

State DUI Laws: Wisconsin

Legal Blood Alcohol Content Level: .08

Automatic Suspension of License for Failure of Blood Alcohol Test or Refusal to Submit to Test: Yes

Ignition Interlock Requirement upon Conviction: Yes

Felony Conviction for Repeat Offenses: Yes

Wisconsin Statutes

346.62. Reckless driving.

(1) In this section:

(a) "Bodily harm" has the meaning designated in s. 939.22 (4)

(b) "Great bodily harm" has the meaning designated in s. 939.22 (14)

(c) "Negligent" has the meaning designated in s. 939.25 (2)

(d) "Vehicle" has the meaning designated in s. 939.22 (44) , except that for purposes of sub. (2m) "vehicle" has the meaning given in s. 340.01 (74)

(2) No person may endanger the safety of any person or property by the negligent operation of a vehicle.

(2m) No person may recklessly endanger the safety of any person by driving a vehicle on or across a railroad crossing in violation of s. 346.44 (1) or through, around or under any crossing gate or barrier at a railroad crossing in violation of s. 346.44 (2)

(3) No person may cause bodily harm to another by the negligent operation of a vehicle.

(4) No person may cause great bodily harm to another by the negligent operation of a vehicle. Judicial Council Note, 1988: The revisions contained in subs. (2) and (3) are intended as editorial, not substantive, as is the substitution of a cross-reference to s. 939.25 (2) for the prior definition of a high degree of negligence. New sub. (4) carries forward the crime created by 1985 Wisconsin Act 293. [Bill 191-S]

346.63. Operating under influence of intoxicant or other drug.

(1) No person may drive or operate a motor vehicle while:

(a) Under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination of an intoxicant, a controlled substance and a controlled substance analog, under the influence of any other drug to a degree

which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving; or

(am) The person has a detectable amount of a restricted controlled substance in his or her blood.

(b) The person has a prohibited alcohol concentration.

(c) A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of par. (a) , (am) , or (b) for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of par. (a) , (am) , or (b) , the offenses shall be joined. If the person is found guilty of any combination of par. (a) , (am) , or (b) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under ss. 343.30 (1q) and 343.305 Paragraphs (a) , (am) , and (b) each require proof of a fact for conviction which the others do not require.

(d) In an action under par. (am) that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.

(2)

(a) It is unlawful for any person to cause injury to another person by the operation of a vehicle while:

1. Under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination of an intoxicant, a controlled substance and a controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving; or

2. The person has a prohibited alcohol concentration.

3. The person has a detectable amount of a restricted controlled substance in his or her blood.

(am) A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of par. (a) 1. , 2. , or 3. for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of par. (a) 1. , 2. , or 3. in the complaint, the crimes shall be joined under s. 971.12 If the person is found guilty of any combination of par. (a) 1. , 2. , or 3. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under ss. 343.30 (1q) and 343.305 Paragraph (a) 1. , 2. , and 3. each require proof of a fact for conviction which the others do not require.

(b)

1. In an action under this subsection, the defendant has a defense if he or she proves by a preponderance of the evidence that the injury would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant, a controlled substance, a controlled substance analog or a combination thereof,

under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, did not have a prohibited alcohol concentration described under par. (a) 2. , or did not have a detectable amount of a restricted controlled substance in his or her blood.

2. In an action under par. (a) 3. that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.

(2m) If a person has not attained the legal drinking age, as defined in s. 125.02 (8m) , the person may not drive or operate a motor vehicle while he or she has an alcohol concentration of more than 0.0 but not more than 0.08. One penalty for violation of this subsection is suspension of a persons operating privilege under s. 343.30 (1p) The person is eligible for an occupational license under s. 343.10 at any time. If a person arrested for a violation of this subsection refuses to take a test under s. 343.305 , the refusal is a separate violation and the person is subject to revocation of the persons operating privilege under s. 343.305 (10) (em)

(3) In this section:

(a) "Drive" means the exercise of physical control over the speed and direction of a motor vehicle while it is in motion.

(b) "Operate" means the physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.

(4) If a person is convicted under sub. (1) or a local ordinance in conformity therewith, or sub. (2) , the court shall proceed under s. 343.30 (1q)

(5)

(a) No person may drive or operate a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.08.

(b) A person may be charged with and a prosecutor may proceed upon a complaint based on a violation of par. (a) or sub. (1) (a) or both for acts arising out of the same incident or occurrence. If the person is charged with violating both par. (a) and sub. (1) (a) , the offenses shall be joined. Paragraph (a) and sub. (1) (a) each require proof of a fact for conviction which the other does not require. If the person is found guilty of violating both par. (a) and sub. (1) (a) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions. Each conviction shall be reported to the department and counted separately for purposes of suspension or revocation of the operators license and disqualification.

(6)

(a) No person may cause injury to another person by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.08.

(b) A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of par. (a) or sub. (2) (a) 1. or both for acts arising out of the same incident or occurrence. If the person is charged with violating both par. (a) and sub. (2) (a) 1. in the complaint, the crimes shall be joined under s. 971.12 If the person is found guilty of violating both par. (a) and sub. (2) (a) 1. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions. Paragraph (a) and sub. (2) (a) 1. each require proof of a fact for conviction which the other does not require.

(c) Under par. (a) , the person charged has a defense if it appears by a preponderance of the evidence that the injury would have occurred even if he or she had not been under the influence of an intoxicant, a controlled substance, a controlled substance analog or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or did not have an alcohol concentration described under par. (a)

(7)

(a) No person may drive or operate or be on duty time with respect to a commercial motor vehicle under any of the following circumstances:

1. While having an alcohol concentration above 0.0.
2. Within 4 hours of having consumed or having been under the influence of an intoxicating beverage, regardless of its alcohol content.
3. While possessing an intoxicating beverage, regardless of its alcohol content. This subdivision does not apply to possession of an intoxicating beverage if the beverage is unopened and is manifested and transported as part of a shipment.

(b) A person may be charged with and a prosecutor may proceed upon complaints based on a violation of this subsection and sub. (1) (a) or (b) or both, or sub. (1) (a) or (5) (a) , or both, for acts arising out of the same incident or occurrence. If the person is charged with violating this subsection and sub. (1) or (5) , the proceedings shall be joined. If the person is found guilty of violating both this subsection and sub. (1) or (5) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions. This subsection and subs. (1) and (5) each require proof of a fact for conviction which the others do not require. Each conviction shall be reported to the department and counted separately for purposes of suspension or revocation of the operators license and disqualification.

346.635. Report arrest or out-of-service order to department.

Whenever a law enforcement officer arrests a person for a violation of s. 346.63 (1) , (5) or (7) , or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25 , or s. 940.09 where the offense involved the use of a vehicle, the officer shall notify the department of the arrest and of issuance of an out-of-service order under s. 343.305 (7) (b) or (9) (am) as soon as practicable.

