



## 2009 ASSEMBLY BILL 17

February 3, 2009 - Introduced by Representatives STASKUNAS, KAUFERT, SMITH, JORGENSEN, SHERMAN, ZIEGELBAUER, DAVIS, HEBL, BERCEAU, A. OTT, CULLEN, TOWNSEND, ROTH, SPANBAUER, RICHARDS, SHILLING, SOLETSKI, BARCA, GUNDERSON and TURNER, cosponsored by Senators PLALE, LEIBHAM, LEHMAN, CARPENTER, DARLING, HARSDFORF, A. LASEE and SCHULTZ. Referred to Committee on Public Safety.

1     **AN ACT** *to repeal* 342.12 (4) (c) 1. b., 343.301 (1) (title), 343.301 (2), 346.65 (6),  
2           940.09 (1d) (b) and 940.25 (1d) (b); *to renumber and amend* 343.301 (1) (c),  
3           343.301 (1) (d), 940.09 (1d) (a) 1., 940.09 (1d) (a) 2., 940.25 (1d) (a) 1. and 940.25  
4           (1d) (a) 2.; *to consolidate, renumber and amend* 343.301 (1) (a) 1. and 2. and  
5           343.301 (1) (b) 1. and 2.; *to amend* 340.01 (46m) (c), 342.12 (4) (c) 1. c., 342.13  
6           (1), 343.10 (2) (a) (intro.), 343.10 (5) (a) 3., 343.301 (title), 343.305 (10m) (title),  
7           343.305 (10m) (a), 343.305 (10m) (b), 347.413 (title) and (1), 347.417 (1),  
8           347.417 (2) and 347.50 (1s); *to repeal and recreate* 343.10 (2) (a) (intro.); and  
9           **to create** 20.395 (5) (hs), 343.10 (2) (f), 343.301 (3) (b), 343.301 (5) and 347.50  
10          (1t) of the statutes; **relating to:** requiring ignition interlock devices for certain  
11          motor vehicle violations, granting rule-making authority, making an  
12          appropriation, and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if a person is convicted of a second offense relating to operating a motor vehicle with a prohibited alcohol concentration (in most cases, a

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concentration of 0.8 or higher) or under the influence of an intoxicant (OWI-related offense), a judge may immobilize the person's motor vehicles or require that the person's operating privilege be limited to operating vehicles that are equipped with an ignition interlock device. If a person is convicted of a third or subsequent OWI-related offense within five years, a judge must limit the person's operating privilege to operating vehicles that are equipped with an ignition interlock device unless the judge orders that the person's motor vehicles be immobilized or seized and sold at auction.

Current law requires the person to pay for the costs of installing and monitoring the ignition interlock device on every motor vehicle he or she owns. If the judge determines that this would work a hardship to the person, current law allows the judge to require an ignition interlock device on some, but not all, of the person's motor vehicles.

Under current law, no one may remove, disconnect, tamper with, or otherwise circumvent the operation of an ignition interlock device. A person who does so may be required to forfeit not less than \$150 nor more than \$600 for the first offense and, for a second or subsequent offense within five years, may be fined not less than \$300 nor more than \$1,000, or imprisoned for not more than six months, or both.

This bill eliminates the option of ordering the person's vehicle to be immobilized or seized and sold at auction. The bill makes it mandatory for a judge to require that the person's operating privilege be limited, for a minimum of one year, to operating vehicles that are equipped with an ignition interlock device if either of the following are true: 1) the person commits a first OWI-related offense with an alcohol concentration of 0.15 or more; or 2) the person commits a second OWI-related offense.

Under the bill, the judge must order that every motor vehicle the person owns be equipped with an ignition interlock device. If the judge determines that the person's income is at or below 150 percent of the federal poverty level, the person is required to pay a \$50 surcharge upon the installation of the first ignition interlock device and, for each ignition interlock device, half of the installation cost, and \$1 per day toward the cost of monitoring the ignition interlock device. A person whose income is above 150 percent of the federal poverty level is required to pay the surcharge and assume the full cost of installing and monitoring each ignition interlock device. Under the bill, if a person who is ordered to do so fails to pay the surcharge or fails to have an ignition interlock device installed, he or she may not obtain an occupational license.

