



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4636/1
PJH:ahc

2015 ASSEMBLY BILL 839

February 1, 2016 – Introduced by Representatives SCHRAA and HINTZ, cosponsored by Senators GUDEx, DARLING and WANGGAARD. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT to renumber and amend** 343.301 (1g) and 343.301 (2m); **to amend**
2 303.08 (10r), 343.10 (2) (f) and 343.10 (5) (a) 3.; and **to create** 343.301 (1g) (am)
3 and 343.301 (2m) (b) of the statutes; **relating to:** participation in a sobriety
4 program.

Analysis by the Legislative Reference Bureau

This bill allows a court to order a person who improperly refused to take a sobriety test or who committed certain offenses related to drunken driving to participate in a program that closely monitors participants for drug and alcohol use (sobriety program). Under the bill, a court may order a person who would otherwise be required to install an ignition interlock device (IID) in his or her vehicle, and whose operating privileges would be restricted to operating vehicles so equipped, to participate in the sobriety program.

Under the bill, a person who is ordered to participate in the program may obtain an occupational driver's license and may operate a vehicle that is not equipped with an IID so long as he or she participates in the sobriety program. If he or she completes the program or otherwise stops participating, he or she must install an IID on his or her vehicle and may not operate a vehicle that is not so equipped. Under the bill, the time period during which a person who participates in a sobriety program, combined with the time period during which the person's operating privilege is restricted to operating vehicles equipped with an IID, must be at least one year.

ASSEMBLY BILL 839

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.** 303.08 (10r) of the statutes is amended to read:

2 303.08 **(10r)** The sheriff may not permit a prisoner ~~who is subject to an order~~
3 whose operating privilege for the operation of "Class D" vehicles is restricted to
4 operating vehicles that are equipped with an ignition interlock device under s.
5 343.301 (1g) to leave the jail under sub. (1) unless, within 2 weeks after the court
6 issues the an order under s. 343.301 (1g) (am) 1. or the person's operating privilege
7 is restricted under s. 343.301 (1g) (am) 2., the person submits proof to the sheriff that
8 an ignition interlock device has been installed in each motor vehicle to which the
9 order applies.

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

11 343.10 **(2)** (f) If the court orders under s. 343.301 (1g) that the person's
12 operating privilege for the operation of "Class D" vehicles be restricted to operating
13 vehicles that are equipped with an ignition interlock device, no occupational license
14 may be granted until the person pays the surcharge under s. 343.301 (5) and submits
15 proof that an ignition interlock device has been installed in each motor vehicle to
16 which the order under s. 343.301 applies. A person who is subject to an order under
17 s. 343.301 (1g) (am) 2. need not submit proof that an ignition interlock device has
18 been installed if he or she is participating in a program designated in the order.

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

20 343.10 **(5)** (a) 3. The occupational license of the applicant shall restrict the
21 applicant's operation under the occupational license to vehicles that are equipped

ASSEMBLY BILL 839

1 with a functioning ignition interlock device if the court has ordered under s. 343.301
2 (1g) that the person's operating privilege for Class D vehicles be restricted to
3 operating vehicles that are equipped with an ignition interlock device or has ordered
4 under s. 346.65 (6) (a) 1., 1999 stats., that the motor vehicle owned by the person and
5 used in the violation or improper refusal be equipped with an ignition interlock
6 device. A person to whom a restriction under this subdivision applies violates that
7 restriction if he or she removes or disconnects an ignition interlock device, requests
8 or permits another to blow into an ignition interlock device or to start a motor vehicle
9 equipped with an ignition interlock device for the purpose of providing the person an
10 operable motor vehicle without the necessity of first submitting a sample of his or her
11 breath to analysis by the ignition interlock device, or otherwise tampers with or
12 circumvents the operation of the ignition interlock device. Except as provided in s.
13 343.301 (3) (b), if the occupational license restricts the applicant's operation to a
14 vehicle that is equipped with an ignition interlock device, the applicant shall be
15 liable for the reasonable costs of equipping the vehicle with the ignition interlock
16 device. This subdivision does not apply to an applicant who is subject to an order
17 under s. 343.301 (1g) (am) 2. while the applicant is participating in a program
18 designated in the order.