346.637. Driver awareness program.

The department shall conduct a campaign to educate drivers in this state concerning:

(1) The laws relating to operating a motor vehicle and drinking alcohol, using controlled substances or controlled substance analogs, or using any combination of alcohol, controlled substances and controlled substance analogs.

(2) The effects of alcohol, controlled substances or controlled substance analogs, or the use of them in any combination, on a persons ability to operate a motor vehicle.

346.655. Driver improvement surcharge.

(1) If a court imposes a fine or a forfeiture for a violation of s. 346.63 (1) or (5) , except for a first violation of s. 346.63 (1) (b) , if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25 , or s. 940.09 where the offense involved the use of a vehicle, it shall impose a driver improvement surcharge under ch. 814 in an amount of 355 in addition to the fine or forfeiture, plus costs, fees, and other surcharges imposed under ch. 814

(2)

(a) Except as provided in par. (b) , the clerk of court shall collect and transmit the amount under sub. (1) to the county treasurer as provided in s. 59.40 (2) (m) The county treasurer shall then make payment of 38.5% of the amount to the secretary of administration as provided in s. 59.25 (3) (f) 2.

(b) If the forfeiture is imposed by a municipal court, the court shall transmit the amount to the treasurer of the county, city, town, or village, and that treasurer shall make payment of 38.5% of the amount to the secretary of administration as provided in s. 66.0114 (1) (bm) The treasurer of the city, town, or village shall transmit the remaining 61.5% of the amount to the treasurer of the county.

(3) All moneys collected from the driver improvement surcharge that are transmitted to the county treasurer under sub. (2) (a) or (b) , except the amounts that the county treasurer is required to transmit to the secretary of administration under sub. (2) (a) or (b) , shall be retained by the county treasurer and disbursed to the county department under s. 51.42 for services under s. 51.42 for drivers referred through assessment.

(4) Any person who fails to pay a driver improvement surcharge imposed under sub. (1) is subject to s. 343.30 (1z)

345.24. Officer's action after arrest for driving under influence of intoxicant.

(1) A person arrested under s. 346.63 (1) or (5) or an ordinance in conformity therewith or s. 346.63 (2) or (6) or 940.25 , or s. 940.09 where the offense involved the use of a vehicle, may not be released until 12 hours have elapsed from the time of his or her arrest or unless a chemical test administered under s. 343.305 shows that the person has an alcohol concentration of less than 0.04, but the person may be released to his or her attorney, spouse, relative or other responsible adult at any time after arrest.

(2) If the person was issued an out-of-service order under s. 343.305 (7) (b) , the person may be released as provided under sub. (1) but the persons license may be retained until the out-of-service period has expired.

343.30. Suspension and revocation by the courts.

(1) A court may suspend a persons operating privilege for any period not exceeding one year upon such persons conviction in such court of violating any of the state traffic laws or any local ordinance enacted under ch. 349

(1g)

(a) Except as provided in par. (b) , a court may suspend a persons operating privilege for any period not exceeding 6 months upon the persons conviction for violating s. 343.44 (1) (a) , (b) or (d) or a local ordinance in conformity therewith.

(b) A court shall revoke a persons operating privilege upon the persons 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. The revocation 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.

(1n) A court shall suspend the operating privilege of a person for a period of 15 days upon the persons conviction by the court of exceeding the applicable speed limit as established by s. 346.57 (4) (gm) or (h) , by 25 or more miles per hour. If the conviction makes the person subject to suspension under s. 343.085 or 343.32 , the court shall order the suspension of the persons operating privilege and notify the secretary of the order. Upon receiving the notice, the secretary shall act as authorized under s. 343.32 or 343.085 Any suspension under this subsection shall date from the day the secretary acts on the order of suspension of the operating privilege.

(1o) Upon conviction of a person for violating s. 346.072 , the court shall suspend the violators operating privilege as follows:

(a) For a period of not less than 90 days nor more than one year, if the offense resulted in damage to the property of another but did not result in bodily harm to another.

(b) For a period of not less than 180 days nor more than 2 years, if the offense resulted in bodily harm to another but did not result in the death of another.

(c) For a period of 2 years, if the offense resulted in the death of another.

(1p) Notwithstanding sub. (1) , a court shall suspend the operating privilege of a person for 3 months upon the persons conviction by the court for violation of s. 346.63 (2m) or a local ordinance in conformity with s. 346.63 (2m) If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (2m) or a local ordinance in conformity with s. 346.63 (2m) , the court shall suspend the operating privilege of the person for 6 months.

(1q)

(a) If a person is convicted under s. 346.63 (1) or a local ordinance in conformity therewith, the court shall proceed under this subsection. If a person is convicted under s. 346.63 (2) or 940.25 , or s. 940.09 where the offense involved the use of a vehicle, the court shall proceed under pars. (c) and (d) If a person is referred by the department acting under s. 343.16 (5) (a) , the department shall proceed under pars. (c) and (d) without the order of the court.

(b) For persons convicted under s. 346.63 (1) or a local ordinance in conformity therewith:

1. Except as provided in subds. 3. and 4. , the court shall revoke the persons operating privilege under this paragraph according to the number of previous suspensions, revocations or convictions that would be counted under s. 343.307 (1) Suspensions, revocations and convictions arising out of the same incident shall be counted as one. If a person has a conviction, suspension or revocation for any offense that is counted under s. 343.307 (1) , that conviction, suspension or revocation shall count as a prior conviction, suspension or revocation under this subdivision.

2. Except as provided in subd. 3. , 4. or 4m. , for the first conviction, the court shall revoke the persons operating privilege for not less than 6 months nor more than 9 months. The person is eligible for an occupational license under s. 343.10 at any time.

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

4. Except as provided in subd. 4m. , if the number of convictions under ss. 940.09 (1) and 940.25 in the persons lifetime, plus the total number of other convictions, suspensions, and revocations counted under s. 343.307 (1) , equals 3 or more, the court shall revoke the persons operating privilege for not less than 2 years nor more than 3 years. After the first 90 days of the revocation period or, if the total number of convictions, suspensions, and revocations counted under this subdivision within any 5-year period equals 2 or more, after one year of the revocation period has elapsed, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment and is complying with the driver safety plan ordered under par. (c)

4m. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (1) or a local ordinance in conformity with s. 346.63 (1) , the applicable minimum and maximum revocation periods under subd. 2. , 3. or 4. for the conviction are doubled.

5. The time period under this paragraph shall be measured from the dates of the refusals or violations which resulted in the suspensions, revocations or convictions.

