



2015 ASSEMBLY BILL 352

September 25, 2015 - Introduced by Representatives J. OTT, ALLEN, SANFELIPPO, BERCEAU, T. LARSON, ROHRKASTE, E. BROOKS, HORLACHER, MURPHY, EDMING, KITCHENS, GENRICH, KERKMAN, SARGENT and KOOYENGA, cosponsored by Senators DARLING, NASS, CARPENTER and MARKLEIN. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT to renumber and amend** 66.0114 (1) (b); **to amend** 800.035 (5) (a); and
2 **to create** 66.0114 (1) (b) 2., 66.0114 (1) (b) 3., 345.26 (1) (b) 3., 800.035 (5) (am)
3 and 967.055 (2m) of the statutes; **relating to:** requiring persons accused of
4 violating traffic laws and ordinances related to driving while intoxicated to
5 appear in person in court.

Analysis by the Legislative Reference Bureau

Under current law, generally, a first violation of operating a vehicle while under the influence of an intoxicant, with a detectable amount of a restricted controlled substance in one's blood, or with a prohibited alcohol concentration (OWI-related violation), is a traffic violation punishable by a civil forfeiture. Current law allows local units of government to enact ordinances in conformity with the state traffic law that punishes most first OWI-related offenses as a civil violation.

Under current law, a person who receives a citation for an OWI-related civil traffic violation or who receives a citation for an ordinance in conformity with the OWI-related traffic violation may opt to appear in court to plead not guilty to the violation or may opt to pay the forfeiture associated with the violation and avoid an appearance in court. Generally, a person who pays the forfeiture associated with the violation is considered to have pled guilty or no contest to the charge.

Under this bill, a person who receives a citation for an OWI-related civil traffic violation or who receives a citation for an ordinance in conformity therewith is required to appear in court to plead guilty, no contest, or not guilty to the charge.

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Under the bill, if the person fails to appear in court, the court is required to enter a default judgment against the person and impose the applicable penalties, except that the court must withhold imposing a forfeiture until the person appears in person before the court. Under the bill, the court issues a warrant for the person's arrest so that the person may appear before the court in order for the court to impose a forfeiture. Additionally, under the bill, the person is required to pay a \$300 surcharge that is retained by the municipal court or the clerk of circuit court to offset the costs of holding a hearing to impose the forfeiture.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

3 66.0114 (1) (b) 1. Local ordinances, except as provided in ~~this paragraph or ss.~~
4 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any
5 or all violations under those ordinances, may designate the manner in which the
6 stipulation is to be made, and may fix the penalty to be paid. ~~When~~ Except as
7 provided in subd. 2., when a person charged with a violation for which stipulation
8 of guilt or no contest is authorized makes a timely stipulation and pays the required
9 penalty, plus costs, fees, and surcharges imposed under ch. 814, to the designated
10 official, the person need not appear in court and no witness fees or other additional
11 costs, fees, or surcharges may be imposed under ch. 814 unless the local ordinance
12 so provides. ~~A court appearance is required for a violation of a local ordinance in~~
13 ~~conformity with s. 346.63 (1).~~

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

15 66.0114 (1) (b) 2. A person who is charged with a violation of a local ordinance
16 in conformity with s. 346.63 (1) or (5) shall appear, in person, in court to plead guilty,

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1 no contest, or not guilty. A person who fails to appear, in person, in court is subject
2 to arrest and to a \$300 surcharge pursuant to subd. 3.

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

4 66.0114 (1) (b) 3. If a person who is required under subd. 2. to appear, in person,
5 in court to enter a plea fails to appear in court, the court shall do all of the following:

6 a. Enter a default judgment against the person and impose the applicable
7 penalties, except that the court shall withhold imposing a forfeiture for the violation
8 until the person appears, in person, before the court.

9 b. Issue a warrant for the person's arrest so that the person may appear before
10 the court in order for the court to impose a forfeiture for the violation.

11 c. Impose a \$300 surcharge on the person for his or her failure to appear. The
12 surcharge may be retained by the municipal court to offset the costs of holding a
13 hearing to impose the forfeiture.

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

15 345.26 (1) (b) 3. Subdivision 1. does not apply to a person who is charged with
16 a violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith and who
17 is required to appear in person pursuant to s. 66.0114 (1) (b) 2., 800.035 (5) (a), or
18 967.055 (2m).

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

20 800.035 (5) (a) If a defendant is charged with a violation of an ordinance in
21 conformity with s. 346.63 (1) or (5), the municipality ~~may~~ shall, by ordinance, require
22 the defendant to appear in person before the court. The ordinance shall specify that
23 a person who fails to appear in person before the court is subject to arrest and to a
24 \$300 surcharge pursuant to par. (am).

25 **SECTION 6.** 800.035 (5) (am) of the statutes is created to read:

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1 800.035 (5) (am) If a person who is required under par. (a) to appear in person
2 before the court to enter a plea fails to appear in court, the court shall do all of the
3 following:

4 1. Enter a default judgment against the person and impose the applicable
5 penalties, except that the court shall withhold imposing a forfeiture for the violation
6 until the person appears in person before the court.

7 2. Issue a warrant for the person's arrest so that the person may appear before
8 the court in order for the court to impose a forfeiture for the violation.

9 3. Impose a \$300 surcharge on the person for his or her failure to appear. The
10 surcharge may be retained by the municipal court to offset the costs of holding a
11 hearing to impose the forfeiture.

12 **SECTION 7.** 967.055 (2m) of the statutes is created to read:

13 967.055 (2m) PERSONAL APPEARANCE IN COURT. (a) A person who is charged with
14 a civil violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith shall
15 appear in person in court to enter a plea of guilty, no contest, or not guilty to the
16 charge. A person who fails to appear in person in court is subject to arrest and to a
17 \$300 surcharge pursuant to par. (b). In this subsection, "court" may mean a circuit
18 court or a municipal court.

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

21 1. Enter a default judgment against the person and impose the applicable
22 penalties, except that the court shall withhold imposing a forfeiture for the violation
23 until the person appears in person before the court.

24 2. Issue a warrant for the person's arrest so that the person may appear before
25 the court in order for the court to impose a forfeiture for the violation.

