



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-3350/1
ZDW:amn

2023 SENATE BILL 404

September 8, 2023 - Introduced by Senators WANGGAARD, CABRAL-GUEVARA, HUTTON, JACQUE, JAMES, MARKLEIN and TOMCZYK, cosponsored by Representatives SPIROS, DITTRICH, DONOVAN, EDMING, S. JOHNSON, MURPHY, O'CONNOR, PENTERMAN, SCHUTT and BRANDTJEN. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to repeal** 343.44 (2) (ad), 343.44 (2) (ag) and 343.44 (2) (ar); **to amend**
2 343.05 (5) (b) 1., 343.05 (5) (b) 4., 343.05 (5) (b) 5. and 343.44 (2) (b) (intro.); **to**
3 **repeal and recreate** 343.05 (5) (am); and **to create** 343.44 (2) (a) and 351.02
4 (1) (a) 11. of the statutes; **relating to:** penalties for operating a motor vehicle
5 without a license or after license suspension or revocation and providing a
6 penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from operating a motor vehicle without a valid operator's license or while the person's operating privilege has been suspended or revoked. This bill increases the penalties for certain violations of operating without a license (OWL). The bill also consolidates and modifies the existing penalties for operating while suspended (OWS) and operating after revocation (OAR) and provides for additional penalties.

Operating without a license

1. Under current law, a person who has more than one operator's license at a time or who unlawfully operates a commercial motor vehicle is subject to a forfeiture of up to \$600 and six months imprisonment for a first offense, with increasing penalties for subsequent offenses. Under the bill, the person is guilty of a Class B misdemeanor.

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2. Under current law, a person who is guilty of an OWL violation is subject to a forfeiture of up to \$200 for a first offense, with increasing penalties for certain second and third offenses. Under the bill, a person who is guilty of a second or subsequent OWL violation is guilty of a Class A misdemeanor. The bill also provides that a person who accumulates four or more convictions of OWL is a habitual traffic offender.

3. Under current law, a person who is guilty of an OWL violation that causes great bodily harm or death to another is subject to a fine of up to \$7,500 and \$10,000, respectively. Under the bill, the person is guilty of a Class H and Class F felony, respectively.

4. Under current law, a person who is guilty of an OWL violation that causes great bodily harm or death to another and who knew that he or she was operating without a license at the time of the violation is guilty of a Class I and Class H felony, respectively. The bill increases these penalties to a Class G and Class E felony, respectively.

Operating while suspended or after revocation

1. Under current law, a person who is guilty of OWS or OAR is subject to a forfeiture of up to \$200 and \$2,500, respectively. Under the bill, the person is guilty of a Class B and Class A misdemeanor, respectively.

2. Under current law, a person who is guilty of OAR and whose license was revoked for operating while intoxicated or a related violation is subject to a fine of up to \$2,500 and up to one year of imprisonment. Under the bill, the person is guilty of a Class I felony.

3. Under current law, a person who is guilty of OAR and who has previously been convicted of an OAR violation where the revocation was for certain qualifying convictions (generally, felonies involving the use of a vehicle) is subject to a fine of up to \$10,000 and up to one year of imprisonment. Under the bill, the person is guilty of a Class I felony.

4. Under current law, a person who is guilty of an OWS or OAR violation that causes great bodily harm or death to another is subject to a fine of up to \$7,500 and \$10,000, respectively. Under the bill, the person is guilty of a Class H and Class F felony, respectively.

5. Under current law, a person who is guilty of an OWS or OAR violation that causes great bodily harm or death to another and who knew that his or her license was suspended or revoked at the time of the violation is guilty of a Class I and Class H felony, respectively. The bill increases these penalties to a Class G and Class E felony, respectively.

6. The bill creates new penalties that provide that a person who is guilty of OAR and whose license was revoked for any violation of state or local traffic laws or ordinances, or for habitual traffic offender status, is guilty of a Class I and Class H felony, respectively.

7. The bill provides that a person who accumulates four or more convictions of OWS or OAR is a habitual traffic offender.

