

State of Wisconsin



2011 Assembly Bill 80

Date of enactment: **December 15, 2011**
Date of publication*: **December 30, 2011**

2011 WISCONSIN ACT 113

AN ACT *to repeal* 343.05 (5) (b) 3., 343.44 (1) (am), 343.44 (2) (am) and 343.44 (2) (e) to (h); *to renumber* 343.05 (5) (a); *to renumber and amend* 343.44 (2) (a) and 343.44 (2) (as); *to amend* 343.05 (5) (b) 1., 343.30 (1g) (a), 343.30 (1g) (b), 343.30 (2j) (a), 343.31 (2m) and 343.44 (2) (b) (intro.); and *to create* 343.05 (5) (ag), 343.05 (5) (b) 4. and 5., 343.30 (1d), 343.30 (1g) (c), 343.44 (2) (ad), 343.44 (2) (ag) 2. and 3., 343.44 (2) (ar) 3. and 4. and 343.44 (2) (br) of the statutes; **relating to:** operating a motor vehicle without a valid driver's license or after suspension or revocation of an operating privilege and providing penalties.

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

SECTION 1. 343.05 (5) (a) of the statutes is renumbered 343.05 (5) (am).

SECTION 2. 343.05 (5) (ag) of the statutes is created to read:

343.05 (5) (ag) In this subsection, "great bodily harm" has the meaning given in s. 939.22 (14).

SECTION 3. 343.05 (5) (b) 1. of the statutes is amended to read:

343.05 (5) (b) 1. Except as provided in ~~subd. subds.~~ 2. or 3. to 5. and sub. (6), any person who violates sub. (3) (a) may be required to forfeit not more than \$200 for the first offense, may be fined not more than \$300 and imprisoned for not more than 30 days for the 2nd offense occurring within 3 years, and may be fined not more than \$500 and imprisoned for not more than 6 months for the 3rd or subsequent offense occurring within 3 years. ~~A~~ In this paragraph, a violation of a local ordinance in conformity with this section or a violation of a law of a federally recognized American Indian tribe or band in this state in conformity with this section shall count as a previous offense.

SECTION 4. 343.05 (5) (b) 3. of the statutes is repealed.

SECTION 5. 343.05 (5) (b) 4. and 5. of the statutes are created to read:

343.05 (5) (b) 4. Except as provided in subd. 2. and sub. (6), any person who violates sub. (3) (a) and, in the course of the violation, causes great bodily harm to another person is required to forfeit not less than \$5,000 nor more than \$7,500, except that, if the person knows at the time of the violation that he or she does not possess a valid operator's license, the person is guilty of a Class I felony.

5. Except as provided in subd. 2. and sub. (6), any person who violates sub. (3) (a) and, in the course of the violation, causes the death of another person is required to forfeit not less than \$7,500 nor more than \$10,000, except that, if the person knows at the time of the violation that he or she does not possess a valid operator's license, the person is guilty of a Class H felony.

SECTION 6. 343.30 (1d) of the statutes is created to read:

343.30 (1d) A court shall revoke a person's operating privilege upon the person's conviction for violating s. 343.05 (3) (a) or a local ordinance in conformity there-

* Section 991.11, WISCONSIN STATUTES 2009-10 : 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].

with if the person, in the course of the violation, causes great bodily harm, as defined in s. 939.22 (14), to another person or the death of another person. Any revocation under this subsection shall be for a period of 6 months, unless the court orders a period of revocation of less than 6 months and places its reasons for ordering the lesser period of revocation on the record.

SECTION 7. 343.30 (1g) (a) of the statutes is amended to read:

343.30 (1g) (a) ~~Except as provided in par. (b) and (c),~~ Subject to pars. (b) and (c), a court may suspend a person's operating privilege for any period not exceeding 6 months upon the person's conviction for violating s. 343.44 (1) (a), (b), or (d) or a local ordinance in conformity therewith.

SECTION 8. 343.30 (1g) (b) of the statutes is amended to read:

343.30 (1g) (b) ~~A- Except as provided in par. (c),~~ a court may revoke a person's operating privilege upon the person's conviction for violating s. 343.44 (1) (a), (b), or (d) or a local ordinance in conformity therewith if the person has been convicted of 3 or more prior violations of s. 343.44 (1) (a), (b), or (d), or similar violations under s. 343.44 (1), 1997 stats., or a local ordinance in conformity therewith, within the 5-year period preceding the violation.

(d) Any revocation under this ~~paragraph~~ subsection shall be for a period of 6 months, unless the court orders a period of revocation of less than 6 months and places its reasons for ordering the lesser period of revocation on the record.

SECTION 9. 343.30 (1g) (c) of the statutes is created to read:

343.30 (1g) (c) A court shall revoke a person's operating privilege upon the person's conviction for violating s. 343.44 (1) (a) or (b), or a local ordinance in conformity with s. 343.44 (1) (a), if the person, in the course of the violation, causes great bodily harm, as defined in s. 939.22 (14), to another person or the death of another person.