(c)

1. Except as provided in subd. 1. a. or b. , and except for a first violation of s. 346.63 (1) (b) , if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, the court shall order the person to submit to and comply with an assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for examination of the persons use of alcohol, controlled substances or controlled substance analogs and development of a driver safety plan for the person. The court shall notify the department of transportation of the assessment order. The court shall notify the person that noncompliance with assessment or the driver safety plan will result in revocation of the persons operating privilege until the person is in compliance. The assessment order shall:

a. If the person is a resident, refer the person to an approved public treatment facility in the county in which the person resides. The facility named in the order may provide for assessment of the person in another approved public treatment facility. The order shall provide that if the person is temporarily residing in another state, the facility named in the order may refer the person to an appropriate treatment facility in that state for assessment and development of a driver safety plan for the person satisfying the requirements of that state.

b. If the person is a nonresident, refer the person to an approved public treatment facility in this state. The order shall provide that the facility named in the order may refer the person to an appropriate treatment facility in the state in which the person resides for assessment and development of a driver safety plan for the person satisfying the requirements of that state.

c. Require a person who is referred to a treatment facility in another state under subd. 1. a. or b. to furnish the department written verification of his or her compliance from the agency which administers the assessment and driver safety plan program. The person shall provide initial verification of compliance within 60 days after the date of his or her conviction. The requirement to furnish verification of compliance may be satisfied by receipt by the department of such verification from the agency which administers the assessment and driver safety plan program.

1m. The person may voluntarily submit to an assessment by an approved public treatment facility, as defined in s. 51.45 (2) (c) , and driver safety plan under this paragraph before the conviction. A prosecutor may not use that voluntary submission to justify a reduction in the charge made against the person. Upon notification of the persons submission to the voluntary assessment and driver safety plan, the court may take that voluntary submission into account when determining the persons sentence, and shall suspend the order to submit to assessment pending the persons completion of the voluntary assessment and driver safety plan.

2. The department of health and family services shall establish standards for assessment procedures and the driver safety plan programs by rule. The department of health and family services shall establish by rule conflict of interest guidelines for providers.

3. Prior to developing a plan which specifies treatment, the facility shall make a finding that treatment is necessary and appropriate services are available. The facility shall submit a report of the assessment and the driver safety plan within 14 days to the county department under s. 51.42 , the plan provider, the department of transportation and the person, except that upon request by the facility and the person, the county department may extend the period for assessment for not more than 20 additional workdays. The county department shall notify the department of transportation regarding any such extension.

(d) The assessment report shall order compliance with a driver safety plan. The report shall inform the person of the fee provisions under s. 46.03 (18) (f) The driver safety plan may include a component that makes the person aware of the effect of his or her offense on a victim and a victims family. The driver safety plan may include treatment for the persons misuse, abuse or dependence on alcohol, controlled substances or controlled substance analogs, or attendance at a school under s. 345.60 , or both. If the plan requires inpatient treatment, the treatment shall not exceed 30 days. A driver safety plan under this paragraph shall include a termination date consistent with the plan which shall not extend beyond one year. The county department under s. 51.42 shall assure notification of the department of transportation and the person of the persons compliance or noncompliance with assessment and with treatment. The school under s. 345.60 shall notify the department, the county department under s. 51.42 and the person of the persons compliance or noncompliance with the requirements of the school. Nonpayment of the assessment fee or, if the person has the ability to pay, nonpayment of the driver safety plan fee is noncompliance with the court order. If the department is notified of any

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

(e) Notwithstanding par. (c) , if the court finds that the person is already covered by an assessment or is participating in a driver safety plan or has had evidence presented to it by a county department under s. 51.42 that the person has recently completed assessment, a driver safety plan or both, the court is not required to make an order under par. (c) This paragraph does not prohibit the court from making an order under par. (c) , if it deems such an order advisable.

(f) The department may make any order which the court is authorized or required to make under this subsection if the court fails to do so.

(h) The court or department shall provide that the period of suspension or revocation imposed under this subsection shall be reduced by any period of suspension or revocation previously served under s. 343.305 if the suspension or revocation under s. 343.305 and the conviction for violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith arise out of the same incident or occurrence. The court or department shall order that the period of suspension or revocation imposed under this subsection run concurrently with any period of time remaining on a suspension or revocation imposed under s. 343.305 arising out of the same incident or occurrence. The court may modify an occupational license authorized under s. 343.305 (8) (d) in accordance with this subsection.

(1z) If a court imposes a driver improvement surcharge under s. 346.655 and the person fails to pay the surcharge within 60 days after the date by which the court ordered the surcharge to be paid, the court may suspend the persons operating privilege until the person pays the surcharge, except that the suspension period may not exceed 2 years.

(2d) A court may suspend a persons operating privilege upon conviction of any offense specified under ss. 940.225 , 948.02 , 948.025 and 948.07 , if the court finds that it is inimical to the public safety and welfare for the offender to have operating privileges. The suspension shall be for one year or until discharge from prison or jail sentence or probation, extended supervision or parole with respect to the offenses specified, whichever date is later. Receipt of a certificate of discharge from the department of corrections or other responsible supervising agency, after one year has elapsed since the suspension, entitles the holder to reinstatement of operating privileges. The holder may be required to present the certificate to the secretary if the secretary deems necessary.

(2g) A court may suspend or revoke a persons operating privilege for any period not exceeding one year upon conviction of that person for violating s. 346.67 , 346.68 or 346.69 This subsection does not apply to circumstances that require the department to revoke a persons operating privilege under s. 343.31 (1) (d) or (3) (i) or (j)

(2j)

(a) A court may revoke a persons operating privilege upon the persons first conviction for violating s. 346.44 or 346.62 (2m) and shall revoke a persons operating privilege upon the persons 2nd or subsequent conviction within a 5-year period for violating s. 346.44 or 346.62 (2m) The revocation 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.

(2m) A court may suspend a persons operating privilege upon conviction of the person for violating s. 346.93 Such suspension shall be for a period of not less than 30 days nor more than one year.

(3) The court that ordered the issuance of an occupational license under s. 343.10 (4) (b) may withdraw the order to issue the license whenever the court, upon the facts, does not see fit to permit the licensee to retain the occupational license. Upon receiving notice that a court has withdrawn its order to issue an occupational license, the department shall cancel that license.

(4) Whenever a court or judge suspends or revokes an operating privilege under this section, the court or judge shall immediately take possession of any suspended or revoked license and shall forward it as provided in s. 345.48 to the department together with the record of conviction and notice of suspension or revocation. Whenever a court or judge restricts the operating privilege of a person, the court or judge shall forward notice of the restriction to the department.

(5) No court may suspend or revoke an operating privilege except as authorized by this chapter or ch. 345 , 351 or 938 or s. 767.303 , 800.09 (1) (c) , 800.095 (4) (b) 4. , 943.21 (3m) , or 961.50 When a court revokes, suspends or restricts a juveniles operating privilege under ch. 938 , the department of transportation shall not disclose information concerning or relating to the revocation, suspension or restriction to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency, or the minor whose operating privilege is revoked, suspended or restricted, or his or her parent or guardian. Persons entitled to receive this information shall not disclose the information to other persons or agencies.

