

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/1/00
BILL NO. AB 221
OR
SUBJECT _____

JOHN BOWEN
(NAME)
CEO - Miller Brewery Co.
(Street Address or Route Number)
Milwaukee WI
(City and Zip Code)

(Representing)
Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-1-00
BILL NO. AB 221
OR
SUBJECT _____

Chuck O'Connell
(NAME)
8727 W 72 ST #2
(Street Address or Route Number)
MILWAU WI 53223
(City and Zip Code)
Leahy CHAO
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-1-2000
BILL NO. 221
OR
SUBJECT _____

CAR. Randy Tyler
(NAME)
821 W. STATE ST.
(Street Address or Route Number)
MILWA WI 53233
(City and Zip Code)
MILWA. Co. STATE. LEV. BARRON
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/1/2000

BILL NO. AB 221

OR

SUBJECT _____

Rep. Jeff Stone

(NAME)

8200 Assembly District

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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SENATE HEARING SLIP

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DATE: 2-1-00

BILL NO. AB 221

OR

SUBJECT _____

Bradley Oehlman
Patrick Doyle

(NAME)

1840 N. Fenwick

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/1/2000

BILL NO. AB 231

OR

SUBJECT _____

Lance Buchholz

(NAME)

Sherrill Green Lake South

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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State Capitol - B35 South
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Madison, WI 53707-7882

Wired to Lawrence 11:30

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/1/00
BILL NO. AB 221
OR Sub comm
SUBJECT OUR awards

(NAME) Joseph Kala
(Street Address or Route Number)

(City and Zip Code) Stark Bar
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-1-00
BILL NO. AB 221
OR
SUBJECT

(NAME) Kristin Wegner
(Street Address or Route Number) 712 Broad St.

(City and Zip Code) Menasha WI 54953
(Representing) MADD Wisconsin

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information only; Neither for nor against:

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State Capitol - B35 South
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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 02.01.00
BILL NO. AB 221
OR
SUBJECT Truck driving penalties

(NAME) Ed Blume
(Street Address or Route Number) 2035 Peterson St Ste 4

(City and Zip Code) Madison WI 53703
(Representing) Wt Assn of Criminal Defense Lawyers

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

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State Capitol - B35 South
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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-1-00

BILL NO. AB-221

OR

SUBJECT _____

Dennis Hughes

(NAME) John Sobolik

4802 Sheboygan Ave.

(Street Address or Route Number)

Madison, WI 53707

(City and Zip Code)

WISCONSIN DOT

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-1-00

BILL NO. AB-221

OR

SUBJECT _____

Julie Clark

(NAME) 4802 Sheboygan Ave

(Street Address or Route Number)

Madison WI 53702

(City and Zip Code)

DOT-DMV

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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State Capitol - B35 South
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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/1/00

BILL NO. B221

OR

SUBJECT _____

Sue Hekroetter

(NAME) PO Box 7912 Russi

(Street Address or Route Number)

MADISON WI 53707

(City and Zip Code)

STATE PAROLE

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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AVAILABLE
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TO ANSWER QUESTIONS
Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

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BILL NO. AB221

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SUBJECT _____

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BILL NO. 221

OR

SUBJECT _____

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/1/2000

BILL NO. 221

OR

SUBJECT _____

BRANDAN SCHULTZ

(NAME)

2601 CROSSROADS DR #85

(Street Address or Route Number)

MADISON 53718

(City and Zip Code)

WISCONSIN GREENS ASSN

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

TAM MILLONZI

(NAME)

5.72 W.16182 EDITH CT.

(Street Address or Route Number)

MUSKEGO 53150

(City and Zip Code)

TEAMSTERS LOCAL 200

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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State Capitol - B35 South
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Michael Jackson

(NAME)

3719 W WYVERN

(Street Address or Route Number)

MILWAUKEE 53208

(City and Zip Code)

TEAMSTERS LOCAL 200

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/1/00
BILL NO. AB 221
OR
SUBJECT _____

ERIC JENSEN
(NAME)
330 E. LAKEVIEW ST.
(Street Address or Route Number)
MADISON 53715
(City and Zip Code)
State Medical Society
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/1/00
BILL NO. AB 221
OR
SUBJECT OWI

Ernest W. Stefenfeld
(NAME)
8030 Excelsior Drive
(Street Address or Route Number)
MADISON, WI 53558
(City and Zip Code)
AAA Wisconsin
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: Feb 1
BILL NO. AB 221
OR
SUBJECT _____

CHRIS TACKER
(NAME)
30 West Mitchell
(Street Address or Route Number)
MADISON, WI 53703
(City and Zip Code)
WI Merchants Federation
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

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Madison, WI 53707-7882

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DATE: 2/1/00

BILL NO. AB 221

OR

SUBJECT _____

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(Please Print Plainly)

DATE: 2-1-00

BILL NO. AB 221

OR

SUBJECT _____

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-1-00

BILL NO. AB 221

OR

SUBJECT _____

MICHAEL R. VAUGHAN

(NAME)

P.O. BOX 2038

(Street Address or Route Number)

MADISON, WI 53701

(City and Zip Code)

ANHEUSER-BUSCH COMPANIES

(Representing)

INC.

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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State Capitol - B35 South
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Madison, WI 53707-7882

T. Q. Shafiq

(NAME)

2805 E. Westliffe

(Street Address or Route Number)

Madison WI 53704

(City and Zip Code)

WI Wh. Keeler Beer Dist.

(Representing)

Assoc.

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

DENNIS KRUGER

(NAME)

Steele Concourse Dr

(Street Address or Route Number)

OREGON WI 53575

(City and Zip Code)

WI. TROOPERS ASSOC

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-1-00

BILL NO. AB 221

SUBJECT _____

(NAME) Rep. Steve G.H.

(Street Address or Route Number) _____

(City and Zip Code) Camden

(Representing) _____

Speaking in Favor:

Speaking Against:

Registering in Favor:

Registering Against: but not speaking:

Speaking for information only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-1-2000

BILL NO. AB 221

SUBJECT _____

(NAME) Scott Stensyr

(Street Address or Route Number) _____

(City and Zip Code) Madison

(Representing) Farm League of WI

Speaking in Favor:

Speaking Against:

Registering in Favor:

Registering Against: but not speaking:

Speaking for information only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-1-00

BILL NO. AB 221

SUBJECT Drunk Driving

Bill

(NAME) Rep. Bonnie Ludwig

(Street Address or Route Number) _____

(City and Zip Code) _____

(Representing) _____

Speaking in Favor:

Speaking Against:

Registering in Favor:

Registering Against: but not speaking:

Speaking for information only; Neither for nor against:

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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-1-00

BILL NO. AB 221 ~~108B 2287~~

OR
SUBJECT _____

(NAME) Senator Gary Dresdieki

(Street Address or Route Number)

(City and Zip Code)
30th Senate District

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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State Capitol - B35 South
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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/1/2000

BILL NO. AB 221

OR

SUBJECT SB 125

Brenda Floyd
(NAME)

200 E WELLS ST

(Street Address or Route Number)

MILWAUKEE 53202
(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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DATE: 2-1-00

BILL NO. AB 221

OR

SUBJECT SB 125

DRUNK DRIVERS

70440 5080716
(NAME)

DOT

(Street Address or Route Number)

4802 S Helyoguan Ave
(City and Zip Code)

MADISON - DOT

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-1-00

BILL NO. AB - 221 SB - 125

OR

SUBJECT _____

Aldo Madriano

(NAME)

17435 D Emily Ave

(Street Address or Route Number)

BROOKFIELD WI 53045
(City and Zip Code)

WORLD DISTRIBUTORS Co.

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-1-00

BILL NO. AR2221 / SB125
OR

SUBJECT _____

Kathleen Kilgore

(NAME)

8801 Fish Hatchery Rd.

(Street Address or Route Number)

MADISON, WI 53713

(City and Zip Code)

WI RESTAURANT ASSN.

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

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Senate Sergeant-At-Arms
State Capitol - B35 South
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Madison, WI 53707-7882

Ralph Kaled

State Bar Criminal Law Section

Concerns

only one IID provider in state
 \$70 install; \$40/month to maintain
 shut-off risk

increasing jail penalties
 enormous burden w/out any benefit

rate of OWI arrests not going down

work release contingent on driver safety plan
 Department vs. Sheriff re: Union privileges
 field day for lawyers

can't pay forfeitures must perform community service work
 13th Amdt.

criminal offense \Rightarrow SPP defend 1st time OWI

Ed Blume

oppose mandatory suspension for all repeat
 under age

absolute sobriety for those w/ 3 or more convictions
 @ .00 rather than .02

drafting problems w/ vehicle forfeitures

expansion of IID is consistent w/ 1995
Gov's Test Force or OWZ

bill gives repeat offenders incentive to
shoot low - have IID installed on one car
but drive another
the IID restriction to offenders driving privileges
tampering should result in termination of

Trans 313 could be revised but agency lacks
resources to expense and monitor IID providers

2 current vendors in state
\$70 to install \$55/month

mandates

outside consultant to do study

delay eff. date to 1/1/2001 rather than
4 months following publication



Date: February 1, 2000

To: Members of the Senate Committee on Judiciary and Consumer Affairs
Senate Gary George, Chairman

From: Kathleen Kilgore, Government Relations Specialist
Wisconsin Restaurant Association

Re: Support of AB221 and SB125

The Wisconsin Restaurant Association represents over 7,000 foodservice outlets in the state of Wisconsin, approximately half of which have alcohol beverage licenses. WRA has long been on record as supporting efforts to curb drunk driving and underage drinking. We believe that Assembly Bill 221 and Senate Bill 125 take a major step forward in fighting these two problems.

Our membership is committed to reducing underage drinking and drunk driving. WRA has historically taken part in efforts to mitigate these problems. For example, we supported legislation that required all applicants for a bartender's license to take a responsible server course. In fact, we helped develop the course that is taught. We have developed designated driver programs to get our customers home safely and participate in ID checking programs that help to identify fake, altered and borrowed IDs.

WRA disagrees with the theory that lowering the legal blood alcohol concentration will somehow solve these problems. Instead, we believe that the best way to reduce the number of underage drinkers and drunk drivers is to create tougher penalties for those that violate the law, sometimes repeatedly. Assembly Bill 221 and Senate Bill 125 do just that by offering grants for safe-ride programs, increasing penalties for underage drinking and drunk driving, and by dramatically raising the penalties for repeat offenders of the law.

We believe these bills give law enforcement and the state's District Attorneys the tools they need to curb the problems of underage drinking and drunk driving. We urge your support of this important legislation.



Wisconsin Troopers' Association, Inc.

P.O. Box 769 • East Troy, WI 53120
1-800-232-1392

February 1, 2000

Senator Gary George, Chair
And Committee Members
Senate Committee on Judiciary and Consumer Affairs
Wisconsin State Capitol
Madison, Wisconsin 53702

Dear Chairman George and Committee Members:

On behalf of the Wisconsin Troopers' Association, I respectfully request and urge your support of Assembly Bill 221, which includes a number of important provisions targeting the repeat and high BAC drunk driver.

It is clear that the action of previous Legislatures in strengthening our drunk driving laws has had a significant impact in reducing motorist injuries and fatalities. Consider that in 1979, Wisconsin experienced 593 alcohol-related fatalities, while in 1997 the number was 309, a 48% decline. During the same period of time, alcohol-related injuries declined 64%, from 18,681 to 6,797 in 1997. Despite these important reductions, more can and should be done to prevent the still unacceptable number of accidents caused by drunk drivers.