Under the bill, a court may order a person who removes, disconnects, tampers with, or otherwise circumvents the operation of an ignition interlock device to be imprisoned for not more than six months for a first offense. The bill also subjects a person who fails to have an ignition interlock device installed as ordered by the court to the same penalties as a person who removes, disconnects, tampers with, or otherwise circumvents the operation of an ignition interlock device.

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

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

1           **SECTION 1.** 20.395 (5) (hs) of the statutes is created to read:

2           20.395 (5) (hs) *Ignition interlock device administration and enforcement.* All  
3           moneys received under s. 343.301 (5) for expenditures related to administering and  
4           enforcing the ignition interlock device program under s. 343.301.

5           **SECTION 2.** 340.01 (46m) (c) of the statutes is amended to read:

6           340.01 (46m) (c) If the person is subject to an order under s. 343.301 or if the  
7           person has 3 or more prior convictions, suspensions or revocations, as counted under  
8           s. 343.307 (1), an alcohol concentration of more than 0.02.

9           **SECTION 3.** 342.12 (4) (c) 1. b. of the statutes is repealed.

10          **SECTION 4.** 342.12 (4) (c) 1. c. of the statutes is amended to read:

11          342.12 (4) (c) 1. c. The person requesting the issuance of the certificate of title  
12          files an affidavit with the department attesting that the ~~conditions~~ condition under  
13          subd. 1. a. ~~and b.~~ is met.

14          **SECTION 5.** 342.13 (1) of the statutes is amended to read:

15          342.13 (1) If a certificate of title is lost, stolen, mutilated, or destroyed, or  
16          becomes illegible, the owner or legal representative of the owner named in the  
17          certificate, as shown by the records of the department, shall promptly make  
18          application for and may obtain a replacement upon furnishing information  
19          satisfactory to the department. The replacement certificate of title shall contain a  
20          notation, in a form determined by the department, identifying the certificate as a  
21          replacement certificate that may be subject to the rights of a person under the

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1 original certificate. ~~If applicable under s. 346.65 (6), the replacement certificate of~~  
2 ~~title shall include the notation “Per section 346.65 (6) of the Wisconsin statutes,~~  
3 ~~ownership of this motor vehicle may not be transferred without prior court approval”.~~

4 **SECTION 6.** 343.10 (2) (a) (intro.) of the statutes is amended to read:

5 343.10 (2) (a) (intro.) Except as provided in pars. (b) to (e) (f), a person is eligible  
6 for an occupational license if the following conditions are satisfied:

7 **SECTION 7.** 343.10 (2) (a) (intro.) of the statutes, as affected by 2007 Wisconsin  
8 Acts 20 and 2009 Wisconsin Act .... (this act), is repealed and recreated to read:

9 343.10 (2) (a) (intro.) Except as provided in pars. (b) to (f), and subject to s.  
10 343.165 (5), a person is eligible for an occupational license if the following conditions  
11 are satisfied:

12 **SECTION 8.** 343.10 (2) (f) of the statutes is created to read:

13 343.10 (2) (f) If the court orders under s. 343.301 (1) that the person’s operating  
14 privilege for the operation of “Class D” vehicles be restricted to operating vehicles  
15 that are equipped with an ignition interlock device, no occupational license may be  
16 granted until the person pays the surcharge under s. 343.301 (5) and submits proof  
17 that an ignition interlock device has been installed in each motor vehicle for which  
18 the person’s name appears on the vehicle’s certificate of title or registration.

19 **SECTION 9.** 343.10 (5) (a) 3. of the statutes is amended to read:

20 343.10 (5) (a) 3. ~~If the applicant has 2 or more prior convictions, suspensions,~~  
21 ~~or revocations, as counted under s. 343.307 (1), the The occupational license of the~~  
22 ~~applicant shall restrict the applicant’s operation under the occupational license to~~  
23 ~~vehicles that are equipped with a functioning ignition interlock device if the court~~  
24 ~~has ordered under s. 343.301 (1) (a) 1. or 2. that the person’s operating privilege for~~  
25 ~~Class D vehicles be restricted to operating vehicles that are equipped with an~~

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1 ignition interlock device or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the  
2 motor vehicle owned by the person and used in the violation or improper refusal be  
3 equipped with an ignition interlock device. A person to whom a restriction under this  
4 subdivision applies violates that restriction if he or she removes or disconnects an  
5 ignition interlock device, requests or permits another to blow into an ignition  
6 interlock device or to start a motor vehicle equipped with an ignition interlock device  
7 for the purpose of providing the person an operable motor vehicle without the  
8 necessity of first submitting a sample of his or her breath to analysis by the ignition  
9 interlock device. If, or otherwise tampers with or circumvents the operation of the  
10 ignition interlock device. Except as provided in s. 343.301 (3) (b), if the occupational  
11 license restricts the applicant's operation to a vehicle that is equipped with an  
12 ignition interlock device, the applicant shall be liable for the reasonable costs of  
13 equipping the vehicle with the ignition interlock device.

