



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBs0061/2
EVM:kjf&amn

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 7**

June 13, 2019 - Offered by Senator DARLING.

1 **AN ACT** *to renumber and amend* 66.0114 (1) (b); *to amend* 343.30 (1q) (b) 3.,
2 343.305 (10) (b) 3., 343.31 (3) (bm) 3., 346.65 (2) (am) 2., 346.65 (2) (bm) and
3 800.035 (5) (a); and *to create* 66.0114 (1) (b) 2., 66.0114 (1) (b) 3., 345.26 (1) (b)
4 3., 800.035 (5) (am) and 967.055 (2m) of the statutes; **relating to:** court
5 proceedings and penalties for offenses related to driving while intoxicated.

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

6 **SECTION 1.** 66.0114 (1) (b) of the statutes is renumbered 66.0114 (1) (b) 1. and
7 amended to read:

8 66.0114 (1) (b) 1. Local ordinances, except as provided in this paragraph or ss.
9 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any
10 or all violations under those ordinances, may designate the manner in which the
11 stipulation is to be made, and may fix the penalty to be paid. ~~When~~ Except as

1 provided in subd. 2., when a person charged with a violation for which stipulation
2 of guilt or no contest is authorized makes a timely stipulation and pays the required
3 penalty, plus costs, fees, and surcharges imposed under ch. 814, to the designated
4 official, the person need not appear in court and no witness fees or other additional
5 costs, fees, or surcharges may be imposed under ch. 814 unless the local ordinance
6 so provides. ~~A court appearance is required for a violation of a local ordinance in~~
7 ~~conformity with s. 346.63 (1).~~

8 **SECTION 2.** 66.0114 (1) (b) 2. of the statutes is created to read:

9 66.0114 (1) (b) 2. A person who is charged with a violation of a local ordinance
10 in conformity with s. 346.63 (1) or (5) shall appear, in person, in court to plead guilty,
11 no contest, or not guilty. A person who fails to appear, in person, in court is subject
12 to a \$300 surcharge pursuant to subd. 3.

13 **SECTION 3.** 66.0114 (1) (b) 3. of the statutes is created to read:

14 66.0114 (1) (b) 3. If a person who is required under subd. 2. to appear, in person,
15 in court to enter a plea fails to appear in court, the court shall do all of the following:

16 a. Enter a default judgment against the person and impose the applicable
17 penalties.

18 b. Impose a \$300 surcharge on the person for his or her failure to appear. The
19 court shall transmit the surcharge under this subd. 3. b. to the county treasurer of
20 the county in which the violation occurred for use only for substance use prevention
21 and treatment.

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

23 343.30 (1q) (b) 3. Except as provided in sub. (1r) or subd. 4m., if the number
24 of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total
25 number of other convictions, suspensions, and revocations counted under s. 343.307

1 (1) ~~within a 10-year period~~, equals 2, the court shall revoke the person's operating
2 privilege for not less than one year nor more than 18 months. After the first 45 days
3 of the revocation period has elapsed, the person is eligible for an occupational license
4 under s. 343.10 if he or she has completed the assessment and is complying with the
5 driver safety plan ordered under par. (c).

6 **SECTION 5.** 343.305 (10) (b) 3. of the statutes is amended to read:

7 343.305 (10) (b) 3. Except as provided in subd. 4m., if the number of convictions
8 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
9 convictions, suspensions, and revocations counted under s. 343.307 (2) ~~within a~~
10 ~~10-year period~~, equals 2, the court shall revoke the person's operating privilege for
11 2 years. After the first 90 days of the revocation period or, if the total number of
12 convictions, suspensions, and revocations counted under this subdivision within any
13 5-year period equals 2 or more, after one year of the revocation period has elapsed,
14 the person is eligible for an occupational license under s. 343.10 if he or she has
15 completed the assessment and is complying with the driver safety plan.