We believe the system of graduated penalties being proposed will serve as an important deterrent for drivers who are most likely to put themselves and others at risk. In addition, the absolute sobriety requirement for persons with three or more offenses puts the necessary added pressure on repeat and high BAC drunk drivers to change their behavior or face additional legal consequences.

For these reasons, and for the safety of our sworn officers who serve as the front-line of defense in protecting the safety of motorists, we respectfully ask and urge your support of this bill.

Sincerely,

Dennis Kruger
Legislative Liaison

Casey Perry
Executive Director



Proud Member of the National Troopers Coalition

LAW OFFICES OF
BARRY S. COHEN, S.C.

BARRY S. COHEN
ODENNIS M. MELOWSKI
CHAD A. LANNING
KIRK B. OBEAR

NO661 WILLOW ROAD
ELKHART LAKE, WI 53020
TEL (920) 565 4225
FAX (920) 565 4034
E-MAIL: BSCLAW@EXECPC.COM

January 31, 2000

Senator Gary R. George, Chairman
Senate Committee on Judiciary and Consumer Affairs
State Capital
P.O. Box 7882
Madison, WI 53707-7882

Re: Assembly Bill 221

Dear Senator George:

I am unable to personally attend your committee hearing, but on behalf of the Wisconsin Association of Criminal Defense Lawyers, I am opposed to the passage of AB221 for the reasons set forth in this letter. The provisions which mandate the suspension of driver's licenses for all repeat underage alcohol offenses deprives judges of the discretions of whether or not to suspend the offenders driver's license. There are may instances where judges find that because of the circumstances a suspension of the driver's license is unwarranted.

Section 17 of the Bill changes the prohibited alcohol concentration (PAC) for operators of motor vehicles with three or more prior convictions from .08 to .02. I would suggest that if the legislature wants to further reduce the PAC for this class of drivers, it should simply drop the PAC to .00 (absolute sobriety). It would be impossible for anyone to gauge whether their alcohol level is above or below .02, but it would be easy for people to know whether their alcohol level was above .00.

Under Sections 18 & 19, all second offense OWI cases and all first offense refusal charges become subject to vehicle forfeiture. Later in Sections 34 & 39, however, only persons convicted of a third or subsequesnt offense are subject to vehicle forfeiture. I don't know if this is just bad drafting but the results of this Bill as drafted, would be that all persons charged with a second offense OWI and all persons charges with a first offense refusal, would be required to bring their vehicle titles in to be branded by the Clerk of Courts and the DOT would subsequently prohibit the transfer of ownership of the driver's vehicles. All of this takes place when, even if the person is convicted, the driver's vehicles are not subject to being forfeited.

Senator Gary R. George, Chairman

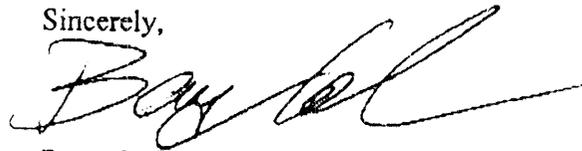
January 31, 2000

Page Two

I would also like to suggest an amendment of Section 34. Under current law, if a motor vehicle is not ordered seized, the court shall order a law enforcement officer to equip the vehicle with an ignition interlock device or immobilize the vehicle. Most often, the judges order that the vehicle be equipped with an ignition interlock device. Consistent with the current language of the statutes, the order is an affirmative one requiring an ignition interlock device be installed in a vehicle. This presents a problem when a convicted driver simply chooses to stop driving. Ordering that driver to install an ignition interlock device in his or her vehicle would be an unreasonable waste of money. Rather, that statute should be amended to simply have the judge order that any vehicle operated by the convicted must be equipped with an ignition interlock device.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry S. Cohen", with a long horizontal flourish extending to the right.

Barry S. Cohen, Member
Wisconsin Association of Criminal Defense Lawyers
Legislative Committee

BSC/dg

AB 221 – As Passed By Wisconsin State Assembly

- Requires absolute sobriety (at 0.02 BAC) for drivers with three or more previous OWI convictions.
- Increases mandatory license suspensions for anyone under the legal drinking age who is caught consuming, purchasing, or attempting to purchase alcohol, who is in possession of or attempts to use a false identification, or who is driving with an open intoxicant in the vehicle.

For a first underage drinking offense, penalties are imposed at the discretion of the court. For repeat offenses, penalties are increased to mandatory 12 month suspension for a second offense within one year, and mandatory two year suspension for a third offense within two years. The bill also eliminates the current authority of a court to stay or modify an operating privilege suspension ordered for certain alcohol beverage violations committed by an underage person who is at least 17 years of age.

- Creates a safe-ride grant program, administered by DOT, that will award grants to any city, village, town or county for costs associated with transporting intoxicated persons from a tavern or restaurant to their homes. Grants are limited to 50% of the cost of providing the service and are funded through a \$5 increase (from \$340 to \$345) in the OWI surcharge, that will be earmarked to fund the safe-ride grant program. The bill also clarifies that the liability for providers of service under the safe-ride program is limited to the statutory minimum for an automobile liability policy under Wisconsin law.
- Allows a court to order that a vehicle owned by a person convicted of any OWI offense be equipped with an IID, and removes the requirement that the court order a law enforcement officer to seize a motor vehicle owned by a person with three or more OWI-related convictions who is convicted of a subsequent OWI offense.

The court continues to have the option of ordering the seizure of a motor vehicle, but the court is not required to order seizure under this bill. If the court does not order the seizure of a vehicle owned by a person with three or more OWI convictions, that vehicle must be either immobilized or equipped with an IID.

- Changes current law, which specifies that the district attorney of the county where a motor vehicle was seized is required to bring the court action to forfeit the seized motor vehicle, to allow either that district attorney or the district attorney of the county where the violator was convicted of the OWI offense which resulted in the seizure of the vehicle to handle the seizure of a vehicle in court.
- Requires that in order to be released from jail on a Huber work release program, any person convicted of an OWI offense must complete a substance abuse assessment and be in compliance with a driver safety plan.

- Directs DOT to promulgate rules setting up a statewide IID program, to be directed and administered by the department.
- Includes continued funding for the pre-trial intervention program, which currently operates in 5 Wisconsin Counties (Eau Claire, Kenosha, Marathon, Waukesha, and Milwaukee). Intervention programs have proven successful in addressing and treating alcohol-related problems in OWI offenders. Funding for this program was previously approved by JFC in its budget deliberations.
- Increases fines for repeat OWI offenders based on BAC. Fines will be doubled if a repeat offender has a BAC between 0.15 and 0.199, tripled between 0.2 and 0.249, and quadrupled for 0.25 or higher.
- Requires that any OWI offender who cannot pay all or part of their court-imposed fine perform community service work in a program assigned by the court to pay off their debt to the community.
- Directs the DOC and DOT to study alternative methods of incarcerating OWI offenders, and require the departments to consult with Wisconsin counties as a part of their study.



**STATE BAR
of WISCONSIN**

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LEGISLATIVE POSITION

To: Members of the Senate Committee on Judiciary and Consumer Affairs
From: Ralph Kalal, State Bar of Wisconsin Criminal Law Section
Date: February 1, 2000
Re: SB125/AB221—Drinking and Driving Bills

The State Bar of Wisconsin Criminal Law Section both opposes and supports parts of SB125 and AB221.

The Criminal Law Section supports efforts relating to repealing mandatory forfeiture of motor vehicles.

It also strongly supports the efforts being made to implement the Safe Rider Program.

The Criminal Law Section opposes the provisions as currently written regarding Ignition Interlock Devices, mandatory minimums for repeat offenders, underage violations, and increased penalties for higher BAC levels.

Specifically, the language in the substitute amendment to AB221 raised concerns in several areas.

1. Ignition Interlock Devices (IID)—Section 7

- If IID programs are to be piloted across the state, there should be language requiring uniformity of instruments and instrument certification to ensure that the devices being used are of a high quality and that results compared across the state will be consistent and accurate.
- If there is to be voluntary participation in the IID pilot programs, language should require courts to take participation in such programs as a factor in sentencing.

2. Work Release Privileges—Section 12

The Substitute Amendment to AB221 permits the department to refuse work release privileges to a person who fails to comply with a driver safety plan. This proposal raises at least four questions:

- Who within the DOC is entitled to make this determination—the local facility or DOC in Madison? Why is the Department making the determination instead of the local sheriff?

- What criteria will be used to determine “a failure to comply?”
 - When would a person be allowed to be re-released on Huber—when the appointment is rescheduled, attended, or never?
 - Are there any hearing rights that would be available to the accused when such a decision is made? Is the hearing to precede the loss of privileges?
3. **Enforcement Issues Raising Constitutional Concerns—Section 17**
- There are questions on how to enforce a .02 BAC, since the margin of error in many tests given is +/- .02. How would this be enforced accurately given the current limitations on technology? For example, there is evidence that infrared spectroscopy tests are not sensitive at levels of .02 and can give false results.
 - Constitutionally, there are equal protection issues that will arise when the state presumes that a person has committed an element of an offense and an alcohol concentration lower than another person based on recidivism. The enforcement of the BAC should be uniform for every violation.
 - There are 13th Amendment issues raised regarding forfeiture.

The Criminal Law Section hopes the Committee will take the deficiencies in the bills into consideration when deliberating on them.

*If you would like more information about the Criminal Law Section's position on Drinking and Driving Legislation, feel free to contact **Cory Mason** at the State Bar of Wisconsin at 1-800/444-9404 x6128 or email him at cmason@wisbar.org. You can also contact Atty. **Ralph Kalal** at 608/255-9295 or Atty. **Christopher Mutschler** at 920/921-9299.*



Legislative Fiscal Bureau

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May 13, 1999

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 221: Operating While Intoxicated Modifications

Assembly Bill 221 was introduced on March 16, 1999, and referred to the Committee on Highway Safety. On April 14, 1999, that Committee recommended the bill for passage, as amended by Assembly Amendments 1 through 4 (all adopted on votes of 7 to 0), on a vote of 6 to 1. On April 22, 1999, the bill was referred to the Joint Committee on Finance.

SUMMARY OF BILL

Penalty Enhancements for Repeat OWI Offenders with High Blood Alcohol Concentrations

AB 221 would increase the minimum and maximum fines, license revocation periods and terms of imprisonment for persons convicted of a second or subsequent OWI offense if the person was operating a vehicle with a blood alcohol concentration (BAC) of 0.15 or more. The minimum and maximum fines and periods of license revocation and imprisonment would be doubled if the convicted person had a BAC of 0.15 to 0.199, tripled if the person had a BAC of 0.2 to 0.249 and quadrupled if the person had a BAC of 0.25 or higher. In addition, the minimum period of imprisonment (applying for a BAC below 0.15) would be increased for a second or subsequent OWI offense, as follows: (a) from five days to 30 days for a second offense; (b) from 30 days to 60 days for a third offense; and (c) from 60 days to 120 days for a fourth offense. Table 1 shows the current penalties for OWI offenses and how they would be affected by the bill. The current penalties are shown at the top by the number of repeat offenses. The rest of the table shows the changes proposed by the bill, by the number of repeat offenses and BAC level.