(6)

(a) In this subsection, "violation" means a violation of s. 125.07 (4) (a) or (b) , 125.085 (3) (b) or 125.09 (2) or a local ordinance that strictly conforms to one of those statutes or a law of a federally recognized American Indian tribe or band in this state that strictly conforms to one of those statutes.

(b) If a court imposes suspension of a persons operating privilege under s. 125.07 (4) (bs) or (c) , 346.93 (2f) or (2g) or 938.344 (2) , (2b) or (2d) , the suspension imposed shall be one of the following:

1. For a first violation, suspension for 30 to 90 days.

2. For a violation committed within 12 months of a previous violation, suspension for not more than one year.

3. For a violation committed within 12 months of 2 or more previous violations, suspension for not more than 2 years.

(bm) If the court imposes a suspension of a persons operating privilege under s. 125.085 (3) (bd) , the suspension shall be for 30 to 90 days.

(c) Except as provided by par. (d) , the suspension of the operating privilege under this subsection shall commence on the date of disposition.

(d) If the person subject to suspension under this subsection does not hold a valid license under this chapter other than a license under s. 343.07 or 343.08 on the date of disposition, the suspension under par. (b) shall commence on the date that such a license would otherwise be reinstated or issued after the person applies and qualifies for issuance or 2 years from the date of disposition, whichever occurs first.

343.301. Installation of ignition interlock device or immobilization of a motor vehicle.

(1) IGNITION INTERLOCK.

(a)

1. Except as provided in subd. 2. , if a person improperly refuses to take a test under s. 343.305 or violates s. 346.63 (1) or (2) , 940.09 (1) , or 940.25 , and the person has a total of one or more prior convictions, suspensions, or revocations, counting convictions under ss. 940.09 (1) and 940.25 in the persons lifetime and other convictions, suspensions, and revocations counted under s. 343.307 (1) , the court may order that the persons operating privilege for the operation of "Class D" vehicles be restricted to operating "Class D" vehicles that are equipped with an ignition interlock device.

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

(b)

1. The court may restrict the operating privilege restriction under par. (a) 1. for a period of not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation.

2. The court shall order the operating privilege restriction and the installation of an ignition interlock device under par. (a) 2. for a period of not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation, beginning one year after the operating privilege revocation period begins.

(c) If the court enters an order under par. (a) , the person shall be liable for the reasonable cost of equipping and maintaining any ignition interlock device installed on his or her motor vehicle.

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

(2) IMMOBILIZATION.

(a)

1. Except as provided in subd. 2. , if a person improperly refuses to take a test under s. 343.305 or violates s. 346.63 (1) or (2) , 940.09 (1) , or 940.25 , and the person has a total of one or more prior convictions, suspensions, or revocations, counting convictions under ss. 940.09 (1) and 940.25 in the persons lifetime and other convictions, suspensions, and revocations counted under s. 343.307 (1) , the court may order that the motor vehicle used during the refusal or violation and owned by the person be immobilized.

2. If a person improperly refuses to take a test under s. 343.305 or violates s. 346.63 (1) or (2) , 940.09 (1) , or 940.25 , and the person has a total of 2 or more convictions, suspensions, or revocations counted under s. 343.307 (1) within any 5-year period, the court shall order that each motor vehicle for which the persons name appears on the vehicles certificate of title or registration be immobilized. If immobilizing each motor vehicle under this subdivision would cause undue hardship to any person, except the person to whom the order applies, who is completely dependent on a motor vehicle subject to immobilization for the necessities of life, including a family member or any person who holds legal title to a motor vehicle with the person to whom the order applies, the court may order that one or more motor vehicles subject to this subdivision not be immobilized. This subdivision does not apply if the court enters an order under sub. (1) (a) 1. or, if the person has 2 or more prior convictions, suspensions, or revocations for purposes of this subdivision, to the motor vehicle owned by the person and used in the violation or refusal if the court orders the vehicle to be seized and forfeited under s. 346.65 (6)

(b)

1. The court may order the immobilization under par. (a) 1. for a period of not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation.

2. The court shall order the immobilization under par. (a) 2. for a period of not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation, beginning on the first day of the operating privilege revocation period.

(c) If the court orders that the persons motor vehicle be immobilized, the person shall be liable for the reasonable cost of

equipping and maintaining any immobilization device installed on his or her motor vehicle.

(d) The court shall notify the department, in a form and manner prescribed by the department, that an order to immobilize a motor vehicle has been entered. The registration records of the department shall reflect that the order has been entered against the motor vehicle and remains unexecuted. Any law enforcement officer may execute that order based on the information provided by the department. The law enforcement agency shall notify the department when an order has been executed under this paragraph and the department shall amend its vehicle registration records to reflect that notification.

(e) Within 10 days after immobilizing a motor vehicle under par. (d) , the law enforcement agency that immobilized the vehicle shall provide notice of the immobilization to all lienholders of record. The notice shall set forth the year, make, model, and vehicle identification number of the motor vehicle, where the motor vehicle is located and the reason for the immobilization.

343.303. Preliminary breath screening test.

If a law enforcement officer has probable cause to believe that the person is violating or has violated s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25 or s. 940.09 where the offense involved the use of a vehicle, or if the officer detects any presence of alcohol, a controlled substance, controlled substance analog or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe that the person is violating or has violated s. 346.63 (7) or a local ordinance in conformity therewith, the officer, prior to an arrest, may request the person to provide a sample of his or her breath for a preliminary breath screening test using a device approved by the department for this purpose. The result of this preliminary breath screening test may be used by the law enforcement officer for the purpose of deciding whether or not the person shall be arrested for a violation of s. 346.63 (1) , (2m) , (5) or (7) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) , 940.09 (1) or 940.25 and whether or not to require or request chemical tests as authorized under s. 343.305 (3) The result of the preliminary breath screening test shall not be admissible in any action or proceeding except to show probable cause for an arrest, if the arrest is challenged, or to prove that a chemical test was properly required or requested of a person under s. 343.305 (3) Following the screening test, additional tests may be required or requested of the driver under s. 343.305 (3) The general penalty provision under s. 939.61 (1) does not apply to a refusal to take a preliminary breath screening test.

343.305. Tests for intoxication; administrative suspension and court-ordered revocation.

(1) DEFINITIONS.

In this section:

- (b) "Drive" means the exercise of physical control over the speed and direction of a motor vehicle while it is in motion.
- (c) "Operate" means the physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.

(2) IMPLIED CONSENT.

