** 346.65 (2) (am) 4. of the statutes is amended to read:

4 346.65 (2) (am) 4. Except as provided in pars. (f) and (g), is guilty of a Class I
5 felony and shall be fined not less than ~~\$600 nor more than \$2,000~~ \$1,500 and
6 imprisoned for not less than ~~60 days nor more than one year in the county jail~~ if the
7 number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus
8 the total number of suspensions, revocations and other convictions counted under s.
9 343.307 (1), equals 4, except that suspensions, revocations or convictions arising out
10 of the same incident or occurrence shall be counted as one.

11 **SECTION 23.** 346.65 (2) (am) 5. of the statutes is amended to read:

12 346.65 (2) (am) 5. Except as provided in pars. (f) and (g), is guilty of a Class H
13 felony and shall be fined not less than ~~\$600~~ \$2,000 and imprisoned for not less than
14 ~~6 months~~ 2 years if the number of convictions under ss. 940.09 (1) and 940.25 in the
15 person's lifetime, plus the total number of suspensions, revocations and other
16 convictions counted under s. 343.307 (1), equals 5 ~~or 6~~, except that suspensions,
17 revocations or convictions arising out of the same incident or occurrence shall be
18 counted as one.

19 **SECTION 24.** 346.65 (2) (am) 5m. of the statutes is created to read:

20 346.65 (2) (am) 5m. Except as provided in pars. (f) and (g), is guilty of a Class
21 G felony and shall be fined not less than \$2,500 and imprisoned for not less than 3
22 years if the number of convictions under ss. 940.09 (1) and 940.25 in the person's
23 lifetime, plus the total number of suspensions, revocations, and other convictions
24 counted under s. 343.307 (1), equals 6, except that suspensions, revocations, or
25 convictions arising out of the same incident or occurrence shall be counted as one.

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1 **SECTION 25.** 346.65 (2) (am) 6. of the statutes is amended to read:

2 346.65 (2) (am) 6. Except as provided in par. (f), is guilty of a Class ~~G~~ F felony
3 and shall be fined not less than \$3,000 and imprisoned for not less than 4 years if the
4 number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus
5 the total number of suspensions, revocations, and other convictions counted under
6 s. 343.307 (1), equals 7, 8, or 9, except that suspensions, revocations, or convictions
7 arising out of the same incident or occurrence shall be counted as one.

8 **SECTION 26.** 346.65 (2) (am) 7. of the statutes is amended to read:

9 346.65 (2) (am) 7. Except as provided in par. (f), is guilty of a Class ~~F~~ E felony
10 and shall be fined not less than \$3,500 and imprisoned for not less than 5 years if the
11 number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus
12 the total number of suspensions, revocations, and other convictions counted under
13 s. 343.307 (1), equals 10 or more except that suspensions, revocations, or convictions
14 arising out of the same incident or occurrence shall be counted as one.

15 **SECTION 27.** 346.65 (6) (a) 1. of the statutes is amended to read:

16 346.65 (6) (a) 1. The court may order a law enforcement officer to seize the
17 motor vehicle used in the violation or improper refusal and owned by the person
18 whose operating privilege is revoked under s. 343.305 (10) or who committed a
19 violation of s. 346.63 (1) (a), (am), or (b) or (2) (a) 1., 2., or 3., 940.09 (1) (a), (am), (b),
20 (c), (cm), or (d), or 940.25 (1) (a), (am), (b), (c), (cm), or (d) if the person whose operating
21 privilege is revoked under s. 343.305 (10) or who is convicted of the violation has 2
22 or more prior suspensions, revocations, or convictions, counting convictions under ss.
23 940.09 (1) and 940.25 in the person's lifetime, plus other convictions, suspensions,
24 or revocations counted under s. 343.307 (1). The court may not order a motor vehicle
25 seized if the court enters an order under s. 343.301 to ~~immobilize the motor vehicle~~

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1 or equip the motor vehicle with an ignition interlock device or if seizure would result
2 in undue hardship or extreme inconvenience or would endanger the health and
3 safety of a person.

4 **SECTION 28.** 346.70 (3m) (b) of the statutes is amended to read:

5 346.70 (3m) (b) The department shall tabulate and may analyze all accident
6 reports and shall publish ~~annually~~ monthly or at more frequent intervals statistical
7 information ~~based thereon~~ as to the number and circumstances of traffic accidents.
8 The reports shall include a tabulation of the number of accidents in which the
9 consumption of intoxicants or other drugs were contributing factors to the accidents
10 and information as to the amounts of intoxicants or other drugs that were in the blood
11 of the drivers involved in the accidents.