TABLE 1

Current Penalties and Penalties Under AB 221 for OWI

Current Law	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>	<u>4th Offense</u>	<u>5th or Subsequent Offense</u>
License withdrawal	6 to 9 months	12 to 18 months	2 to 3 years	2 to 3 years	2 to 3 years
Fine or forfeiture	\$150 to \$300	\$300 to \$1,000	\$600 to \$2,000	\$600 to \$2,000	\$600 to \$2,000
Incarceration	None	5 days to 6 months	30 days to 1 year	60 days to 1 year	6 months to 5 years
AB 221					
<u>BAC up to 0.15</u>					
License action	No change	No change	No change	No change	No change
Fine or forfeiture	No change	No change	No change	No change	No change
Incarceration	No change	30 days to 6 months	60 days to 1 year	120 days to 1 year	No change
<u>BAC 0.15 to 0.199</u>					
License action	No change	2 to 3 years	4 to 6 years	4 to 6 years	4 to 6 years
Fine or forfeiture	No change	\$600 to \$2,000	\$1,200 to \$4,000	\$1,200 to \$4,000	\$1,200 to \$4,000
Incarceration	No change	60 days to 12 months	120 days to 2 years	240 days to 2 years	12 months to 10 years
<u>BAC 0.2 to 0.249</u>					
License action	No change	3 to 4.5 years	6 to 9 years	6 to 9 years	6 to 9 years
Fine or forfeiture	No change	\$900 to \$3,000	\$1,800 to \$6,000	\$1,800 to \$6,000	\$1,800 to \$6,000
Incarceration	No change	90 days to 18 months	180 days to 3 years	360 days to 3 years	18 months to 15 years
<u>BAC 0.25 or above</u>					
License action	No change	4 to 6 years	8 to 12 years	8 to 12 years	8 to 12 years
Fine or forfeiture	No change	\$1,200 to \$4,000	\$2,400 to \$8,000	\$2,400 to \$8,000	\$2,400 to \$8,000
Incarceration	No change	120 days to 24 months	240 days to 4 years	480 days to 4 years	24 months to 20 years

The bill would specify that a third or subsequent OWI offense where the convicted person had a BAC of 0.15 or higher would be classified as a felony. Similarly, the bill would classify a second or subsequent OWI offense as a felony if the convicted person had a BAC of 0.2 or higher. Persons convicted of a felony offense lose certain liberties, including the ability to vote during the length of their sentence and permanently the rights to own or possess a firearm or to hold public office, unless pardoned. The bill would specify that sentences for these felonies be served in the county jail (if less than one year) or state prison (if more than one year). A sentence of exactly one year could be made to either the county jail or state prison.

AB 221 would also increase the penalties for high BAC when the OWI conviction is a second or subsequent OWI offense and resulted from an incident that caused injury, great bodily harm or death. In all three cases, the periods of license revocation would be doubled, tripled or quadrupled depending upon BAC level, using the same ranges as for a regular OWI conviction. In the case of causing great bodily harm, the fines and prison terms would be increased in a similar manner. In the case of causing injury or causing death, the bill would not change terms of imprisonment or fines (OWI causing death is a Class B felony and carries no fine). Table 2 shows the current penalties for these offenses and the changes proposed by the bill.

TABLE 2

**Current Penalties and Penalties Under AB 221 for OWI Causing Injury,
Great Bodily Harm or Death (Second or Subsequent Offenses Only)**

<u>Current Penalty</u>	<u>Causing Injury</u>	<u>Causing Great Bodily Harm</u>	<u>Causing Death</u>
License Revocation	1 to 2 years	2 years	5 years
Fine	\$300 to \$2,000	Up to \$10,000	None
Jail/Prison Term	30 days to 1 year	Up to 10 years*	Up to 60 years*
AB 221, for Second or Subsequent Offenses			
BAC Up to 0.15			
License Revocation	No change	No change	No change
Fine	No change	No change	No change
Jail/Prison Term	No change	No change	No change
BAC 0.15 to 0.199			
License Revocation	2 to 4 years	4 years	10 years
Fine	No change	Up to \$20,000	No change
Jail/Prison Term	No change	Up to 20 years	No change
BAC 0.2 to 0.249			
License Revocation	3 to 6 years	6 years	15 years
Fine	No change	Up to \$30,000	No change
Jail/Prison Term	No change	Up to 30 years	No change
BAC 0.25 or above			
License Revocation	4 to 8 years	8 years	20 years
Fine	No change	Up to \$40,000	No change
Jail/Prison Term	No change	Up to 40 years	No change

* These maximum prison terms would first take effect for offenses committed on December 31, 1999. Under 1997 Act 283, these penalties were increased from five years (causing great bodily harm) and forty years (causing death).

License Revocation for Failure to Provide a Blood, Urine or Breath Sample for Alcohol Testing

Under current law, anyone who operates a vehicle on public highways of the state is presumed to have given consent to have a sample of blood, urine or breath taken for the purposes of testing for the presence of alcohol or controlled substances (implied consent). If a person improperly refuses to provide such a sample upon the request of a law enforcement officer, his or her driver's license is revoked by the court. The period of revocation is one year, if the person had no prior OWI-related convictions, two years if the person has one prior conviction and three years if the person has two or more prior convictions. AB 221 would establish a range for license revocation for repeat offenders who commit an implied consent violation, as follows: (a) from two to six years (instead of two years), if the person has one prior OWI-related conviction; and (b) from three to 12 years (instead of three years), if the person has two or more prior OWI-related convictions.

Blood Alcohol Concentration Considered Evidence of Intoxication

Under current law, operating a vehicle with a blood alcohol concentration of 0.1 or above is prohibited. For persons who have had two or more OWI-related convictions, operating a vehicle with a BAC of 0.08 or above is prohibited. AB 221 would lower the prohibited BAC level for persons who have had three or more OWI-related convictions to 0.02.

Vehicle Seizure and Ignition Interlock Devices

Under current law, a court may order a vehicle owned by a person convicted of a third OWI offense (including the refusal to provide a sample of blood, urine or breath for alcohol testing) to be seized. If the court does not order vehicle seizure, the court must order the vehicle to be immobilized or equipped with an ignition interlock device (IID). Courts must order vehicle seizure following a fourth or subsequent OWI offense. In order to prevent a person who has been arrested for a third or subsequent OWI offense from selling the vehicle between the time charges are filed and the time, following conviction, that the vehicle is seized, immobilized or equipped with an IID, district attorneys are required to notify DOT when OWI charges are filed against a person who has had two prior OWI convictions. DOT is then prohibited (with certain exceptions) from issuing a new title transferring the ownership of a vehicle in these cases, until the court notifies DOT that a new title may be issued. A person charged with a third or subsequent OWI offense is required to provide the titles to all vehicles he or she owns to the clerk of the court. The clerk places a stamp on the title(s) indicating that the ownership of the vehicle(s) may not be transferred without court approval and then returns the title(s) to the person. In cases where vehicle seizure is ordered, the district attorney in the county where the vehicle was seized is required to commence a forfeiture action against the vehicle within 30 days. If a court orders a vehicle to be equipped with an IID, the owner is responsible for the reasonable costs of the device (about \$75 for installation and about \$60 per month for monthly service charges).

AB 221 would make several modifications with respect to these requirements. First, the bill would eliminate the requirement that courts order vehicle seizure upon a fourth or subsequent offense. Instead, courts would have the option of ordering vehicle seizure following a fourth or subsequent OWI conviction, but would be required to order immobilization or the installation of an IID if seizure is not ordered (as is the case with a third conviction).

Second, the bill would specify that the person responsible for commencing a forfeiture action against a seized vehicle is either the district attorney in the county where the vehicle was seized or the district attorney in the county where the OWI offense occurred. Under current law, the district attorney in the county where the vehicle was seized is responsible for the forfeiture action, but the county in which the vehicle was seized may be different than the county where the offense occurred and where the vehicle seizure was ordered.

Third, the bill would allow courts to order the installation of an IID following the conviction on any OWI offense (including the refusal to provide a sample of blood, urine or breath for testing), instead of only after a third offense. Consequently, district attorneys would be required to notify DOT every time OWI charges are filed, and DOT would be prohibited from issuing a new title transferring ownership of any vehicle in these cases, until notified by the court that a new title may be issued. Finally, any person charged with an OWI offense would be required to surrender all vehicle titles held by the person to the clerk of the court so that they could be stamped with a notification that the ownership of the vehicle may not be transferred without court approval. As under current law, courts would be prohibited from ordering the installation of an IID if it would result in undue hardship or extreme inconvenience or would endanger the health or safety of a person.

License Suspension for Underage Alcohol Violations

Under current law, courts, in addition to imposing forfeitures or ordering community service work, may suspend or revoke a person's license who is underage (under 21) if the person commits any of the following offenses: (a) procures or attempts to procure alcohol from a person who is licensed or who holds a permit to sell alcoholic beverages; (b) possess or consumes alcohol, either on or off licensed premises; (c) enters or attempts to enter licensed premises; or (d) falsely represents his or her age for the purposes of receiving alcohol from a person who is licensed or who holds a permit to sell alcoholic beverages. The periods of suspension or revocation that may be ordered are as follows: (a) for a first violation, suspension of 30 to 90 days; (b) for a second violation committed within twelve months, suspension of up to one year; and (c) for a third or subsequent violation committed within twelve months, revocation of up to two years. [1997 Act 84 changed this provision to allow license suspension, instead of revocation, for a third or subsequent offense. This provision was given an effective date of May 1, 2000, or earlier if DOT publishes an earlier date in the Wisconsin Administrative Register, indicating that the computer modifications necessary to implement the provision are complete. DOT indicates that this change will be implemented by January 1, 2000.]

Upon ordering license suspension for an underage alcohol violation, the court may enter into an agreement with the underage person that stays the execution of the license suspension (or any other penalties imposed, such as forfeitures), if the person: (a) submits to an alcohol abuse assessment; (b) participates in an alcohol abuse treatment program; or (c) participates in an alcohol abuse education program. If the person is a juvenile (under 17) the agreement may also require the juvenile to: (a) participate in a pupil assistance program provided by the juvenile's school board; or (b) participate, with certain restrictions, in a teen court program.

AB 221 would make several modifications to these provisions. First, it would require, rather than permit, license suspension for any of these underage alcohol violations. Second, the bill would require license suspension following a violation of the prohibition against carrying alcoholic beverages in a vehicle by an underage person. The periods of license suspension would be the same as the suspension periods for underage alcohol procurement and consumption violations. Third, the bill would increase these suspension periods, as follows: (a) from 30 to 90 days, to 6 months to one year, for a first violation; (b) from up to one year, to one year to 18 months, for a second violation within 12 months; and (c) from up to two years, to two to five years, for a third or subsequent violation within 12 months. Finally, AB 221 would prohibit courts from staying the execution of the license suspension order as part of an agreement with the defendant if the defendant is not a juvenile. Courts would continue to have the authority to stay the execution of a license suspension order for juveniles. Consistent with 1997 Act 84, the bill would provide for suspension, rather than revocation, for a third or subsequent offense. The bill would delete sections of 1997 Act 84 that have not yet taken effect, but which would be rendered obsolete or be duplicated by these provisions.

Safe-Ride Grant Program

The bill would establish a safe-ride grant program under which DOT could award grants to any county or municipality to cover the costs of transporting persons suspected of having a prohibited alcohol concentration from any premises licensed to sell alcoholic beverages to their places of residence. Grants would be limited to 50% of the cost to provide the service. The funds for providing the grants would come from a \$30 surcharge placed on license reinstatement and occupational license fees in cases where the applicant for reinstatement or occupational license is ordered to operate only vehicles equipped with an ignition interlock device. In these cases, the fee for reinstatement would go from \$50 to \$80 and the fee for an occupational license would go from \$40 to \$70. The \$30 increment would be credited to a new, transportation fund continuing appropriation for making the grants. A person who paid the \$30 surcharge for an occupational license within the prior two years would not have to pay the \$30 surcharge for license reinstatement.