19 **SECTION 4.** 343.301 (1g) of the statutes is renumbered 343.301 (1g) (a), and
20 343.301 (1g) (a) (intro), as renumbered, is amended to read:

21 343.301 (1g) (a) (intro.) A court shall ~~order a person's operating privilege for~~
22 ~~the operation of "Class D" vehicles be restricted to operating vehicles that are~~
23 ~~equipped with an ignition interlock device and, except as provided in sub. (1m), shall~~
24 ~~order that each motor vehicle for which the person's name appears on the vehicle's~~

ASSEMBLY BILL 839**SECTION 4**

1 ~~certificate of title or registration be equipped with an ignition interlock device~~ enter
2 an order under par. (am) if either of the following applies:

3 **SECTION 5.** 343.301 (1g) (am) of the statutes is created to read:

4 343.301 **(1g)** (am) A court shall order one of the following:

5 1. That the person's operating privilege for the operation of "Class D" vehicles
6 be restricted to operating vehicles that are equipped with an ignition interlock device
7 and, except as provided in sub. (1m), shall order that each motor vehicle for which
8 the person's name appears on the vehicle's certificate of title or registration be
9 equipped with an ignition interlock device.

10 2. That the person participate in a program described in s. 165.957 or that
11 meets the definition of a 24-7 sobriety program under 23 USC 405 (d) (7) (A). If the
12 court enters an order under this subdivision, the court shall order that when the
13 person completes or otherwise does not participate in the program, the person's
14 operating privilege for the operation of "Class D" vehicles be restricted to operating
15 vehicles that are equipped with an ignition interlock device and, except as provided
16 in sub. (1m), shall order that each motor vehicle for which the person's name appears
17 on the vehicle's certificate of title or registration be equipped with an ignition
18 interlock device.

19 **SECTION 6.** 343.301 (2m) of the statutes is renumbered 343.301 (2m) (a) and
20 amended to read:

21 343.301 **(2m)** (a) ~~The~~ If the court enters an order under sub. (1g) (am) 1., the
22 court shall restrict the operating privilege under sub. (1g) (am) 1. for a period of not
23 less than one year nor more than the maximum operating privilege revocation period
24 permitted for the refusal or violation, beginning on the date the department issues
25 any license granted under this chapter, except that if the maximum operating

ASSEMBLY BILL 839

1 privilege revocation period is less than one year, the court shall restrict the operating
2 privilege under sub. (1g) (am) 1. for one year. The court may order the installation
3 of an ignition interlock device under sub. (1g) (am) 1. immediately upon issuing an
4 order under sub. (1g) (am) 1.

5 **SECTION 7.** 343.301 (2m) (b) of the statutes is created to read:

6 343.301 **(2m)** (b) If the court enters an order under sub. (1g) (am) 2., the court
7 shall order that the time period during which a person participates in a program,
8 combined with the time period for which the person's operating privilege is restricted
9 under sub. (1g) (am) 2. equals not less than one year nor more than the maximum
10 operating privilege revocation period permitted for the refusal or violation, except
11 that if the maximum operating privilege revocation period is less than one year, the
12 time period shall equal one year. The time period for which the person's operating
13 privilege is restricted under sub. (1g) (am) 2. begins on the date the department
14 issues any license granted under this chapter. The court may order the person to
15 install an ignition interlock device under sub. (1g) (am) 2. immediately after his or
16 her participation in the program ends. A person subject to an order requiring
17 installation of an ignition interlock device shall, within 2 weeks after his or her
18 participation in the program ends, submit proof to the sheriff in his or her county of
19 residence that an ignition interlock device has been installed in each motor vehicle
20 to which the order applies.

21 **SECTION 8. Initial applicability.**

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

ASSEMBLY BILL 839

SECTION 8

1 action by the department of transportation, sentencing by a court, or revocation or
2 suspension of motor vehicle operating privileges.

3 **SECTION 9. Effective date.**

4 (1) This act takes effect on October 2, 2016.

5 (END)