12 **SECTION 29.** 347.417 (1) of the statutes is amended to read:

13 347.417 (1) No person may remove, disconnect, tamper with, or otherwise
14 circumvent the operation of any immobilization device installed in response to a
15 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. This
16 subsection does not apply to the removal of an immobilization device pursuant to a
17 court order or to necessary repairs to a malfunctioning immobilization device.

18 **SECTION 30.** 347.417 (2) of the statutes is amended to read:

19 347.417 (2) The department shall design a warning label which shall be affixed
20 by the owner of each immobilization device before the device is used to immobilize
21 any motor vehicle under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. The
22 label shall provide notice of the penalties for removing, disconnecting, tampering
23 with, or otherwise circumventing the operation of the immobilization device.

24 **SECTION 31.** 940.09 (1d) (a) 1. of the statutes is amended to read:

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1 940.09 (1d) (a) 1. Except as provided in subd. 2., if the person who committed
2 an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more prior convictions,~~
3 ~~suspensions, or revocations, counting convictions under sub. (1) and s. 940.25 in the~~
4 ~~person's lifetime, plus other convictions, suspensions, or revocations counted under~~
5 ~~s. 343.307 (1) had an alcohol concentration of less than 0.12 or more at the time of~~
6 ~~the offense~~, the procedure under s. 343.301 (1) (a) shall be followed if the court enters
7 an order regarding operating privilege restriction ~~or enters an order regarding~~
8 ~~immobilization.~~

9 **SECTION 32.** 940.09 (1d) (a) 2. of the statutes is amended to read:

10 940.09 (1d) (a) 2. Notwithstanding par. (b), if the person who committed an
11 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more convictions,~~
12 ~~suspensions, or revocations counted under s. 343.307 (1) within any 5-year period~~
13 ~~had an alcohol concentration of 0.12 or more at the time of the offense~~, the procedure
14 under s. 343.301 (1) (bm) shall be followed if the court enters an order regarding
15 operating privilege restriction and the installation of an ignition interlock device ~~or~~
16 ~~enters an order regarding immobilization.~~

17 **SECTION 33.** 940.25 (1d) (a) 1. of the statutes is amended to read:

18 940.25 (1d) (a) 1. Except as provided in subd. 2., if the person who committed
19 an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more prior convictions,~~
20 ~~suspensions, or revocations, counting convictions under sub. (1) and s. 940.09 (1) in~~
21 ~~the person's lifetime, plus other convictions, suspensions, or revocations counted~~
22 ~~under s. 343.307 (1) had an alcohol concentration of less than 0.12 or more at the time~~
23 ~~of the offense~~, the procedure under s. 343.301 (1) (a) shall be followed if the court
24 enters an order regarding operating privilege restriction ~~or enters an order~~
25 ~~regarding immobilization.~~

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1 **SECTION 34.** 940.25 (1d) (a) 2. of the statutes is amended to read:

2 940.25 **(1d)** (a) 2. Notwithstanding par. (b), if the person who committed an
3 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) ~~has 2 or more convictions,~~
4 ~~suspensions, or revocations counted under s. 343.307 (1) within any 5-year period~~
5 had an alcohol concentration of 0.12 or more at the time of the offense, the procedure
6 under s. 343.301 (1) (bm) shall be followed if the court enters an order regarding
7 operating privilege restriction and the installation of an ignition interlock device ~~or~~
8 ~~enters an order regarding immobilization.~~

9 **SECTION 35.** 973.05 (3) (a) of the statutes is amended to read:

10 973.05 **(3)** (a) In lieu of part or all of a fine imposed by a court, the court may
11 stay the execution of part or all of the sentence and provide that the defendant
12 perform community service work under pars. (b) and (c). If the defendant's fine was
13 imposed under s. 346.65 (2) (am) 1m. to 7., (f), and (g), the court may stay the
14 execution of part or all of the sentence and shall provide that the defendant perform
15 community service work under pars. (b) and (c). Any applicable driver improvement
16 surcharge under s. 346.655 or any domestic abuse surcharge under s. 973.055 shall
17 be imposed under ch. 814 regardless of whether part or all of the sentence has been
18 stayed. If the defendant fails to comply with the community service order, the court
19 shall order the defendant brought before the court for imposition of sentence. If the
20 defendant complies with the community service order, he or she has satisfied that
21 portion of the sentence.

22 **SECTION 36. Initial applicability.**

23 (1) This act first applies to violations committed on the effective date of this
24 subsection but does not preclude the counting of other convictions, suspensions, or