Effective Date

The provisions of AB 221 would first apply to offenses committed on the first day of the fourth month beginning after publication, but would not preclude the counting of other violations,

convictions, suspensions or revocations associated with the affected provisions as prior offenses for purposes of DOT administrative action, sentencing, revocation or suspension of operating privileges or determining the prohibited alcohol concentration.

SUMMARY OF AMENDMENTS TO AB 221

Assembly Amendment 1--Liability Limits for Safe-Ride Grant Program Providers

AA 1 would limit the liability of a provider of a safe-ride program to persons transported under the program to: (a) \$25,000 for the injury or death of one person; (b) \$50,000 for the injuries or deaths of two or more persons; and (c) \$10,000 for property damage.

Assembly Amendment 2--OWI Driver Improvement Surcharge and the Safe-Ride Grant Program

AA 2 would eliminate the provisions of AB 221 that would increase the fees for occupational licenses and license reinstatement by \$30 and provide that fee revenue for a safe-ride grant program. Instead, the amendment would increase the OWI driver improvement surcharge by \$5, from \$340 to \$345, and require that the \$5 increment be deposited in a new, program revenue appropriation for the safe-ride grant program. The OWI driver improvement surcharge is assessed for every OWI conviction. The increase would first apply to surcharges imposed for OWI violations committed on the first day of the fourth month after publication.

Assembly Amendment 3--Work Release Privileges

AA 3 would prohibit the Department of Corrections from granting work release privileges to someone serving a prison sentence for an OWI violation (including basic OWI offenses, causing injury by the intoxicated use of a vehicle, operating a commercial motor vehicle with a blood alcohol content between 0.04 and 0.1 or causing injury while operating a commercial motor vehicle with a BAC between 0.04 and 0.1), if the prisoner fails to obtain a driver assessment (an examination of alcohol dependency) or comply with a driver safety plan (for alcohol abuse treatment or education), if an assessment or driver safety plan was ordered following the OWI conviction. This prohibition would not apply, however, if the prisoner does not have sufficient funds to make any payments necessary to obtain the assessment or to comply with the plan.

Similarly, the amendment would prohibit sheriffs from allowing a prisoner who is serving a sentence in a county jail for OWI offenses to have "Huber" release privileges (for seeking employment, working or conducting any self-employed occupation, attending school, performing community service work or obtaining medical treatment), if the prisoner fails to obtain a driver assessment or comply with a driver safety plan, unless the prisoner does not have sufficient funds to make any payments necessary to obtain the assessment or comply with the plan. The amendment

would add attendance at a driver assessment or a treatment program that is required by a driver safety plan as reasons for which "Huber" release privileges may be granted.

Finally, the amendment would grant the Department of Corrections and sheriffs the authority to examine treatment records of a prisoner, without the informed written consent of the prisoner, for the purpose of determining compliance with a driver assessment or driver safety plan.

Assembly Amendment 4--Ignition Interlock Device Program

AA 4 would require the Department of Transportation to promulgate rules providing for the implementation of a statewide ignition interlock device (IID) program. The rules would have to include provisions relating to: (a) the selection of persons to install, service and remove IIDs; and (b) the periodic review of the fees charged to the owner of a vehicle for the installation, service and removal of IIDs. The rules would also require the IID providers operating in Wisconsin to: (a) establish pilot programs involving the voluntary use of ignition interlock devices; and (b) provide IID installation, service, tampering and failure reports in a timely manner to DOT and law enforcement agencies that are designated by DOT.

FISCAL EFFECT

Department of Transportation

In its fiscal note, DOT estimates that the bill would increase costs by \$498,200 and 13.5 positions annually, with a one-time cost of \$116,830 related to providing equipment and supplies for the additional positions. This fiscal effect is due entirely to the cost of processing additional suspensions for underage alcohol violations, including issuing additional occupational licenses and reinstating licenses following these suspensions.

In calculating these fiscal impacts, DOT estimates the time needed to do certain transactions and the total increase in each type of transaction caused by the bill. These estimates are then used to estimate the total number of positions that would be needed to handle the additional workload. The total number of juvenile and underage alcohol violations is about 40,000 annually. Currently, only about one-third of these, or 12,200, result in a suspension. Under the bill, the remaining 27,800 would also result in suspension, which would be about an 8% increase in the total number of license suspensions and revocations. The additional suspensions are estimated to increase the number of license reinstatements by 15,290 and the number of occupational licenses issued by 11,120. DOT estimates that processing this new workload would require funding and position increases as follows: (a) \$160,500 and 4.35 positions for license suspensions; (b) \$100,700 and 2.73 positions for license reinstatements; and (c) \$162,000 and 4.39 positions for issuing occupational licenses. DOT also estimates that handling new public contacts resulting from these suspensions and processing notices from courts amending the original suspension orders would create additional work requiring \$74,900 and 2.03 positions.

The fiscal note does not include any additional costs resulting from license suspensions for violations of the prohibition against carrying alcohol in a vehicle by an underage person. There are typically about 1,100 of these violations annually, but in 1998 there were only 29 license suspensions for this offense. In addition, the fiscal note mentions, but does not estimate, the costs that may result from other provisions of the bill. For instance, it is expected that the increases in forfeitures provided by the bill would result in an increase in the number of suspensions ordered for failure to pay forfeitures. Also, since license revocation periods would increase for some OWI convictions, and the number of suspensions for underage alcohol violations would increase, the number of operating after revocation and operating while suspended violations would also increase. Since these violations result in further license suspension orders that DOT must process, this may also increase DOT's costs.

The bill would not provide additional funds for the Division of Motor Vehicles for either one-time costs or the anticipated ongoing workload increase, so these costs would have to be absorbed within the Division's base budget (\$62,127,100).

DOT estimates that the bill would result in additional transportation fund revenue from fees for license reinstatement and occupational licenses. The total amount of additional revenue is estimated at \$1,246,700 annually. Of this amount, \$1,209,300 would be from additional license reinstatement and occupational license revenue resulting from an increase in the number of suspensions for underage alcohol violations. This is an annualized amount, which would not accrue until persons who have their licenses suspended because of the bill begin to reinstate their licenses. The remaining \$37,400 would result from the \$30 surcharge on occupational license and license reinstatement fees, where the applicant is restricted to operating a vehicle equipped with an ignition interlock device. This amount would be credited to the appropriation for making grants under the safe-ride program. This is also an annualized amount, which would begin to accrue when persons who commit an offense on the effective date of the bill (the first day of the fourth month beginning after publication) and who, upon conviction, are ordered to only operate a vehicle that is equipped with and IID, begin to reinstate their licenses or apply for an occupational license.

Assembly Amendment 2, which would increase the OWI driver improvement surcharge by \$5 and provide that amount to the safe-ride grant program, would likely generate over \$100,000 annually for the program.

Department of Corrections

Since the bill would increase the maximum, and in some cases, the minimum terms of incarceration to over one year, and since terms of incarceration that are over one year must be served in a state prison rather than a county jail, the bill would increase the prison population and have a state fiscal impact.

The following table shows the number of second and subsequent OWI offenders who had a BAC of above 0.15 during 1997 (a total of 4,527 offenders). These numbers do not include 1,188

individuals who were convicted of a second or subsequent offense, but for whom their BAC is unknown. Consequently, the numbers in the table understate the number of individuals in each category.

Multiple OWI Offenders by BAC (1997 Data)

<u>Blood Alcohol Content</u>	<u>2nd Offense</u>	<u>3rd Offense</u>	<u>4th Offense</u>	<u>5th or Subsequent Offense</u>
0.15 to 0.199	1,035	641	189	90
0.20 to 0.249	748	596	218	90
0.25 or above	359	331	152	78

Under AB 221, persons convicted of a second offense with a BAC of 0.15 to 0.199 (1,035 offenders in 1997) would face a maximum sentence of one year. Although these offenders may be sent to prison, it may be reasonable to assume that all would, instead, be given a sentence in a county jail. Persons who are convicted of a fourth offense with a BAC of 0.25 or above and persons convicted of a fifth or subsequent offense with a BAC of 0.20 or above would be required to go to prison, since the minimum sentence would be over one year (a total of 320 offenders in 1997). The remaining categories (a total of 3,172 offenders) represent cases where the minimum sentence would be under one year and the maximum sentence would be one year or more. A portion of these offenders would likely be sentenced to prison.

Since the current sentencing patterns for OWI offenders is unknown, and it is unclear how the bill would affect sentencing patterns, it is necessary to make several assumptions to arrive at an estimate of how many of the people in these categories would be sentenced to prison and what the total average daily increase in the prisoner population would be under the bill. Given the lack of data on sentencing patterns, a range of assumptions was used. The following assumptions were made:

(a) *Percentage of offenders sent to prison.* For each category represented in the table, it is necessary to assume what percentage of offenders would be sentenced to prison. For instance, a second-time offender who has a BAC of 0.25 or above may be sentenced to a minimum of 120 days (4 months) or a maximum of 24 months. A low-range assumption may be that 10% of these people would be given a sentence over one year and, therefore, serve the sentence in a prison. A high-range estimate may be that 20% of these people would be sentenced to prison. These percentages would likely be higher for the higher sentencing ranges. For instance, a person convicted of a fourth or subsequent offense with a BAC between 0.15 and 0.199 could be given a sentence of between 240 days (8 months) to two years. A low-range assumption may be that 30% of these offenders would be sentenced to prison, whereas a high-range estimate may be that 40% would be sentenced to prison. Low-range and high-range assumptions were made for each category of offenders.

(b) *Average length of sentence for offenders sent to prison.* A low-range estimate of the average sentence of an offender who is sentenced to prison used one year, unless the minimum sentence is longer, in which case, the minimum was used. A high-range estimate of the average sentence used one-half of the maximum sentence for second, third and fourth time offenders and one-third of the maximum for offenders with five or more convictions. [These calculations were made assuming that the maximum sentence equals the total length of the bifurcated sentence under the state's determinant sentencing law, which will take effect on December 31, 1999. The calculations were based on the maximum incarceration period, which is 75% of the maximum statutory sentence.]

(c) *Number of offenders currently sentenced to prison.* Under current law (beginning with offenses committed on January 1, 1999), persons who are convicted of a fifth or subsequent OWI offense may be sentenced to up to five years in prison. Consequently, to estimate the fiscal impact of AB 221, it is necessary to subtract a certain percentage of these offenders from the estimate of the total number of offenders who would be sentenced to prison under AB 221, based on the assumption that they would have been sentenced to prison under current law. A low-end assumption would be that the bill would not increase the percentage of offenders in this category who are sentenced to prison and would not increase their average prison sentence. A high-end assumption would be that 20% of the increase in the prison population that is calculated using the previous high-end assumptions would be due to the bill and the remaining 80% would occur under current law.

(d) *Cumulative population changes.* The number of new prisoners per year must be adjusted to arrive at an average daily population, since some of these prisoners may be incarcerated for more than one year. Making this adjustment produces an estimate of the average daily prisoner population.

Using the range of assumptions outlined above, AB 221 would increase the average daily prisoner population by between 751 and 1,365. The biennial budget bill (AB 133) assumes that any additional inmates will need to be confined in contract beds at non-state facilities, at a cost of \$45 per day, per inmate. The cost of this increase, under the above assumptions, would range between \$12.3 million and \$22.4 million on an annual basis.

In addition to prison costs, since under a bifurcated sentence judges are required to provide an extended supervised sentence equal to at least 25% of the imprisonment sentence, extended supervision costs must also be included. Assuming that all extended supervision sentences are 25% of the incarceration period and that extended supervision costs will be similar to 1997-98 probation and parole costs, AB 221 would increase extended supervision costs by \$237,500 to \$432,000 annually. In total, the estimated state correctional costs of AB 221 would range from \$12.6 million to \$22.8 million on an annual basis.