14 **SECTION 10.** 343.301 (title) of the statutes is amended to read:

15 **343.301** (title) **Installation of ignition interlock device or**  
16 **immobilization of a motor vehicle.**

17 **SECTION 11.** 343.301 (1) (title) of the statutes is repealed.

18 **SECTION 12.** 343.301 (1) (a) 1. and 2. of the statutes are consolidated,  
19 renumbered 343.301 (1) and amended to read:

20 343.301 (1) ~~Except as provided in subd. 2., if~~ If a person improperly refuses to  
21 take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and  
22 the person either had an alcohol concentration of 0.15 or more at the time of the  
23 offense or has a total of one or more prior convictions, suspensions, or revocations,  
24 counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and  
25 other convictions, suspensions, and revocations counted under s. 343.307 (1), the

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1 court may order that the person's operating privilege for the operation of "Class D"  
2 vehicles be restricted to operating "Class D" vehicles that are equipped with an  
3 ignition interlock device. ~~2. If a person improperly refuses to take a test under s.~~  
4 ~~343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total~~  
5 ~~of 2 or more convictions, suspensions, or revocations, counted under s. 343.307 (1)~~  
6 ~~within any 5-year period, the court shall order that the person's operating privilege~~  
7 ~~for the operation of "Class D" vehicles be restricted to operating vehicles that are~~  
8 ~~equipped with an ignition interlock device and shall order that each motor vehicle~~  
9 ~~for which the person's name appears on the vehicle's certificate of title or registration~~  
10 ~~be equipped with an ignition interlock device. If equipping each motor vehicle with~~  
11 ~~an ignition interlock device under this subdivision would cause an undue financial~~  
12 ~~hardship, the court may order that one or more motor vehicles subject to this~~  
13 ~~subdivision not be equipped with an ignition interlock device. This subdivision does~~  
14 ~~not apply if the court enters an order under sub. (2) (a) 2. or, if the person has 2 or~~  
15 ~~more prior convictions, suspensions, or revocations for purposes of this subdivision,~~  
16 ~~to the motor vehicle owned by the person and used in the violation or refusal if the~~  
17 ~~court orders the vehicle to be seized and forfeited under s. 346.65 (6).~~

18 **SECTION 13.** 343.301 (1) (b) 1. and 2. of the statutes are consolidated,  
19 renumbered 343.301 (2m) and amended to read:

20 343.301 (2m) The court may shall restrict the operating privilege restriction  
21 under par. (a) 1. sub. (1) for a period of not less than one year nor more than the  
22 maximum operating privilege revocation period permitted for the refusal or  
23 violation. ~~2. The court shall order the operating privilege restriction and the~~  
24 ~~installation of an ignition interlock device under par. (a) 2. for a period of not less than~~  
25 ~~one year nor more than the maximum operating privilege revocation period~~

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1 ~~permitted for the refusal or violation, beginning one year after the operating~~  
2 ~~privilege revocation period begins on the date the department issues any license~~  
3 ~~granted under this chapter. The court may order the installation of an ignition~~  
4 ~~interlock device under sub. (1) immediately upon issuing an order under sub. (1).~~

5 **SECTION 14.** 343.301 (1) (c) of the statutes is renumbered 343.301 (3) (a) and  
6 amended to read:

7 343.301 (3) (a) ~~If Except as provided in par. (b), if~~ the court enters an order  
8 under ~~par. (a) sub. (1)~~, the person shall be liable for the reasonable cost of equipping  
9 and maintaining any ignition interlock device installed on his or her motor vehicle.

