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## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

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**2009 Wisconsin Act 163**  
[2009 Senate Bill 303]

**Applicability of Implied Consent  
Law Prior to Arrest for OWI**

2009 Wisconsin Act 163 relates to requesting a person who operates a vehicle that is involved in an accident that causes death or injury to submit to a test for intoxication.

Wisconsin's existing implied consent law provides that if a person is driving a motor vehicle in Wisconsin, the driver has consented to submit to chemical tests for alcohol or drugs. An officer may invoke the implied consent law after arrest for operating while under the influence of an intoxicant or drug (OWI), and in other enumerated circumstances after arrest.

An officer may invoke the implied consent law before arrest only in limited, specified circumstances.

The Act revises the implied consent law to allow chemical testing before arrest when a person has been involved in an accident that causes substantial bodily harm, and alcohol or drugs have been detected. This lowers the severity of the injury from prior law, which required death or great bodily harm.

The Act also adds a new provision to the implied consent law to allow chemical testing before arrest when a person has been involved in an accident that causes death or great bodily harm, if the officer believes that the person violated a state or local traffic law. Alcohol or drugs do not need to be detected to allow testing.

**Effective date:** 2009 Wisconsin Act 163 is effective March 30, 2010.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.