Since the average daily population would not reach the levels identified above within the first year, these costs represent the annualized fiscal impact after the population reaches an equilibrium,

where the number of new offenders sentenced to prison equals the number being released after serving their terms. The number of prisoners would equal about 94% of this equilibrium point after one year using the low-range assumptions, and about 76% of this point after one year using the high-range assumptions.

Although the bill would increase the maximum prison terms for causing great bodily harm by the intoxicated use of a vehicle if the offenders had a high BAC, the number of persons committing this offense (or the offense of causing death by the intoxicated use of a vehicle, for which prison terms would not be affected by the bill) was not included in this analysis. In 1997, there were 50 convictions for this offense. The bill may increase the sentences for causing great bodily harm, but would not likely increase the percentage of offenders that go to prison rather than to jail, since it appears that most offenders are already sentenced to prison. Because the average prison sentence may be increased, the bill may increase the costs associated with this offense, but this fiscal impact was excluded from the estimate.

In its fiscal estimate for AB 221, the Department of Corrections estimated that the bill would increase the average daily prison population by 1,361. The Department assumed that to house this number of prisoners, either a new 1,500 bed correctional facility would need to be built or else this number of prisoners would be sent to out-of-state facilities. The cost of building a new prison is estimated at \$86,000,000, which would be financed through general obligation bonding. The annual debt service on these bonds would be about \$7.2 million. Corrections' estimate indicates that staffing a new prison of this size would take 490 FTE and the annual operating costs would be \$25,649,900. In addition, the Department's estimate identifies one-time costs of \$1,930,300 for establishing the new prison and correctional officer training costs. If a new prison is not built, Corrections assumes that 1,361 new prisoners would be sent to out-of-state facilities at a total cost of \$22,354,400. The Department of Corrections also estimates that an additional 1,361 prisoners would increase the number of offenders in community supervision by 640. This would require 13 additional staff at an annual cost of \$593,200 and one-time costs of \$124,100.

The bill would not provide additional funds for the Department of Corrections.

County Jails

In addition to increasing the state prison population, the bill would impact county jail populations. The bill would increase jail terms for many offenders, but would also require some offenders to be sentenced to prison who would have otherwise served jail terms. The Department of Corrections estimates that the net effect would be to increase the number of jail days served by 70,754 annually. Corrections' fiscal note assumes that if the average cost of housing one person in jail for one day is \$50, the total local impact of the bill would be \$3,537,700 annually. This number of additional jail days would increase the average daily jail population by about 194. In 1998, the average daily jail population was 11,401, so this increase would amount to 1.7% of the total.

Prepared by: Jon Dyck

Mr. Chairman and Members of the Senate Judiciary Committee:

Good morning. My name is Dennis Hughes, and I am the Chief of the Safety Policy Analysis Section for the Wisconsin Department of Transportation. With me is John Sobotik, who is an attorney in our Office of General Counsel. We appreciate the opportunity to share with you the agency's comments and concerns on Assembly Bill 221.

Without question, AB-221 is an ambitious package of good ideas designed to make Wisconsin's streets and highways safer from the hazards posed to all of us by drunk drivers. If and when AB-221 is enacted into law, we believe it will be an important step forward in this arena.

The Department supports the bill's provision to provide additional funding for pre-trial intoxicated driver intervention programs, but I must point out that similar additional funding was provided for in the biennial budget bill last fall. Milwaukee County's intensive supervision program has earned national recognition as an innovative and effective approach to dealing with repeat drunk drivers. We are carefully monitoring similar pre-trial intervention programs that have started up in Kenosha, Waukesha, Eau Claire and Marathon Counties. We also know that several other counties are awaiting funding assistance to start up similar intervention programs, and the additional funding will certainly help in that regard.

The Department also supports the bill's provision to create a new grant program to support local Safe Ride Programs. We look forward to working with local officials and businesses in putting these funds to good use in a variety of Wisconsin communities.

However, the Department has several technical and administrative concerns about the bill in its current form that I would like to share with you.

- (1) Expansion of the use of Ignition Interlock Devices (or "IID's") as an option for the court to order following chemical test refusals and conviction for 1st offense drunk driving is consistent with the sentiments of the 1995 Governor's Task Force on Operating After Revocation and Operating While Intoxicated. While the Department supports the expanded use of IID's, as currently drafted, AB-221 gives repeat offenders an opportunity to skirt the intent of the IID law by simply installing an IID on "a" vehicle that they own, then finding a different vehicle to drive. A more effective approach would be to tie the IID restriction to the offender's driving privilege so that any vehicle they operate must be IID-equipped.
- (2) We are also concerned about situations in which an offender tampers with an IID after installation. An approach that would be less burdensome to the Department would be to have the IID vendor notify the Division of Motor Vehicles that tampering has occurred. At that point, DMV would simply cancel the offender's license. If the offender disagrees with the cancellation, then they could appeal the decision to the court in which the IID order originated. This would relieve the Department from

responsibility for administrative review of such appeals, which could be numerous if IID use becomes much more common in Wisconsin, and it would give that power to the courts, who are much better equipped to weigh the circumstances of each case and take appropriate action.

- (3) The bill requires the Department to define, by administrative rule, a “statewide IID program.” While the existing rule (TRANS 313) can be revised to incorporate the elements required, the agency does not have sufficient staff resources to exercise full oversight and monitoring of IID vendors that operate in this state.
- (4) Making vehicle seizure an option available to the court when sentencing 4th and subsequent offense drunk drivers is also consistent with the sentiments of the 1995 Governor’s Task Force on Operating After Revocation and Operating While Intoxicated. However, it would be desirable to amend the language to be consistent with a recent Wisconsin Supreme Court ruling [State v. Konrath, 218 Wis 2d 290 (1998)] that the motor vehicle involved in the drunk driving incident is the only vehicle that may be ordered seized (as opposed to “any” motor vehicle owned by the offender).
- (5) It would also be desirable to amend the bill to give courts the latitude to order vehicle seizure or immobilization in addition to placing an IID restriction on the driver license of 3rd or subsequent offense drunk drivers (instead of limiting the court to choosing only one of the three vehicle sanctions).
- (6) Mandatory driver license suspension for all repeat Juvenile Alcohol offenders and for all juveniles with repeat Open Container violations may

result in significant workload increases for Department staff, especially if the agency has to assume responsibility for recording all Juvenile Alcohol offenses adjudicated in municipal courts.

- (7) Requiring a study of alcohol and other drug abuse treatment programs and other alternatives to incarceration for repeat drunk drivers is a good idea. However, the credibility of the study could be optimized if it was conducted by an outside consultant, instead of by DOT and Department of Corrections staff. Unfortunately, as currently drafted, AB-221 does not provide any funding for a study, regardless of who does the work.
- (8) To maximize the public attention paid to the many substantive changes to Wisconsin's drunk driving law that are embodied in AB-221 and to allow the Department sufficient time to revise administrative rules, it would be advantageous to delay the effective date for all elements of the bill to January 1, 2001 (rather than simply four months following publication). That said, given the variety of data processing system revisions that the agency has determined are necessary to implement the new Graduated Driver License law and Act 84 (the new Operating After Revocation law), it could be very difficult to complete all DP system revisions that AB-221 will require by January 1, 2001, much less within four months following the date of publication.

*Outside
Consultant
recommended!*

In conclusion, once again we thank the Committee for the opportunity to appear before you today to share the Department's comments and concerns about AB-221. If you have any questions about our testimony, we would be happy to answer them at this time.

Conviction	Fine or Forfeiture	Jail	Suspension or Revocation	Occupational License	Assessment	Points
OWI, First ^a	\$150 - \$300 (plus \$340 surcharge)		6 - 9 month suspension	Immediately	YES	6
OWI, Second ^a (Within 5 years) ^b	\$300 - \$1,000 (plus \$340 surcharge)	5 days to 6 months	12 - 18 month revocation	After 60 days ^{c, e}	YES	6
OWI, Third ^{a, c} (Within 10 years) ^b	\$600 - \$2,000 (plus \$340 surcharge)	30 days to one year	2 - 3 year revocation Vehicle must be immobilized or equipped with ID or may be seized	After 90 days ^{c, e}	YES	6
OWI, Fourth ^{a, f} (Within 10 years) ^b	\$600 - \$2,000 (plus \$340 surcharge)	60 days to 1 year	2 - 3 years revocation Vehicle seized if owned by offender	After 90 days ^{c, e}	YES	6
OWI, Fifth or more ^{a, f} (Within 10 years) ^b	\$600 - \$2,000 (plus \$340 surcharge)	6 months to 1 year	5 years as an HTO ^g Vehicle seized if owned by offender	After 90 days ^{c, e}	YES	6
Causing Injury While OWI ^{a, f}	\$300 - \$2,000 (plus \$340 surcharge)	30 days to 1 year	1 - 2 year revocation	After 60 days	YES	6
Causing Great Bodily Harm While OWI ^{a, f}	Up to \$10,000 (plus \$340 surcharge)	Up to 5 years imprisonment	2 year revocation	After 120 days	YES	0
Homicide While OWI ^{a, f}	Up to \$10,000 (plus \$340 surcharge)	Up to 10 years imprisonment	5 year revocation	After 120 days	YES	0
Chemical Test Refusal (First) ^h		1 year revocation	1 year revocation	After 30 days	YES	0
Chemical Test Refusal (Second) ^h (Within 5 years) ^b		2 year revocation	2 year revocation	After 90 days ^e	YES	0
Chemical Test Refusal (Third) ^h (Within 10 years) ^b		3 year revocation	3 year revocation	After 120 days ^e	YES	0
Administrative Suspension for Prohibited Alcohol Concentration			6 month suspension	Immediately	NO	0
Absolute Sobriety (If under legal drinking age - 21)	\$92.30 (forfeiture and costs) ^h		3 month suspension	Immediately	NO	0
Open Container (Driver)	\$203 (forfeiture and costs) ^h					
Open Container (Passenger)	\$141.50 (forfeiture and costs) ^h					

A. Fines, forfeitures, jail and revocation/suspension penalties are doubled for someone convicted of OWI when a person under 16 years of age was present in the vehicle. See 1995 WIS. ACT 425.
 B. The 5 year and 10 year periods are measured from the date of refusal or violation that resulted in conviction [366.65(2)].
 C. Schedule sobriety is a mandatory condition for an occupational license for persons with 2 or more suspensions, revocations or convictions as counted under 343.30(1), 343.30(2)(a)(2) or occupational license [343.30(1)(b)3, 343.30(2)(a)].
 D. Occupational license [343.30(1)(b)3, 343.30(2)(a)].
 E. OWI when a person under 16 years of age was present in the vehicle can now be a felony.
 F. Habitual Traffic Offender.
 G. If repeat offender, court may immobilize, equip with ID or seize [940.09(1d), 940.25(1)].
 H. This represents the deposit for these offenses as set forth in the Uniform State Traffic Deposit Schedule, 1996 Edition.

Revised by WISDOT - Office of General Counsel 10-29-97

**DEALING WITH SUBSTANCE ABUSE:
Assessment and Driver Safety Plan**

Under the law, if you're convicted of OWI, refuse testing or cause injury or death through OWI, you must be referred to an approved assessment center. You may also get a voluntary assessment any time after your arrest at these centers.