Any person who is on duty time with respect to a commercial motor vehicle or drives or operates a motor vehicle upon

the public highways of this state, or in those areas enumerated in s. 346.61 , is deemed to have given consent to one or more tests of his or her breath, blood or urine, for the purpose of determining the presence or quantity in his or her blood or breath, of alcohol, controlled substances, controlled substance analogs or other drugs, or any combination of alcohol, controlled substances, controlled substance analogs and other drugs, when requested to do so by a law enforcement officer under sub. (3) (a) or (am) or when required to do so under sub. (3) (b) Any such tests shall be administered upon the request of a law enforcement officer. The law enforcement agency by which the officer is employed shall be prepared to administer, either at its agency or any other agency or facility, 2 of the 3 tests under sub. (3) (a) or (am) , and may designate which of the tests shall be administered first.

(3) REQUESTED OR REQUIRED.

(a) Upon arrest of a person for violation of s. 346.63 (1) , (2m) or (5) or a local ordinance in conformity therewith, or for a violation of s. 346.63 (2) or (6) or 940.25 , or s. 940.09 where the offense involved the use of a vehicle, a law enforcement officer may request the person to provide one or more samples of his or her breath, blood or urine for the purpose specified under sub. (2) Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample.

(am) Prior to arrest, a law enforcement officer may request the person to provide one or more samples of his or her breath, blood or urine for the purpose specified under sub. (2) whenever a law enforcement officer detects any presence of alcohol, a controlled substance, a controlled substance analog or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe the person is violating or has violated s. 346.63 (7) Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample. For the purposes of this paragraph, "law enforcement officer" includes inspectors in the performance of duties under s. 110.07 (3)

(b) A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subsection, and if a law enforcement officer has probable cause to believe that the person has violated s. 346.63 (1) , (2m) or (5) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25 , or s. 940.09 where the offense involved the use of a vehicle, or detects any presence of alcohol, controlled substance, controlled substance analog or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe the person has violated s. 346.63 (7) , one or more samples specified in par. (a) or (am) may be administered to the person.

(c) This section does not limit the right of a law enforcement officer to obtain evidence by any other lawful means.

(4) INFORMATION.

At the time that a chemical test specimen is requested under sub. (3) (a) or (am) , the law enforcement officer shall read the following to the person from whom the test specimen is requested:

"You have either been arrested for an offense that involves driving or operating a motor vehicle while under the influence of alcohol or drugs, or both, or you are suspected of driving or being on duty time with respect to a commercial motor vehicle after consuming an intoxicating beverage.

This law enforcement agency now wants to test one or more samples of your breath, blood or urine to determine the concentration of alcohol or drugs in your system. If any test shows more alcohol in your system than the law permits

while driving, your operating privilege will be suspended. If you refuse to take any test that this agency requests, your operating privilege will be revoked and you will be subject to other penalties. The test results or the fact that you refused testing can be used against you in court.

If you take all the requested tests, you may choose to take further tests. You may take the alternative test that this law enforcement agency provides free of charge. You also may have a test conducted by a qualified person of your choice at your expense. You, however, will have to make your own arrangements for that test.

If you have a commercial driver license or were operating a commercial motor vehicle, other consequences may result from positive test results or from refusing testing, such as being placed out of service or disqualified."

(5) ADMINISTERING THE TEST; ADDITIONAL TESTS.

(a) If the person submits to a test under this section, the officer shall direct the administering of the test. A blood test is subject to par. (b) The person who submits to the test is permitted, upon his or her request, the alternative test provided by the agency under sub. (2) or, at his or her own expense, reasonable opportunity to have any qualified person of his or her own choosing administer a chemical test for the purpose specified under sub. (2) If the person has not been requested to provide a sample for a test under sub. (3) (a) or (am) , the person may request a breath test to be administered by the agency or, at his or her own expense, reasonable opportunity to have any qualified person administer any test specified under sub. (3) (a) or (am) The failure or inability of a person to obtain a test at his or her own expense does not preclude the admission of evidence of the results of any test administered under sub. (3) (a) or (am) If a person requests the agency to administer a breath test and if the agency is unable to perform that test, the person may request the agency to perform a test under sub. (3) (a) or (am) that it is able to perform. The agency shall comply with a request made in accordance with this paragraph.

(b) Blood may be withdrawn from the person arrested for violation of s. 346.63 (1) , (2) , (2m) , (5) or (6) or 940.25 , or s. 940.09 where the offense involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1) , (2m) or (5) , or as provided in sub. (3) (am) or (b) to determine the presence or quantity of alcohol, a controlled substance, a controlled substance analog or any other drug, or any combination of alcohol, controlled substance, controlled substance analog and any other drug in the blood only by a physician, registered nurse, medical technologist, physician assistant or person acting under the direction of a physician.

(c) A person acting under par. (b) , the employer of any such person and any hospital where blood is withdrawn by any such person have immunity from civil or criminal liability under s. 895.53

(d) At the trial of any civil or criminal action or proceeding arising out of the acts committed by a person alleged to have been driving or operating a motor vehicle while under the influence of an intoxicant, a controlled substance, a controlled substance analog or any other drug, or under the influence of any combination of alcohol, a controlled substance, a controlled substance analog and any other drug, to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, or having a prohibited alcohol concentration, or alleged to have been driving or operating or on duty time with respect to a commercial motor vehicle while having an alcohol concentration above 0.0 or possessing an intoxicating beverage, regardless of its alcohol content, or within 4 hours of having consumed or having been under the influence of an intoxicating beverage, regardless of its alcohol content, or of having an alcohol concentration of 0.04 or more, the results of a test administered in accordance with this section are admissible on the issue of whether the person was under the influence of an intoxicant, a controlled substance, a controlled substance analog or any other drug, or under the

influence of any combination of alcohol, a controlled substance, a controlled substance analog and any other drug, to a degree which renders him or her incapable of safely driving or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or any issue relating to the persons alcohol concentration. Test results shall be given the effect required under s. 885.235

(e) At the trial of any civil or criminal action or proceeding arising out of the acts committed by a person alleged to have been driving or operating a motor vehicle while having a detectable amount of a restricted controlled substance in his or her blood, the results of a blood test administered in accordance with this section are admissible on any issue relating to the presence of a detectable amount of a restricted controlled substance in the persons blood. Test results shall be given the effect required under s. 885.235

(6) REQUIREMENTS FOR TESTS.

(a) Chemical analyses of blood or urine to be considered valid under this section shall have been performed substantially according to methods approved by the laboratory of hygiene and by an individual possessing a valid permit to perform the analyses issued by the department of health and family services. The department of health and family services shall approve laboratories for the purpose of performing chemical analyses of blood or urine for alcohol, controlled substances or controlled substance analogs and shall develop and administer a program for regular monitoring of the laboratories. A list of approved laboratories shall be provided to all law enforcement agencies in the state. Urine specimens are to be collected by methods specified by the laboratory of hygiene. The laboratory of hygiene shall furnish an ample supply of urine and blood specimen containers to permit all law enforcement officers to comply with the requirements of this section.