This table lists the penalty classifications for the crimes:

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Class E felony	fine not to exceed \$50,000 or imprisonment not to exceed 15 years, or both
Class F felony	fine not to exceed \$25,000 or imprisonment not to exceed 12.5 years, or both
Class G felony	fine not to exceed \$25,000 or imprisonment not to exceed 10 years, or both
Class H felony	fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both
Class I felony	fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both
Class A misdemeanor	fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both
Class B misdemeanor	fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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

- 1 **SECTION 1.** 343.05 (5) (am) of the statutes is repealed and recreated to read:
- 2 343.05 (5) (am) Any person who violates sub. (1) or (2) is guilty of a Class B
- 3 misdemeanor.
- 4 **SECTION 2.** 343.05 (5) (b) 1. of the statutes is amended to read:
- 5 343.05 (5) (b) 1. Except as provided in subds. 2. to 5. and sub. (6), any person
- 6 who violates sub. (3) (a) may be required to forfeit not more than \$200 for the first
- 7 offense, ~~may be fined not more than \$300 and imprisoned for not more than 30 days~~
- 8 ~~for the 2nd offense occurring within 3 years, and may be fined not more than \$500~~
- 9 ~~and imprisoned for not more than 6 months for the 3rd or subsequent offense~~
- 10 ~~occurring within 3 years. For a 2nd or subsequent offense, the person is guilty of a~~
- 11 Class A misdemeanor. In this paragraph, a violation of a local ordinance in
- 12 conformity with this section or a violation of a law of a federally recognized American

SENATE BILL 404**SECTION 2**

1 Indian tribe or band in this state in conformity with this section shall count as a
2 previous offense.

3 **SECTION 3.** 343.05 (5) (b) 4. of the statutes is amended to read:

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

10 **SECTION 4.** 343.05 (5) (b) 5. of the statutes is amended to read:

11 343.05 (5) (b) 5. Except as provided in subd. 2. and sub. (6), any person who
12 violates sub. (3) (a) and, in the course of the violation, causes the death of another
13 person is required to forfeit ~~not less than \$7,500 nor more than \$10,000~~ guilty of a
14 Class F felony, except that, if the person knows at the time of the violation that he
15 or she does not possess a valid operator's license, the person is guilty of a Class ~~H~~ E
16 felony.

17 **SECTION 5.** 343.44 (2) (a) of the statutes is created to read:

18 343.44 (2) (a) 1. Except as provided in subds. 5. and 6., any person who violates
19 sub. (1) (a) is guilty of a Class B misdemeanor.

20 2. Except as provided in subds. 3. to 6., any person who violates sub. (1) (b) is
21 guilty of a Class A misdemeanor.

22 3. Except as provided in subds. 4. to 6., any person who violates sub. (1) (b) is
23 guilty of a Class I felony if any of the following applies:

24 a. The person's license was revoked under s. 351.025.

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1 b. The person's license was revoked for an offense that may be counted under
2 s. 343.307 (2).

3 c. The person's license was revoked for any violation of ch. 346, 349, or 940.

4 4. Except as provided in subds. 5. and 6., any person who has previously been
5 convicted of a violation of sub. (1) (b) where the revocation was under s. 343.31 (1m)
6 and who violates sub. (1) (b) is guilty of a Class H felony.

7 5. If a person violates sub. (1) (a) or (b) and the violation results in great bodily
8 harm, as defined in s. 939.22 (14), to another, the person is guilty of a Class H felony,
9 except that if the person knows at the time of the violation that his or her operating
10 privilege has been suspended or revoked, the person is guilty of a Class G felony.

11 6. If a person violates sub. (1) (a) or (b) and the violation results in the death
12 of another, the person is guilty of a Class F felony, except that if the person knows
13 at the time of the violation that his or her operating privilege has been suspended
14 or revoked, the person is guilty of a Class E felony.

15 **SECTION 6.** 343.44 (2) (ad) of the statutes is repealed.

16 **SECTION 7.** 343.44 (2) (ag) of the statutes is repealed.

17 **SECTION 8.** 343.44 (2) (ar) of the statutes is repealed.

18 **SECTION 9.** 343.44 (2) (b) (intro.) of the statutes is amended to read:

19 343.44 (2) (b) (intro.) In imposing a sentence under par. ~~(ar)~~ (a) for a violation
20 of sub. (1) (b) or under par. (br), the court may review the record and consider the
21 following:

22 **SECTION 10.** 351.02 (1) (a) 11. of the statutes is created to read:

23 351.02 (1) (a) 11. Operating without a license under s. 343.05 (3) (a), operating
24 while suspended under s. 343.44 (1) (a), or operating while revoked under s. 343.44
25 (1) (b).