10 **SECTION 15.** 343.301 (1) (d) of the statutes is renumbered 343.301 (4) and  
11 amended to read:

12 343.301 (4) A person to whom an order under ~~par. (a) sub. (1)~~ applies violates  
13 that order if he or she ~~fails to have an ignition interlock device installed as ordered,~~  
14 ~~removes or disconnects an ignition interlock device,~~ requests or permits another to  
15 blow into an ignition interlock device or to start a motor vehicle equipped with an  
16 ignition interlock device for the purpose of providing the person an operable motor  
17 vehicle without the necessity of first submitting a sample of his or her breath to  
18 analysis by the ignition interlock device, ~~or otherwise tampers with or circumvents~~  
19 ~~the operation of the ignition interlock device.~~

20 **SECTION 16.** 343.301 (2) of the statutes is repealed.

21 **SECTION 17.** 343.301 (3) (b) of the statutes is created to read:

22 343.301 (3) (b) If the court finds that the person who is subject to an order under  
23 sub. (1) has a household income that is at or below 150 percent of the nonfarm federal  
24 poverty line for the continental United States, as defined by the federal department  
25 of labor under 42 USC 9902 (2), the court shall limit the person's liability under par.

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1 (a) to one-half of the cost of equipping each motor vehicle with an ignition interlock  
2 device and \$1 per day per vehicle in which an ignition interlock device is installed.

3 **SECTION 18.** 343.301 (5) of the statutes is created to read:

4 343.301 (5) In addition to the the costs under sub. (3), the person shall pay to  
5 the department a surcharge of \$50 upon the installation of the first ignition interlock  
6 device.

7 **SECTION 19.** 343.305 (10m) (title) of the statutes is amended to read:

8 343.305 (10m) (title) REFUSALS; SEIZURE, IMMOBILIZATION OR IGNITION INTERLOCK  
9 OF A MOTOR VEHICLE.

10 **SECTION 20.** 343.305 (10m) (a) of the statutes is amended to read:

11 343.305 (10m) (a) Except as provided in par. (b), if the person whose operating  
12 privilege is revoked under sub. (10) has one or more prior convictions, suspensions,  
13 or revocations, as counted under s. 343.307 (1), the procedure under s. 343.301 shall  
14 be followed if the court enters an order regarding operating privilege restriction or  
15 enters an order regarding immobilization. ~~If the number of convictions under ss.~~  
16 ~~940.09 (1) and 940.25 in the lifetime of the person whose operating privilege is~~  
17 ~~revoked under sub. (10), plus the total number of other convictions, suspensions, and~~  
18 ~~revocations counted under s. 343.307 (1), equals 2 or more, the procedure under s.~~  
19 ~~346.65 (6) shall be followed if the court orders seizure and forfeiture of the motor~~  
20 ~~vehicle used in the improper refusal and owned by the person.~~

21 **SECTION 21.** 343.305 (10m) (b) of the statutes is amended to read:

22 343.305 (10m) (b) If the person whose operating privilege is revoked under sub.  
23 (10) has 2 or more convictions, suspensions, or revocations, as counted under s.  
24 343.307 (1) ~~within any 5-year period~~, the procedure under s. 343.301 shall be  
25 followed if the court enters an order regarding operating privilege restriction and the



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1 installation of an ignition interlock device ~~or enters an order regarding~~  
2 immobilization. ~~If the number of convictions under ss. 940.09 (1) and 940.25 in the~~  
3 ~~lifetime of the person whose operating privilege is revoked under sub. (10), plus the~~  
4 ~~total number of other convictions, suspensions, and revocations counted under s.~~  
5 ~~343.307 (1), equals 2 or more, the procedure under s. 346.65 (6) shall be followed if~~  
6 ~~the court orders seizure and forfeiture of the motor vehicle used in the improper~~  
7 ~~refusal and owned by the person.~~

8 **SECTION 22.** 346.65 (6) of the statutes is repealed.

9 **SECTION 23.** 347.413 (title) and (1) of the statutes are amended to read:

10 **347.413 (title) Ignition interlock device tampering; failure to install.**

11 (1) No person may remove, disconnect, tamper with, or otherwise circumvent the  
12 operation of an ignition interlock device installed in response to the court order under  
13 s. 346.65 (6), 1999 stats., or s. 343.301 (1), or fail to have the ignition interlock device  
14 installed as ordered by the court. This subsection does not apply to the removal of  
15 an ignition interlock device upon the expiration of the order requiring the motor  
16 vehicle to be so equipped or to necessary repairs to a malfunctioning ignition  
17 interlock device by a person authorized by the department.