(b) The department of transportation shall approve techniques or methods of performing chemical analysis of the breath and shall:

1. Approve training manuals and courses throughout the state for the training of law enforcement officers in the chemical analysis of a persons breath;
2. Certify the qualifications and competence of individuals to conduct the analysis;
3. Have trained technicians, approved by the secretary, test and certify the accuracy of the equipment to be used by law enforcement officers for chemical analysis of a persons breath under sub. (3) (a) or (am) before regular use of the equipment and periodically thereafter at intervals of not more than 120 days; and
4. Issue permits to individuals according to their qualifications.

343.307. Prior convictions, suspensions or revocations to be counted as offenses.

(1) The court shall count the following to determine the length of a revocation under s. 343.30 (1q) (b) and to determine the penalty under s. 346.65 (2) :

(a) Convictions for violations under s. 346.63 (1) , or a local ordinance in conformity with that section.

(b) Convictions for violations of a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1)

(c) Convictions for violations under s. 346.63 (2) or 940.25 , or s. 940.09 where the offense involved the use of a vehicle.

(d) Convictions under the law of another jurisdiction that prohibits a person from refusing chemical testing or using a motor vehicle while intoxicated or under the influence of a controlled substance or controlled substance analog, or a combination thereof; with an excess or specified range of alcohol concentration; while under the influence of any drug to a degree that renders the person incapable of safely driving; or while having a detectable amount of a restricted controlled substance in his or her blood, as those or substantially similar terms are used in that jurisdictions laws.

(e) Operating privilege suspensions or revocations under the law of another jurisdiction arising out of a refusal to submit to chemical testing.

(f) Revocations under s. 343.305 (10)

(2) The court shall count the following to determine the length of a revocation under s. 343.305 (10) and to determine the penalty under s. 346.65 (2j) and to determine the prohibited alcohol concentration under s. 340.01 (46m) :

(a) Convictions for violations under s. 346.63 (1) or (5) , or a local ordinance in conformity with either section.

(b) Convictions for violations of a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1) or (5)

(c) Convictions for violations under s. 346.63 (2) or (6)

(d) Convictions under the law of another jurisdiction that is in substantial conformity with 49 CFR 383.51 (b) (2) (i) or (ii) or both.

(e) Convictions under the law of another jurisdiction that prohibits a person from refusing chemical testing or using a motor vehicle while intoxicated or under the influence of a controlled substance or controlled substance analog, or a combination thereof; with an excess or specified range of alcohol concentration; while under the influence of any drug to a degree that renders the person incapable of safely driving; or while having a detectable amount of a restricted controlled substance in his or her blood, as those or substantially similar terms are used in that jurisdictions laws.

(f) Operating privilege suspensions or revocations under the law of another jurisdiction arising out of a refusal to submit to chemical testing.

(g) Revocations under s. 343.305 (10)

(h) Convictions for violations under s. 940.09 (1) or 940.25

(3) If the same elements of the offense must be proven under a local ordinance or under a law of a federally recognized American Indian tribe or band in this state as under s. 346.63 (1) (a) , (am) , or (b) , any combination of s. 346.63 (1) (a) , (am) , or (b) , or s. 346.63 (5) , the local ordinance or the law of a federally recognized American Indian tribe or band in this state shall be considered to be in conformity with s. 346.63 (1) (a) , (am) , or (b) , any combination of s. 346.63 (1) (a) , (am) , or (b) , or s. 346.63 (5) , for purposes of ss. 343.30 (1q) (b) 1. , 343.305 (10) (b) 1. and 346.65 (2) and (2j)

343.31. Revocation or suspension of licenses after certain convictions.

(1) The department shall revoke a persons operating privilege upon receiving a record of conviction showing that the person has been convicted of any of the following offenses under a state law or under a local ordinance which is in conformity therewith or under a law of a federally recognized American Indian tribe or band in this state which is in conformity with state law:

(a) Homicide or great bodily harm resulting from the operation of a motor vehicle and which is criminal under s. 346.62 (4) , 940.06 , 940.09 , 940.10 or 940.25

(am) Injury by the operation of a vehicle while under the influence of an intoxicant, a controlled substance or a controlled substance analog, or any combination of an intoxicant, a controlled substance and a controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or while the person has a detectable amount of a restricted controlled substance in his or her blood or has a prohibited alcohol concentration and which is criminal under s. 346.63 (2)

(ar) Injury by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.08 and which is criminal under s. 346.63 (6)

(b) Upon conviction for operation of a motor vehicle while under the influence of an intoxicant, controlled substance, controlled substance analog or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, in accordance with the order of the court.

(c) Any felony in the commission of which a motor vehicle is used.

(d) Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in death of or personal injury to another or in serious property damage.

(g) Operating a motor vehicle without having furnished proof of financial responsibility when proof of financial responsibility is required.

(hm) A violation of 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. Revocation under this paragraph shall be for a period of 6 months unless a lesser period of revocation is ordered under s. 343.30 (1g) (b)

(i) Knowingly fleeing or attempting to elude a traffic officer under s. 346.04 (3)

(2) The department shall revoke the operating privilege of any resident upon receiving notice of the conviction of such person in another jurisdiction for an offense therein which, if committed in this state, would have been cause for revocation under this section or for revocation under s. 343.30 (1q) Such offenses shall include violation of any law of another jurisdiction that prohibits a person from using a motor vehicle while intoxicated or under the influence of a controlled substance or controlled substance analog, or a combination thereof; with an excess or specified range of alcohol concentration; while under the influence of any drug to a degree that renders the person incapable of safely

driving; or while having a detectable amount of a restricted controlled substance in his or her blood, as those or substantially similar terms are used in that jurisdictions laws. Upon receiving similar notice with respect to a nonresident, the department shall revoke the privilege of the nonresident to operate a motor vehicle in this state. Such 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.

(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 persons operating privilege under s. 343.30 (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.

(2r) The department shall suspend a persons operating privilege upon receiving a record of conviction showing that the person has been convicted of perjury or the making of a false affidavit or the making of a false statement or certification to the department under this chapter or any other law relating to the ownership or operation of motor vehicles.

(2s) The department may suspend a persons operating privilege for 2 years upon receiving a record of conviction under s. 973.137 If the department receives a record of conviction under s. 973.137 or a notice of suspension under s. 938.34 (14q) for a person whose license or operating privilege is currently suspended or revoked or for a person who does not currently possess a valid operators license, the suspension is first effective on the date on which the person is first eligible for issuance, renewal, or reinstatement of an operators license.

(2u) The department shall suspend the operating privilege of a person who has been issued an occupational license upon receiving a record of conviction showing that the person has been convicted of any of the following offenses.

(a) Any offense that may be counted under s. 351.02 (1) (a) , other than s. 351.02 (1) (a) 5.