16 **SECTION 6.** 343.31 (3) (bm) 3. of the statutes is amended to read:

17 343.31 (3) (bm) 3. Except as provided in subd. 4m., if the number of convictions
18 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
19 suspensions, revocations, and other convictions counted under s. 343.307 (1) ~~within~~
20 ~~a 10-year period~~, equals 2, the department shall revoke the person's operating
21 privilege for not less than one year nor more than 18 months. If an Indian tribal court
22 in this state revokes the person's privilege to operate a motor vehicle on tribal lands
23 for not less than one year nor more than 18 months for the conviction specified in par.
24 (bm) (intro.), the department shall impose the same period of revocation. After the
25 first 60 days of the revocation period or, if the total number of convictions,

1 suspensions, and revocations counted under this subdivision within any 5-year
2 period equals 2 or more, after one year of the revocation period has elapsed, the
3 person is eligible for an occupational license under s. 343.10.

4 **SECTION 7.** 345.26 (1) (b) 3. of the statutes is created to read:

5 345.26 (1) (b) 3. Subdivision 1. does not apply to a person who is charged with
6 a violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith and who
7 is required to appear in person pursuant to s. 66.0114 (1) (b) 2., 800.035 (5) (a), or
8 967.055 (2m).

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

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

17 **SECTION 9.** 346.65 (2) (bm) of the statutes is amended to read:

18 346.65 (2) (bm) In any county that opts to offer a reduced minimum period of
19 imprisonment for the successful completion of a probation period that includes
20 alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1)
21 and 940.25 in the person's lifetime, plus the total number of suspensions,
22 revocations, and other convictions counted under s. 343.307 (1) ~~within a 10-year~~
23 ~~period~~, equals 2, except that suspensions, revocations, or convictions arising out of
24 the same incident or occurrence shall be counted as one, the fine shall be the same
25 as under par. (am) 2., but the period of imprisonment shall be not less than 5 days,

1 except that if the person successfully completes a period of probation that includes
2 alcohol and other drug treatment, the period of imprisonment shall be not less than
3 5 nor more than 7 days. A person may be sentenced under this paragraph or under
4 par. (cm) or (dm) or sub. (2j) (bm), (cm), or (cr) or (3r) once in his or her lifetime.

5 **SECTION 10.** 800.035 (5) (a) of the statutes is amended to read:

6 800.035 (5) (a) If a defendant is charged with a violation of an ordinance in
7 conformity with s. 346.63 (1) or (5), the municipality ~~may~~ shall, by ordinance, require
8 the defendant to appear in person before the court. The ordinance shall specify that
9 a person who fails to appear in person before the court is subject to a \$300 surcharge
10 pursuant to par. (am).

11 **SECTION 11.** 800.035 (5) (am) of the statutes is created to read:

12 800.035 (5) (am) If a person who is required under par. (a) to appear in person
13 before the court to enter a plea fails to appear in court, the court shall do all of the
14 following:

15 1. Enter a default judgment against the person and impose the applicable
16 penalties.

17 2. Impose a \$300 surcharge on the person for his or her failure to appear. The
18 court shall transmit the surcharge under this subdivision to the county treasurer of
19 the county in which the violation occurred for use only for substance use prevention
20 and treatment.

21 **SECTION 12.** 967.055 (2m) of the statutes is created to read:

22 967.055 (2m) PERSONAL APPEARANCE IN COURT. (a) A person who is charged with
23 a civil violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith shall
24 appear in person in court to enter a plea of guilty, no contest, or not guilty to the
25 charge. A person who fails to appear in person in court is subject to a \$300 surcharge

1 pursuant to par. (b). In this subsection, “court” may mean a circuit court or a
2 municipal court.

3 (b) If a person who is required under par. (a) to appear in person in court to enter
4 a plea fails to appear in court, the court shall do all of the following:

5 1. Enter a default judgment against the person and impose the applicable
6 penalties.

7 2. Impose a \$300 surcharge on the person for his or her failure to appear. The
8 court shall transmit the surcharge under this subdivision to the county treasurer of
9 the county in which the violation occurred for use only for substance use prevention
10 and treatment.

11 **SECTION 13. Initial applicability.**

12 (1) This act first applies to violations committed on the effective date of this
13 subsection but does not preclude the counting of other convictions, suspensions, or
14 revocations as prior convictions, suspensions, or revocations for purposes of
15 administrative action by the department of transportation or sentencing by a court.

16 (END)