SECTION 10. 343.30 (2j) (a) of the statutes is amended to read:

343.30 (2j) (a) A court may ~~revoke~~ suspend a person's operating privilege upon the person's first conviction for violating s. 346.44 or 346.62 (2m) and shall ~~revoke~~ suspend a person's operating privilege upon the person's 2nd or subsequent conviction within a 5-year period for violating s. 346.44 or 346.62 (2m). The ~~revocation~~ suspension shall be for a period of 6 months. For purposes of determining prior convictions for purposes of this paragraph, the 5-year period shall be measured from the dates of the violations that resulted in the convictions. Each conviction under s. 346.44 or 346.62 (2m) shall be counted, except that convictions under s. 346.44 and 346.62 (2m) arising out of the same incident or occurrence shall be counted as a single conviction.

SECTION 11. 343.31 (2m) of the statutes is amended to read:

343.31 (2m) The department may suspend or revoke, respectively, the operating privilege of any resident upon receiving notice of the conviction of that person under a law of another jurisdiction or a federally recognized American Indian tribe or band in this state for an offense which, if the person had committed the offense in this state and been convicted of the offense under the laws of this state, would have permitted suspension or revocation of the person's operating privilege under s. 343.30 (1d) or (1g). Upon receiving similar notice with respect to a nonresident, the department may suspend or revoke the privilege of the nonresident to operate a motor vehicle in this state. The suspension or revocation shall not apply to the operation of a commercial motor vehicle by a nonresident who holds a valid commercial driver license issued by another state. A suspension or revocation under this subsection shall be for any period not exceeding 6 months.

SECTION 12. 343.44 (1) (am) of the statutes is repealed.

SECTION 13. 343.44 (2) (a) of the statutes is renumbered 343.44 (2) (ag) 1. and amended to read:

343.44 (2) (ag) 1. ~~Any Except as provided in subs. 2. and 3., any~~ person who violates sub. (1) (a) or a local ordinance in conformity therewith shall be required to forfeit not less than \$50 nor more than \$200.

SECTION 14. 343.44 (2) (ad) of the statutes is created to read:

343.44 (2) (ad) In this subsection, "great bodily harm" has the meaning given in s. 939.22 (14).

SECTION 15. 343.44 (2) (ag) 2. and 3. of the statutes are created to read:

343.44 (2) (ag) 2. Any person who violates sub. (1) (a) and, in the course of the violation, causes great bodily harm to another person is required to forfeit not less than \$5,000 nor more than \$7,500, except that, if the person knows at the time of the violation that his or her operating privilege has been suspended, the person is guilty of a Class I felony.

3. Any person who violates sub. (1) (a) and, in the course of the violation, causes the death of another person is required to forfeit not less than \$7,500 nor more than \$10,000, except that, if the person knows at the time of the violation that his or her operating privilege has been suspended, the person is guilty of a Class H felony.

SECTION 16. 343.44 (2) (am) of the statutes is repealed.

SECTION 17. 343.44 (2) (ar) 3. and 4. of the statutes are created to read:

343.44 (2) (ar) 3. Any person who violates sub. (1) (b) and, in the course of the violation, causes great bodily harm to another person shall be fined not less than \$5,000 nor more than \$7,500 or imprisoned for not more than

one year in the county jail or both, except that, if the person knows at the time of the violation that his or her operating privilege has been revoked, the person is guilty of a Class I felony.

4. Any person who violates sub. (1) (b) and, in the course of the violation, causes the death of another person shall be fined not less than \$7,500 nor more than \$10,000 or imprisoned for not more than one year in the county jail or both, except that, if the person knows at the time of the violation that his or her operating privilege has been revoked, the person is guilty of a Class H felony.

SECTION 18. 343.44 (2) (as) of the statutes is renumbered 343.44 (2) (ar) 1. and amended to read:

343.44 (2) (ar) 1. ~~Any~~ Except as provided in subs. 2. to 4., any person who violates sub. (1) (b) ~~after July 27, 2005,~~ shall forfeit not more than \$2,500, ~~except that,~~

2. Except as provided in subs. 3. and 4., any person who violates sub. (1) (b) shall be fined not more than \$2,500 or imprisoned for not more than one year in the county jail or both if the revocation identified under sub. (1) (b) resulted from an offense that may be counted under s. 343.307 (2), ~~the penalty under par. (b) shall apply.~~

SECTION 19. 343.44 (2) (b) (intro.) of the statutes is amended to read:

343.44 (2) (b) (intro.) ~~Except as provided in pars. (am) and (as), any person who violates sub. (1) (b) or (d) shall be fined not more than \$2,500 or imprisoned for not more than one year in the county jail or both.~~ In imposing a sentence under ~~this paragraph, or a local ordinance in conformity with this paragraph, par. (ar) or (br),~~ the court shall review the record and consider the following:

SECTION 20. 343.44 (2) (br) of the statutes is created to read:

343.44 (2) (br) Any person who violates sub. (1) (d) shall be fined not more than \$2,500 or imprisoned for not more than one year in the county jail or both.

SECTION 21. 343.44 (2) (e) to (h) of the statutes are repealed.

SECTION 22. Initial applicability.

(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of sentencing a person.

SECTION 23. Effective date.

(1) This act takes effect on the first day of the 3rd month beginning after publication.