(b) Exceeding by 20 or more miles per hour any lawful or posted maximum speed limit.

(c) Participating in any race or speed or endurance contest.

(3)

(a) Except as otherwise provided in this subsection or sub. (2m) or (2s) , all revocations or suspensions under this section shall be for a period of one year.

(b) If the revocation results from a first conviction of operation of a motor vehicle while under the influence of an intoxicant, controlled substance, controlled substance analog or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving and the conviction occurs in another jurisdiction, the period of revocation shall be 6 months.

(bm) For any person convicted under a law of a federally recognized American Indian tribe or band in this state in

conformity with s. 346.63 (1) :

1. Except as provided in subds. 3. and 4. , the department shall revoke the persons operating privilege under this paragraph according to the number of previous suspensions, revocations or convictions that would be counted under s. 343.307 (1) Suspensions, revocations and convictions arising out of the same incident shall be counted as one. If a person has a conviction, suspension or revocation for any offense that is counted under s. 343.307 (1) , that conviction, suspension or revocation shall count as a prior conviction, suspension or revocation under this subdivision.
 2. Except as provided in subd. 3. , 4. or 4m. , for the first conviction, the department shall revoke the persons operating privilege for not less than 6 months nor more than 9 months. If an Indian tribal court in this state revokes the persons privilege to operate a motor vehicle on tribal lands for not less than 6 months nor more than 9 months for the conviction specified in par. (bm) (intro.) , the department shall impose the same period of revocation. The person is eligible for an occupational license under s. 343.10 at any time.
 3. Except as provided in subd. 4m. , if the number of convictions under ss. 940.09 (1) and 940.25 in the persons lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307 (1) within a 10-year period, equals 2, the department shall revoke the persons operating privilege for not less than one year nor more than 18 months. If an Indian tribal court in this state revokes the persons privilege to operate a motor vehicle on tribal lands for not less than one year nor more than 18 months for the conviction specified in par. (bm) (intro.) , the department shall impose the same period of revocation. After the first 60 days of the revocation period or, if the total number of convictions, suspensions, and revocations counted under this subdivision within any 5-year period equals 2 or more, after one year of the revocation period has elapsed, the person is eligible for an occupational license under s. 343.10
 4. Except as provided in subd. 4m. , if the number of convictions under ss. 940.09 (1) and 940.25 in the persons lifetime, plus the total number of other suspensions, revocations and convictions counted under s. 343.307 (1) , equals 3 or more, the department shall revoke the persons operating privilege for not less than 2 years nor more than 3 years. If an Indian tribal court in this state revokes the persons privilege to operate a motor vehicle on tribal lands for not less than 2 years nor more than 3 years for the conviction specified in par. (bm) (intro.) , the department shall impose the same period of revocation. After one year of the revocation period has elapsed, the person is eligible for an occupational license under s. 343.10
 - 4m. If the Indian tribal court that convicted the person determined that there was a minor passenger under 16 years of age in the motor vehicle at the time of the incident that gave rise to the conviction, the applicable minimum and maximum revocation periods under subd. 2. , 3. or 4. for the conviction are doubled.
 5. The time period under this paragraph shall be measured from the dates of the refusals or violations which resulted in the suspensions, revocations or convictions.
- (c) Any person convicted under s. 940.09 of causing the death of another or of an unborn child by the operation or handling of a motor vehicle shall have his or her operating privilege revoked for 5 years. If there was a minor passenger under 16 years of age or an unborn child, as defined in s. 939.75 (1) , in the motor vehicle at the time of the violation that gave rise to the conviction under s. 940.09 , the revocation period is 10 years.
- (d) Any person convicted of knowingly fleeing or attempting to elude a traffic officer under s. 346.04 (3) shall have his or her operating privilege revoked as follows:

1. If the offense did not result in bodily harm to another or damage to the property of another, for 6 months.
2. If the offense results in bodily harm to another or causes damage to the property of another, as provided in par. (a)
3. If the offense results in great bodily harm to another, for 2 years.
4. If the offense results in the death of another, for 5 years.

(e) Any person convicted under s. 346.63 (2) shall have his or her operating privilege revoked for not less than one year nor more than 2 years. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (2) , the minimum and maximum revocation periods are doubled.

(f) Any person convicted under s. 940.25 shall have his or her operating privilege revoked for 2 years. If there was a minor passenger under 16 years of age or an unborn child, as defined in s. 939.75 (1) , in the motor vehicle at the time of the violation that gave rise to the conviction under s. 940.25 , the revocation period is 4 years.

(i) If a person is convicted for a violation of s. 346.67 (1) where the accident involved great bodily harm, the period of revocation is 2 years.

(j) If a person is convicted for a violation of s. 346.67 (1) where the accident involved death, the period of revocation is 5 years.

(3m)

(a) Any person who has his or her operating privilege revoked under sub. (3) (c) or (f) is eligible for an occupational license under s. 343.10 after the first 120 days of the revocation period, except that if the total number of convictions, suspensions, or revocations for any offense that is counted under s. 343.307 (1) within any 5-year period equals 2 or more, the person is eligible for an occupational license under s. 343.10 after one year of the revocation period has elapsed.

(b) Any person who has his or her operating privilege revoked under sub. (3) (e) is eligible for an occupational license under s. 343.10 after the first 60 days of the revocation period, except that if the total number of convictions, suspensions, or revocations for any offense that is counted under s. 343.307 (1) within any 5-year period equals 2 or more, the person is eligible for an occupational license under s. 343.10 after one year of the revocation period has elapsed.

940.09. Homicide by intoxicated use of vehicle or firearm.

(1) Any person who does any of the following may be penalized as provided in sub. (1c) :

(a) Causes the death of another by the operation or handling of a vehicle while under the influence of an intoxicant.

(am) Causes the death of another by the operation or handling of a vehicle while the person has a detectable amount of a restricted controlled substance in his or her blood.

(b) Causes the death of another by the operation or handling of a vehicle while the person has a prohibited alcohol concentration, as defined in s. 340.01 (46m)

(bm) Causes the death of another by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.08.

(c) Causes the death of an unborn child by the operation or handling of a vehicle while under the influence of an intoxicant.

(cm) Causes the death of an unborn child by the operation or handling of a vehicle while the person has a detectable amount of a restricted controlled substance in his or her blood.

(d) Causes the death of an unborn child by the operation or handling of a vehicle while the person has a prohibited alcohol concentration, as defined in s. 340.01 (46m)

(e) Causes the death of an unborn child by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.08.

(1c)

(a) Except as provided in par. (b) , a person who violates sub. (1) is guilty of a Class D felony.