In the assessment process, the extent of your alcohol or other drug use/abuse is determined, and a driver safety plan developed. The plan could include one or more of the following: completion of a traffic safety course designed to help you change drinking/drugged driving behavior; outpatient counseling; inpatient treatment for up to 30 days. You are required to comply with the recommended driver safety plan. You pay the fees for the assessment and treatment/education program. Persons found unable to pay for treatment services may be eligible for financial assistance.

If you do not comply, your driving privilege will be suspended until you do.

TOUGHER LAWS FOR REPEAT OFFENDERS

If you have two or more prior offenses, and you are arrested for OWI, the prohibited alcohol concentration will be .08.

If you are arrested and then convicted of your second OWI offense:

- You must complete an assessment and be in compliance with your driver safety plan to be eligible for an occupational license.
- Your occupational license will have absolute sobriety as a mandatory condition.

If you are arrested and then convicted of your third OWI offense (in addition to the above):

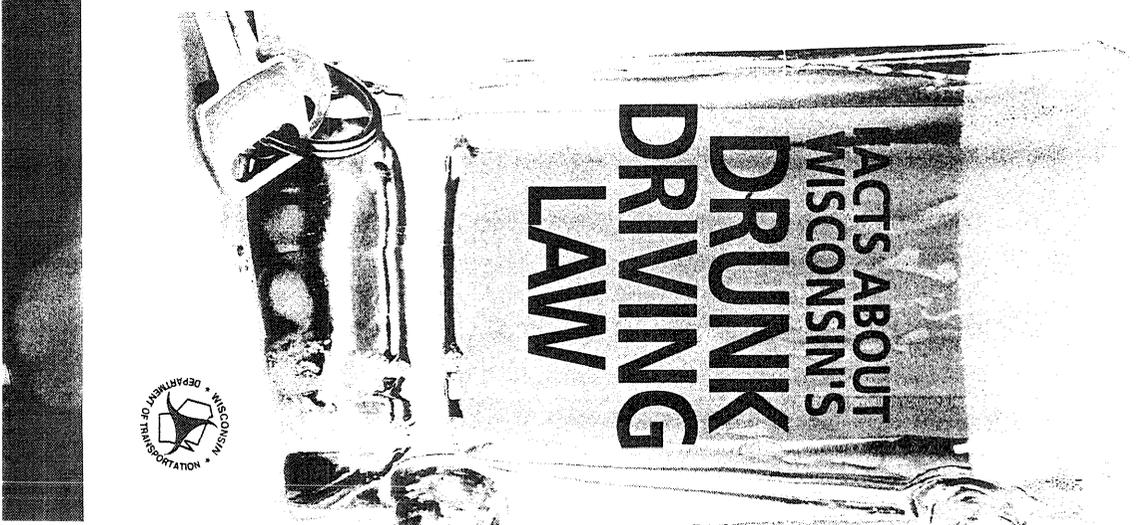
- Judges may order seizure of your vehicle. If the vehicle is not seized, judges must either order installation of an ignition interlock device or vehicle immobilization unless it results in undue hardship.

If you are arrested and then convicted of a fourth or subsequent OWI offense (in addition to the above):

- Judges must order seizure of your vehicle unless special circumstances apply.

Need to Know
DRIVEWISE
 Wisconsin Department of Transportation
 P.O. Box 7916, Madison, WI 53707
 (608) 266-0202

WS 14-00



THERE IS NO SUCH THING AS JUST GETTING A TICKET FOR DRUNK DRIVING

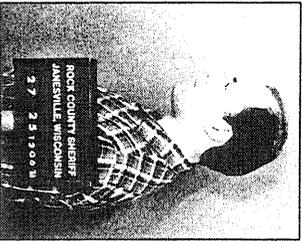
You're arrested. Handcuffed. Booked. Fingerprinted. Put in jail. And that's only the beginning of your problems.

You lose your driver's license. You must appear in court. It's time consuming, and it's embarrassing.

You need money. A lot of it. For attorney fees, fines or forfeitures, court costs, assessment, driver safety plan, license reinstatement... and watch your insurance premiums jump with a drunk driving conviction.

It's a serious charge...and an unpleasant experience that will haunt you for a long time.

This leaflet presents the facts. Please consider them carefully. And tell a friend. You'll be doing us all a favor.



WHAT IS OWI?

The common term is "drunk driving," but this law also refers to impairment from other drugs.

Legally it's "operating while under the influence of alcohol or controlled substances or a combination thereof."

An alcohol concentration (AC) of .10* is evidence of intoxication. So is less than .10* with corroborating evidence of impairment from the arresting officer. So is driving under the influence of drugs alone...or a combination of drugs.

WHO GETS ARRESTED FOR OWI?

Nobody's "typical." There are drunk drivers, from all age groups, all walks of life, all income levels. Not just problem drinkers but any person who drinks, or uses other drugs, and drives impaired.

For 73 percent of the approximately 35,000 people convicted of OWI annually, it's their first conviction.

About 21 out of 100 drivers convicted for OWI are between the ages of 14 and 24...they represent only 15 percent of the driving population. In the 14-24 age group, 84% are male. In the 25 and older age group, 81 percent of those convicted are male, and 19 percent are female.

HOW DOES THE OFFICER KNOW?

About one in five drivers arrested for OWI is involved in a crash.

The test are easy to spot. They either drive the wrong way on a one-way street, weave, cross the center line, cut or swing wide at corners, drive too fast or too slow, drive without lights or with a lit dome light.

AFTER THE INITIAL STOP

The officer will ask you to perform Standardized Field Sobriety Tests which include the one-leg stand, walk and turn, and horizontal gaze nystagmus. These tests are scientifically validated and help the officer determine whether there is "probable cause" for an OWI arrest.

YOU WILL LOSE YOUR LICENSE - IT'S GUARANTEED

• **Test Over .10*** on the Intoxilizer, and you are guaranteed a six month suspension. The officer takes your driver's license "on the spot" and gives you a receipt that serves as a license for 30 days. This is the Administrative Suspension Law. It's certain, and it's fair.

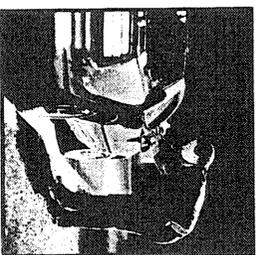
• Your slate is no longer wiped clean after five years. Now the DOT will keep your OWI record for 10 years so that judges can use this information in sentencing.

AN OFFER YOU CAN'T REFUSE

• Refuse the test for intoxication, and you'll lose your license for one year. You may appeal this revocation process within 10 days to the courts.

If no grounds are established, you'll lose your license for one year, and you must wait at least 30 days after revocation to be eligible for an occupational license.

WHAT ABOUT "OCCUPATIONAL" LICENSES?



If you need to drive to and from work, an occupational license may be issued. (Please see chart on the back.)

Occupational licenses are not blanket authority to drive whenever and wherever you

please. They carry restrictions as to hours of the day, and even prescribed routes.

Moreover, to receive an occupational license, you're required to furnish proof of financial responsibility. That means insurance. You must ask your insurance agent to file a form with the Division of Motor Vehicles proving that you have insurance.

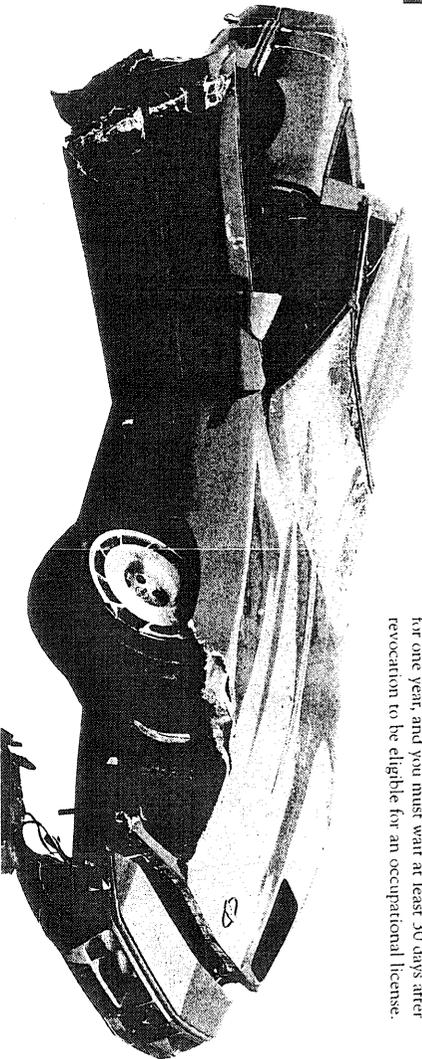
HOW TO REINSTATE YOUR LICENSE

All drunk/drugged driving offenses result in driver license revocations, except the first OWI which is a suspension.

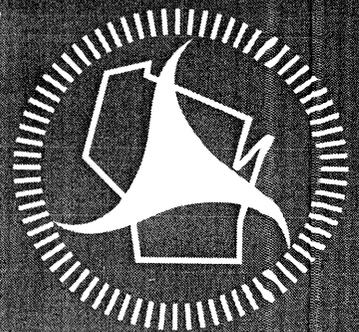
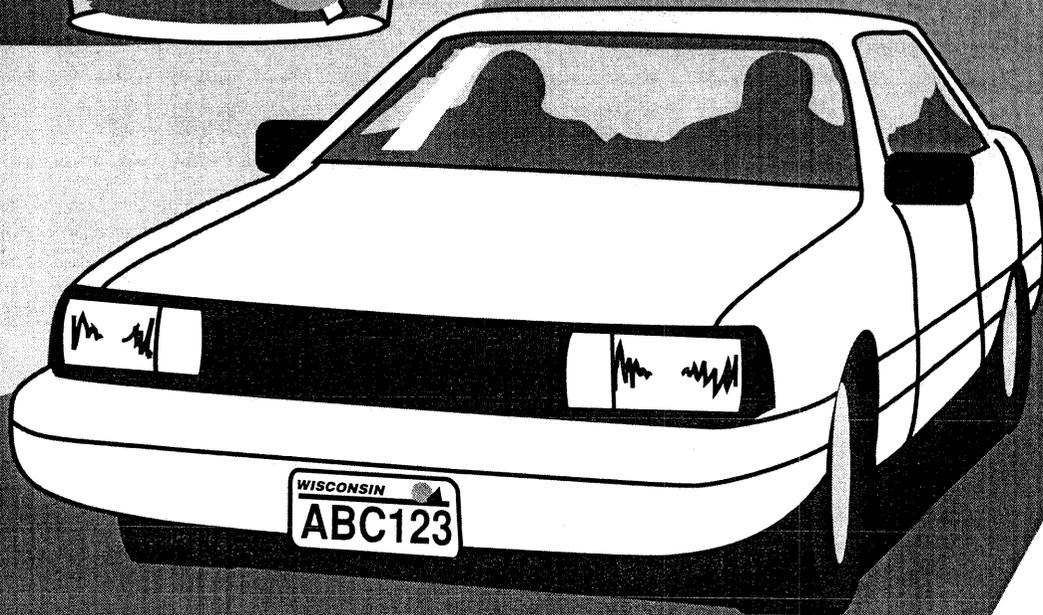
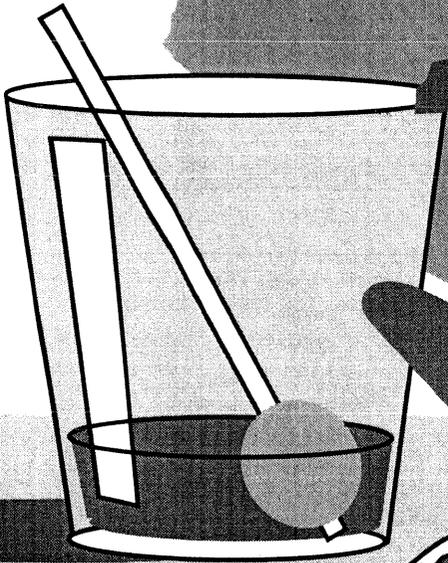
To reinstate your license after suspension, you must pay a \$50 fee. After revocation you not only pay the \$50 fee, but must also furnish proof of financial responsibility for three years. Proof of identity is also required.