18 **SECTION 24.** 347.417 (1) of the statutes is amended to read:

19 347.417 (1) No person may remove, disconnect, tamper with, or otherwise  
20 circumvent the operation of any immobilization device installed in response to a  
21 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. This  
22 subsection does not apply to the removal of an immobilization device pursuant to a  
23 court order or to necessary repairs to a malfunctioning immobilization device.

24 **SECTION 25.** 347.417 (2) of the statutes is amended to read:

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1           347.417 (2) The department shall design a warning label which shall be affixed  
2 by the owner of each immobilization device before the device is used to immobilize  
3 any motor vehicle under s. 346.65 (6), 1999 stats., or s. 343.301 (2), 2007 stats. The  
4 label shall provide notice of the penalties for removing, disconnecting, tampering  
5 with, or otherwise circumventing the operation of the immobilization device.

6           **SECTION 26.** 347.50 (1s) of the statutes is amended to read:

7           347.50 (1s) Any person violating s. 347.413 (1) or 347.417 (1) may be required  
8 to forfeit not less than \$150 nor more than \$600, or may be imprisoned for not more  
9 than 6 months, or both for the first offense. For a 2nd or subsequent conviction within  
10 5 years, the person may be fined not less than \$300 nor more than \$1,000, or  
11 imprisoned for not more than 6 months, or both.

12           **SECTION 27.** 347.50 (1t) of the statutes is created to read:

13           347.50 (1t) In addition to the penalty under sub. (1s), if a person who is subject  
14 to an order under s. 343.301 violates s. 347.413, the court shall extend the order  
15 under s. 343.301 (1) or (2m) for 6 months for each violation.

16           **SECTION 28.** 940.09 (1d) (a) 1. of the statutes is renumbered 940.09 (1d) (ac) and  
17 amended to read:

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

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1           **SECTION 29.** 940.09 (1d) (a) 2. of the statutes is renumbered 940.09 (1d) (bc) and  
2 amended to read:

3           940.09 **(1d)** (bc) ~~Notwithstanding par. (b),~~ if If the person who committed an  
4 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more convictions,  
5 suspensions, or revocations counted under s. 343.307 (1) ~~within any 5-year period,~~  
6 the procedure under s. 343.301 shall be followed if the court enters an order  
7 regarding operating privilege restriction and the installation of an ignition interlock  
8 device ~~or enters an order regarding immobilization.~~

9           **SECTION 30.** 940.09 (1d) (b) of the statutes is repealed.

10          **SECTION 31.** 940.25 (1d) (a) 1. of the statutes is renumbered 940.25 (1d) (ac) and  
11 amended to read:

12          940.25 **(1d)** (ac) ~~Except as provided in subd. 2. par. (bc),~~ if the person who  
13 committed an offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more prior  
14 convictions, suspensions, or revocations, counting convictions under sub. (1) and s.  
15 940.09 (1) in the person's lifetime, plus other convictions, suspensions, or revocations  
16 counted under s. 343.307 (1), the procedure under s. 343.301 shall be followed if the  
17 court enters an order regarding operating privilege restriction ~~or enters an order~~  
18 ~~regarding immobilization.~~

19          **SECTION 32.** 940.25 (1d) (a) 2. of the statutes is renumbered 940.25 (1d) (bc) and  
20 amended to read:

21          940.25 **(1d)** (bc) ~~Notwithstanding par. (b),~~ if If the person who committed an  
22 offense under sub. (1) (a), (am), (b), (c), (cm), or (d) has 2 or more convictions,  
23 suspensions, or revocations counted under s. 343.307 (1) ~~within any 5-year period,~~  
24 the procedure under s. 343.301 shall be followed if the court enters an order

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1 regarding operating privilege restriction and the installation of an ignition interlock  
2 device ~~or enters an order regarding immobilization.~~

3 **SECTION 33.** 940.25 (1d) (b) of the statutes is repealed.

4 **SECTION 34. Initial applicability.**

5 (1) This act first applies to offenses that are committed on the effective date of  
6 this subsection.

7 **SECTION 35. Effective dates.** This act takes effect on first day of the 3rd month  
8 beginning after publication, except as follows:

9 (1) The repeal and recreation of s. 343.10 (2) (a) (intro) of the statutes takes  
10 effect on the first day of the 3rd month beginning after publication, or on the date on  
11 which the creation of section 343.165 of the statutes by 2007 Wisconsin Act 20 takes  
12 effect, whichever is later.

13 (END)