(b) A person who violates sub. (1) is guilty of a Class C felony if the person has one or more prior convictions, suspensions, or revocations, as counted under s. 343.307 (2)

(1d)

(a)

1. Except as provided in subd. 2. , if the person who committed an offense under sub. (1) (a) , (am) , (b) , (c) , (cm) , or (d) has 2 or more prior convictions, suspensions, or revocations, counting convictions under sub. (1) and s. 940.25 in the persons lifetime, plus other convictions, suspensions, or revocations counted under s. 343.307 (1) , the procedure under s. 343.301 shall be followed if the court enters an order regarding operating privilege restriction or enters an order regarding immobilization.

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

(b) If the person who committed an offense under sub. (1) (a) , (am) , (b) , (c) , (cm) , or (d) has 2 or more prior convictions, suspensions, or revocations, counting convictions under sub. (1) and s. 940.25 in the persons lifetime, plus other convictions, suspensions, or revocations counted under s. 343.307 (1) , the procedure under s. 346.65 (6) shall be followed if the court orders the seizure and forfeiture of the motor vehicle owned by the person and used in the violation.

(1g) Any person who does any of the following is guilty of a Class D felony:

(a) Causes the death of another by the operation or handling of a firearm or airgun while under the influence of an intoxicant.

(am) Causes the death of another by the operation or handling of a firearm or airgun while the person has a detectable amount of a restricted controlled substance in his or her blood.

(b) Causes the death of another by the operation or handling of a firearm or airgun while the person has an alcohol concentration of 0.08 or more.

(c) Causes the death of an unborn child by the operation or handling of a firearm or airgun while under the influence of an intoxicant.

(cm) Causes the death of an unborn child by the operation or handling of a firearm or airgun while the person has a detectable amount of a restricted controlled substance in his or her blood.

(d) Causes the death of an unborn child by the operation or handling of a firearm or airgun while the person has an alcohol concentration of 0.08 or more.

(1m)

(a) A person may be charged with and a prosecutor may proceed upon an information based upon a violation of any combination of sub. (1) (a) , (am) , or (b) ; any combination of sub. (1) (a) , (am) , or (bm) ; any combination of sub. (1) (c) , (cm) , or (d) ; any combination of sub. (1) (c) , (cm) , or (e) ; any combination of sub. (1g) (a) , (am) , or (b) or; any combination of sub. (1g) (c) , (cm) , or (d) for acts arising out of the same incident or occurrence.

(b) If a person is charged in an information with any of the combinations of crimes referred to in par. (a) , the crimes shall be joined under s. 971.12 If the person is found guilty of more than one of the crimes so charged for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under s. 23.33 (13) (b) 2. and 3. , under s. 30.80 (6) (a) 2. and 3. , under s. 343.307 (1) or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a) , (am) , (b) , (bm) , (c) , (cm) , (d) , and (e) each require proof of a fact for conviction which the others do not require, and sub. (1g) (a) , (am) , (b) , (c) , (cm) , and (d) each require proof of a fact for conviction which the others do not require.

(2)

(a) In any action under this section, the defendant has a defense if he or she proves by a preponderance of the evidence that the death would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant, did not have a detectable amount of a restricted controlled substance in his or her blood, or did not have an alcohol concentration described under sub. (1) (b) , (bm) , (d) or (e) or (1g) (b) or (d)

(b) In any action under sub. (1) (am) or (cm) or (1g) (am) or (cm) that is based on the defendant allegedly having a detectable amount of methamphetamine or gamma-hydroxybutyric acid or delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors or gamma-hydroxybutyric acid or delta-9-tetrahydrocannabinol.

(3) An officer who makes an arrest for a violation of this section shall make a report as required under s. 23.33 (4t) , 30.686 , 346.635 or 350.106

940.25. Injury by intoxicated use of a vehicle.

(1) Any person who does any of the following is guilty of a Class F felony:

(a) Causes great bodily harm to another human being by the operation of a vehicle while under the influence of an intoxicant.

(am) Causes great bodily harm to another human being by the operation of a vehicle while the person has a detectable amount of a restricted controlled substance in his or her blood.

(b) Causes great bodily harm to another human being by the operation of a vehicle while the person has a prohibited alcohol concentration, as defined in s. 340.01 (46m)

(bm) Causes great bodily harm to another human being by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.08.

(c) Causes great bodily harm to an unborn child by the operation of a vehicle while under the influence of an intoxicant.

(cm) Causes great bodily harm to an unborn child by the operation of a vehicle while the person has a detectable amount of a restricted controlled substance in his or her blood.

(d) Causes great bodily harm to an unborn child by the operation of a vehicle while the person has a prohibited alcohol concentration, as defined in s. 340.01 (46m)

(e) Causes great bodily harm to an unborn child by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.08.

(1d)

(a)

1. Except as provided in subd. 2. , if the person who committed an offense under sub. (1) (a) , (am) , (b) , (c) , (cm) , or (d) has 2 or more prior convictions, suspensions, or revocations, counting convictions under sub. (1) and s. 940.09 (1) in the persons lifetime, plus other convictions, suspensions, or revocations counted under s. 343.307 (1) , the procedure under s. 343.301 shall be followed if the court enters an order regarding operating privilege restriction or enters an order regarding immobilization.

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

(b) If the person who committed an offense under sub. (1) (a) , (am) , (b) , (c) , (cm) , or (d) has 2 or more prior convictions, suspensions, or revocations, counting convictions under sub. (1) and s. 940.09 (1) in the persons lifetime, plus other convictions, suspensions, or revocations counted under s. 343.307 (1) , the procedure under s. 346.65 (6) shall be followed if the court orders the seizure and forfeiture of the motor vehicle owned by the person and used in the violation.

(1m)

(a) A person may be charged with and a prosecutor may proceed upon an information based upon a violation of any combination of sub. (1) (a) , (am) , or (b) ; any any combination of sub. (1) (a) , (am) , or (bm) ; any combination of sub. (1) (c) , (cm) , or (d) ; any combination of or sub. (1) (c) , (cm) , or (e) for acts arising out of the same incident or occurrence.

(b) If a person is charged in an information with any of the combinations of crimes referred to in par. (a) , the crimes shall be joined under s. 971.12 If the person is found guilty of more than one of the crimes so charged for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under s. 23.33 (13) (b) 2. and 3. , under s. 30.80 (6) (a) 2. or 3. , under ss. 343.30 (1q) and 343.305 or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a) , (am) , (b) , (bm) , (c) , (cm) , (d) , and (e) each require proof of a fact for conviction which the others do not require.

(2)

(a) The defendant has a defense if he or she proves by a preponderance of the evidence that the great bodily harm would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant, did not have a detectable amount of a restricted controlled substance in his or her blood, or did not have an alcohol concentration described under sub. (1) (b) , (bm) , (d) or (e)

(b) In any action under this section that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.

(3) An officer who makes an arrest for a violation of this section shall make a report as required under s. 23.33 (4t) , 30.686 , 346.635 or 350.106