If convicted of driving with a revoked or suspended license, you can face a stiff fine, jail term and an additional period of revocation.

* .08 AC if 2 or more prior OWI convictions



1998 WISCONSIN ALCOHOL TRAFFIC FACTS BOOK





Wisconsin Department of Transportation

BUREAU OF TRANSPORTATION SAFETY
4802 Sheboygan Avenue
P.O. Box 7936
Madison, WI 53707-7936

Telephone: (608) 266-0402
FAX: (608) 267-0441

November, 1999

Dear Traffic Safety Partners:

The Wisconsin Department of Transportation, Bureau of Transportation Safety is pleased to provide you with a copy of the 1998 Wisconsin Alcohol Traffic Facts Book. Please note that the title of this book reflects the year for which the most recent data was compiled.

This book provides statewide traffic-related alcohol information. The emphasis on traffic crashes, arrests, convictions and driver safety plan data presents a variety of alcohol-related data that will serve as a resource for safety, health and social service professionals.

We want to thank the Wisconsin Departments of Health and Family Services, Public Instruction, Natural Resources, Revenue, the Office of Justice Assistance, the University of Wisconsin Law School Resource Center on Impaired Driving, the WisDOT Division of Motor Vehicles, and the Distilled Spirits Council of the United States for their contributions to the content of this book.

To obtain additional copies of this book or for more information, please write to: Wisconsin Department of Transportation, Bureau of Transportation Safety, P.O. Box 7936, Madison, WI 53707-7936, or via Fax at (608)267-0441, or call (608)266-0402, or via email at dtim@dot.state.wi.us.

Sincerely,

A handwritten signature in cursive script that reads "John H. Evans".

John H. Evans, Director
Bureau of Transportation Safety

KEY FACTS AND FIGURES

- In 1998, 282 people were killed and 6,850 people were injured in 8,475 alcohol-related motor vehicle crashes in Wisconsin. Alcohol-related crashes accounted for 6.7% of all crashes in the state, 40% of all motor vehicle fatalities, and 11% of all motor vehicle injuries. Since 1988, alcohol-related fatalities have declined 28% (from 391), alcohol-related injuries have declined 33% (from 10,170), and alcohol-related crashes have declined 39% (from 13,847).
- On average, one person was killed or injured in an alcohol-related crash in Wisconsin every 74 minutes during 1998. In 1988, on average, one person was killed or injured in an alcohol-related crash in Wisconsin every 50 minutes.
- During 1998, 37,708 people were arrested for Operating While Intoxicated (OWI) in Wisconsin, including 596 persons who were under 18. This compares to 34,363 OWI arrests in 1988.
- Of the 8,444 drinking drivers involved in crashes in 1998, 1,086 (13%) were under age 21 and 7,347 were age 21 or older. Since 1988, the number of drinking drivers in crashes has declined 42% (from 14,441). In 1988, 2,135 (15%) of the 14,441 drinking drivers in crashes were under age 21. The minimum drinking age was raised from 18 to 19 in July, 1984, and from 19 to 21 in September, 1986.
- In 1998, 140 drivers killed in crashes had an alcohol concentration (AC) of 0.10% or higher; 15 were under age 21 and 125 were age 21 or older. These 140 drivers represent 35% of all drivers that were killed and tested for alcohol concentration. The 15 drivers under age 21 represent 20% of all drivers under age 21 that were killed and tested for alcohol concentration. In 1988, 47% of all drivers killed and tested for alcohol concentration had an AC of 0.10% or higher.
- Of 30,263 drivers convicted of OWI (Operating While Intoxicated) in Wisconsin in 1998, 2,570 (8%) were under age 21 at the time of violation and 27,693 were age 21 or older.
- Of the 35,622 OWI citations adjudicated in Wisconsin during 1998, 92% of the drivers were found guilty. This total included 4,884 cases where the driver refused the alcohol test; 93.6% of the people who refused the alcohol test were found guilty of OWI.
- The median time between OWI violation and conviction in 1998 was 54 days.
- The median alcohol concentration (AC) test result for 1998 OWI citations was 0.17%.
- In 1997, 5% of the Behavioral Risk Factor Survey respondents (age 18 and older) reported that they drove after drinking too much during the past month. In the 1999 Youth Risk Behavior Survey, 13.5% of 10th graders and 28.3% of 12th graders responded that they drove after drinking in the past 30 days.

KEY FACTS AND FIGURES

- A snapshot of the WisDOT-DMV-Driver Record File taken January 1, 1999 showed that:
 - 111,426 drivers had 1 OWI conviction
 - 10,852 drivers had 2 OWI convictions
 - 12,114 drivers had 3 OWI convictions
 - 3,238 drivers had 4 OWI convictions
 - 952 drivers had 5 OWI convictions
 - 299 drivers had 6 OWI convictions
 - 88 drivers had 7 OWI convictions
 - 25 drivers had 8 OWI convictions
 - 9 drivers had 9 OWI convictions
 - 4 drivers had 10 OWI convictions
 - 1 driver had 11 OWI convictions.
- A “typical” OWI offender is a 36 year old male. Of the 111,426 drivers with one OWI conviction in the driver history profile, 80% were male and 51% were between the ages of 25 and 39. Of the 27,582 repeat offenders, 86% were male and 57% were between the ages of 25 and 39.

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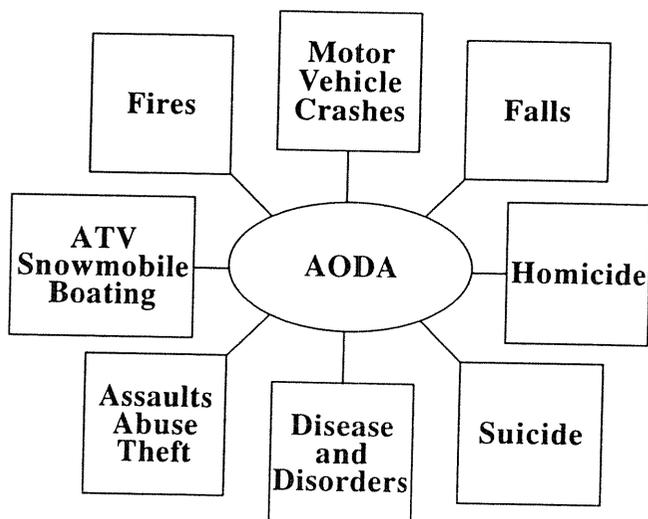
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SECTION 1: MAGNITUDE OF THE PROBLEM

The use and abuse of alcoholic beverages increase the likelihood of virtually all types of injury, even among young teenagers. About one-third of fatally injured drivers and substantial proportions of adult passengers and pedestrians killed in motor vehicle crashes—as well as in falls, drownings, fires, assaults, and suicides—have alcohol concentrations of 0.10 percent or higher. In both highway and non-highway events, the more severe the event, the higher the percentage in which alcohol plays a role. In Wisconsin, alcohol contributed to 40% of all fatal crashes in 1998. Identifying particular groups of people likely to drive under the influence of alcohol and other drugs by specific highway location is especially important for effective prevention efforts.

Section One will provide an overview of problems associated with alcohol. The intent is to present the big picture and then focus on traffic safety problems including motor vehicle crashes.

PROBLEMS ASSOCIATED WITH ALCOHOL AND OTHER DRUG ABUSE



ALCOHOL-RELATED DEATHS IN WISCONSIN

In Wisconsin, various agencies collect data on deaths attributable to alcohol and drug abuse. Motor vehicle deaths are collected by the Department of Transportation. Boating and snowmobile deaths are maintained by the Department of Natural Resources. Alcohol disease deaths, drug-related deaths, as well as all other death information derived from Wisconsin death certificates, are maintained by the Department of Health and Family Services.

All of the categories above count deaths that were alcohol-related. The Alcohol category and Other Drugs category include diseases, accidental overdose and suicide.

ALCOHOL-RELATED DEATHS IN WISCONSIN

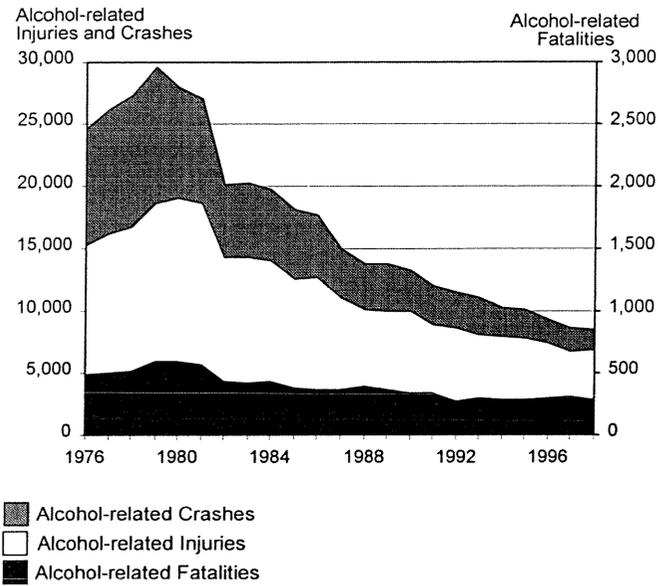
Year	Motor Vehicle	Boating/ Snowmobile	Alcohol Diseases	Other Drugs
1983	417	17	305	65
1984	428	16	294	89
1985	373	12	344	75
1986	371	15	300	88
1987	368	12	305	85
1988	391	22	298	106
1989	366	21	337	92
1990	335	23	303	83
1991	333	20	264	100
1992	268	25	283	98
1993	297	22	306	102
1994	278	21	672*	209*
1995	282	17	687*	216*
1996	295	33	667*	197*
1997	309	23	659*	225*
1998	282	17	NA	NA

*Note: The DHFS-Center for Health Statistics changed their reporting to allow more contributing causes for deaths.

NA = Not available

SOURCE: DOT-DMV Accident Database, DHFS-Center for Health Statistics, DNR-Bureau of Law Enforcement

WISCONSIN ALCOHOL-RELATED INJURIES AND FATALITIES FROM MOTOR VEHICLE CRASHES 23-YEAR SUMMARY



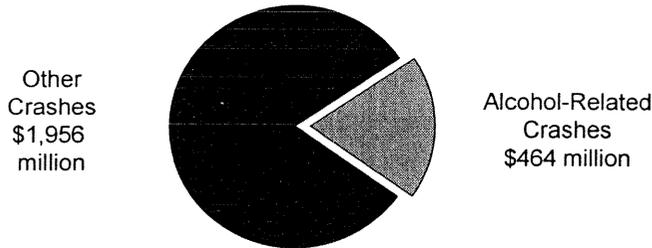
SOURCE: DOT-DMV Accident Database

Year	ALCOHOL-RELATED		
	Crashes	Fatalities	Injuries
1976	24,548	485	15,319
1977	26,200	505	16,258
1978	27,354	510	16,760
1979	29,647	593	18,681
1980	28,025	592	19,112
1981	26,978	573	18,648
1982	20,089	426	14,283
1983	20,216	417	14,282
1984	19,748	428	14,054
1985	18,077	373	12,616
1986	17,673	371	12,766
1987	14,994	368	11,120
1988	13,847	391	10,170
1989	13,803	366	10,048
1990	13,309	335	10,035
1991	12,034	333	8,899
1992	11,516	268	8,686
1993	11,052	297	8,093
1994	10,279	278	8,039
1995	10,170	282	7,890
1996	9,338	295	7,496
1997	8,627	309	6,797
1998	8,475	282	6,850

Alcohol-Related Crash: The investigating officer perceived that a driver, pedestrian or bicyclist involved in the crash had been drinking alcohol prior to the crash.

ALCOHOL-RELATED CRASH COSTS

1998 ECONOMIC LOSS FROM MOTOR VEHICLE CRASHES



SOURCE: DOT

Note: The method used for calculating economic loss differs from that used in prior Wisconsin Alcohol Traffic Facts books where a single cost figure was used for all nonfatal injuries, regardless of severity.

According to WisDOT estimates, alcohol-related crashes cost Wisconsin about \$464 million in 1998. This represents about 19% of the estimated total economic loss in Wisconsin due to motor vehicle crashes. Economic loss is determined using national cost estimates obtained each year from the National Safety Council. Figures used to calculate the 1998 economic loss are the 1997 National Safety Council estimates plus 2.5% to account for inflation:

- Fatality: \$1,004,500
- Incapacitating injury: \$43,900
- Nonincapacitating injury: \$14,800
- Possible injury: \$8,400
- Property damage: \$6,600

In 1996, alcohol was cited as a contributing factor in 25% of motor vehicle crashes that resulted in hospitalization in Wisconsin. During that year, alcohol-related crashes accounted for almost \$21 million in hospital charges alone. This figure does not include the physician charges for hospital care or any medical care that occurred after the patient left the hospital.

SOURCE: UW-Center for Health Systems Research and Analysis

ALCOHOL-RELATED FATALITIES INVOLVING RECREATIONAL EQUIPMENT

BOATING

Year	Alcohol-Related Fatalities	Total Fatalities	%Alcohol-Related	Registered Vehicles
1990	6	19	32%	496,613
1991	11	23	48%	501,917
1992	9	23	39%	512,234
1993	9	19	47%	515,342
1994	4	21	19%	526,973
1995	5	15	33%	534,828
1996	9	19	47%	540,835
1997	10	29	34%	543,034
1998	5	15	33%	559,321

SNOWMOBILES

Year	Alcohol-Related Fatalities	Total Fatalities	%Alcohol-Related	Registered Vehicles
1982	7	9	78%	129,293
1983	3	8	38%	151,402
1984	6	11	55%	168,080
1985	6	23	26%	164,907
1986	7	10	70%	155,203
1987	7	7	100%	159,451
1988	9	15	60%	147,120
1989	13	17	76%	158,044
1990	17	23	74%	150,576
1991	9	15	60%	149,508
1992	16	22	73%	163,196
1993	13	21	62%	180,208
1994	17	30	57%	182,124
1995	12	22	54%	193,184
1996	24	34	70%	202,216
1997	13	21	61%	208,200
1998	12	20	60%	214,611

ALL-TERRAIN VEHICLES (ATV)

Year	Alcohol-Related Fatalities	Total Fatalities	%Alcohol-Related	Registered Vehicles
1990	8	14	57%	41,626
1991	3	6	50%	42,283
1992	3	8	38%	50,382
1993	1	7	14%	56,597
1994	3	7	43%	62,460
1995	7	9	78%	70,928
1996	2	5	40%	79,245
1997	1	4	25%	89,580
1998	1	6	17%	97,420

SOURCE: DNR-Bureau of Law Enforcement

DEPARTMENT OF NATURAL RESOURCES (DNR) ALCOHOL-RELATED CITATIONS 1989-1998

Year	Boating	Snowmobile	ATV	TOTAL
1989	216	26	18	260
1990	261	125	18	404
1991	337	119	21	477
1992	238	171	23	432
1993	281	251	39	571
1994	288	77	33	398
1995	262	182	49	493
1996	321	173	40	534
1997	323	70	35	428
1998	254	73	32	359

BOATING 1986-1998

Operate a motorboat while under the influence of an intoxicant, operate a motorboat with AC of 0.10% or greater	Totals
Refuse test, intoxicated motorboat operation	2,910
Cause injury by intoxicated operation of a motorboat	172
Intoxicated water-skiing	43
Total	3,128

SNOWMOBILE 1986-1998

Operate a snowmobile while intoxicated	Totals
Operate a snowmobile with alcohol concentration above 0.10%	665
Refuse to take intoxicated snowmobile test	518
Absolute sobriety for persons under age 19	57
Cause injury by intoxicated operation of snowmobile	18
Total	1,267

ALL-TERRAIN VEHICLES (ATV) 1986-1998

Operate an ATV while intoxicated	Totals
Operate an ATV with alcohol concentration above 0.10%	177
Absolute sobriety for persons under age 19	112
Refuse to take intoxicated ATV test	9
Total	312

Counting: Citations

SOURCE: DNR-Bureau of Law Enforcement

BOATING OWI AND RELATED PENALTIES

Conviction	Fine or Forfeiture	Jail	Assessment	Mandatory Boater Education
OWI 30.681(1)	1st: \$150-\$449 2nd: \$300-\$1,000 3rd: \$600-\$2,000 4th: \$600-\$2,000 5th: \$600-\$2,000 [30.80(6)(a)1-5]	2nd: 5 days to 6 mo 3rd: 30 days to 1 yr 4th: 60 days to 1 yr 5th: 6 months to 1 yr	Yes Yes Yes Yes Yes [30.80(6)(d)]	Yes Yes Yes Yes Yes [30.80(6)(e)]
Causing Injury While OWI 30.681(2)	\$300-\$2,000 [30.80(6)(b)]	30 days to 1 yr	Yes	Yes
Chemical Test Refusal 30.684(5)	1st: \$150-\$449 2nd: \$300-\$1,000 3rd: \$600-\$2,000 [30.80(6)(a)1-5]	2nd: 5 days to 3 mo 3rd: 30 days to 1 yr	Yes Yes Yes	Yes Yes Yes
Absolute Sobriety (If under age 21) 30.681(1)(bn)	\$50 [30.80(6)(a)6]	No	No	No

SNOWMOBILE OWI AND RELATED PENALTIES

Conviction	Fine or Forfeiture	Jail	Assessment	Mandatory Snow mobile Education
OWI 350.101(1)	1st: \$400-\$762.50 2nd: \$300-\$1,000 3rd: \$600-\$2,000 [350.11(3)(a)1-3]	2nd: 5 days to 6 mo 3rd: 30 days to 1 yr	Yes Yes Yes [350.11(3)4(d)]	No No No
Causing Injury While OWI 350.101(2)	\$300-\$2,000 [350.11(3)(b)]	30 days to 1 yr	Yes	No
Chemical Test Refusal 350.104(5)	1st: \$400-\$762.50 2nd: \$300-\$1,000 3rd: \$600-\$2,000 [350.11(3)(a)1-3]	2nd: 5 days to 3 mo 3rd: 30 days to 1 yr	Yes Yes Yes	No No No
Absolute Sobriety (If under age 19) 350.101(1)(c)	\$0-\$147.50 [350.11(3)4]	No	No	No

ALL-TERRAIN VEHICLE OWI AND RELATED PENALTIES

Conviction	Fine or Forfeiture	Jail	Assessment	Mandatory All-terrain Education
OWI 23.33(4c)(a)	1st: \$150-\$455 2nd: \$300-\$1,000 3rd: \$600-\$2,000 [23.33(13)(b)1-3]	2nd: 5 days to 6 mo 3rd: 30 days to 1 yr	Yes Yes Yes [23.33(13)4(e)]	No No No
Causing Injury While OWI 23.33(4c)(b)1	\$300-\$2,000 [23.33(13)(c)]	30 days to 1 yr	Yes	No
Chemical Test Refusal 23.33(4p)(e)	1st: \$150-\$455 2nd: \$300-\$1,000 3rd: \$600-\$2,000 [23.33(13)(b)1-3]	2nd: 5 days to 3 mo 3rd: 30 days to 1 yr	Yes Yes Yes	No No No
Absolute Sobriety (If under age 19) 23.33(4c)(a)3	\$0-\$147.50 [23.33(13)(b)4]	No	No	No

BOATING, SNOWMOBILE AND ALL-TERRAIN VEHICLE

Conviction	Fine or Forfeiture	Jail	Assessment	Mandatory Education
Causing Great Bodily Harm by OWI 940.25	Up to \$10,000 [939.50(3)(e)]	Up to 2 years	Yes	Boat: Yes Snow: No ATV: No
Homicide While OWI 940.09	Up to \$10,000 [939.50(3)(c)]	Up to 10 years	Yes	Boat: Yes Snow: No ATV: No

OWI=Operating while intoxicated (also may be called "OUI")

SOURCE: DNR-Bureau of Law Enforcement

SECTION 2: ALCOHOL CONSUMPTION

Each year, the Centers for Disease Control and Prevention (CDC), in cooperation with the states, conducts a survey of health-risking behavior. Part of the Behavioral Risk Factor Survey (BRFS) measures alcohol consumption and drinking and driving.

The results of the BRFS are shown on page six and are collected by the Center for Health Statistics, Division of Health. In 1997, 5% of the 2,245 survey respondents reported that they had driven after drinking too much during the past month.

In 1989 and 1991, the Department of Public Instruction (DPI) contracted with the SEARCH Institute in Minneapolis to survey a stratified random sample of Wisconsin public school students about alcohol. In 1991, forty percent (40%) of the 1,479 12th grade survey respondents reported that they had driven a vehicle after drinking in the previous 12 months, and 62% had been in a vehicle driven by

someone who had been drinking alcohol in the previous 12 months.

In 1993, a different instrument [the CDC's Youth Risk Behavior Survey (YRBS)] was used to survey students about alcohol and other youth risk behaviors. This instrument questioned students about their experience in the past 30 days rather than in the past 12 months. In 1993, 24.7% of the 12th grade survey respondents reported they had driven a vehicle after drinking in the previous 30 days, and 40.6% reported that they had been in a vehicle driven by someone who had been drinking in the past 30 days. In the most recent survey (1999), 28.3% of the 12th grade survey respondents reported that they had driven a vehicle after drinking in the previous 30 days, and 39.5% reported that they had been in a vehicle driven by someone who had been drinking in the past 30 days.

DPI SURVEY AND YOUTH RISK BEHAVIOR SURVEY DATA

Year	10th Grade Students	12th Grade Students	Have Driven After Drinking (In Last 12 Months)		Have Been in Vehicle Driven by Someone Who Had Been Drinking (In Last 12 Months)	
	(n)	(n)	10th Graders	12th Graders	10th Graders	12th Graders
1989	1,516	1,701	17%	46%	62%	70%
1991	1,365	1,479	15%	40%	58%	62%

Year	10th Grade Students	12th Grade Students	Have Driven After Drinking (In Last 30 Days)		Have Been in Vehicle Driven by Someone Who Had Been Drinking (In Last 30 Days)	
	(n)	(n)	10th Graders	12th Graders	10th Graders	12th Graders
1993	845	600	9.9%	24.7%	40.3%	40.6%
	859	613				
1997	291	226	11.8%	23.9%	35.7%	37.3%
	296	227				
1999	376	250	13.5%	28.3%	36.5%	39.5%
	380	250				

(n) = Number of students surveyed

SOURCE: Wisconsin Department of Public Instruction

Note: The 1995 survey did not yield generalizable data.