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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**2019 Assembly Bill 356**

**Assembly  
Amendment 1**

### 2019 ASSEMBLY BILL 356

2019 Assembly Bill 356 reconciles laws relating to operating a recreational vehicle (a snowmobile, an all-terrain vehicle, a utility terrain vehicle, an off-highway motorcycle, or a motorboat) while intoxicated or while having a prohibited blood alcohol concentration (OWI-related violation) and the laws relating to refusing to submit to a legal request for a breath, blood, or urine sample pursuant to an arrest for an OWI-related violation (refusal). The bill ensures that the penalties imposed for an OWI-related violation or a refusal are consistent regardless of the type of recreational vehicle involved in the violation.

The bill also requires an OWI-related violation or refusal involving any type of recreational vehicle to be counted as a prior offense when a court sentences a person for an OWI-related violation, committed no more than five years after the prior offense, regardless of the type of recreational vehicle involved in the violation for which the person is being sentenced.

Additionally, the bill requires a court to enter an order to suspend the person's privilege to operate a recreational vehicle for 12 to 16 months, if the court imposes a penalty for an OWI-related violation or a refusal. The bill allows the court, as part of the order, to authorize the person to operate a recreational vehicle exclusively on land under the management and control of the person's immediate family, or to operate a recreational motorboat, if the court finds that such operation is essential for the purpose of engaging in an occupation or trade.

Under the bill, if the person is found guilty of an OWI-related violation or a refusal and has a previous OWI-related violation, within the previous five years, the court is required to revoke the person's privilege to operate any motor vehicle for six to 12 months, except as allowed under an occupational driver's license.

Under the bill, if a person has had his or her privilege to operate a motor vehicle suspended or revoked for a violation of a prohibition against operating a motor vehicle while intoxicated, the person may not operate a recreational vehicle during the period of that motor vehicle operating privilege suspension or revocation.

The bill allows a court to reduce the sentence of certain offenders who commit a second, third, or fourth OWI-related or refusal offense if the person successfully completes a period of probation that includes alcohol and other drug treatment.

## **ASSEMBLY AMENDMENT 1**

Assembly Amendment 1 includes the following substantive changes to Assembly Bill 356:

1. Under the amendment, anyone, regardless of age, is subject to the same general refusal penalty (\$400-550 for a first offense). Under the bill, a person who commits a refusal offense and who is under the drinking age may be subject to a \$50 forfeiture instead.
2. The amendment corrects provisions in the bill so that the occupational exception may apply when a motor vehicle OWI triggers revocation of recreational vehicle privilege. The amendment also fixes an issue in which the occupational exception was only available for the recreational vehicle type associated with the original violation.
3. The amendment eliminates the phrase “public premises” throughout the bill and replaces the provisions that allow a court to authorize a person to operate a recreational vehicle on land under the management and control of the person’s family if the court finds it essential for the purpose of engaging in an occupation or trade to, instead, allow this operation exclusively on private land and not on highways if the court finds that such operation is essential for the purpose of engaging in an occupation or trade.
4. The amendment makes consistent the first-offense penalty provisions for each type of recreational vehicle by allowing a person to be subject to “a local ordinance in conformity with [the relevant OWI and refusal law].” The bill deleted a reference, existing in current law only in the boating chapter, to a local ordinance in conformity with the OWI and refusal laws pertaining to boating.
5. Under the amendment, the date of conviction is the triggering event for purposes of timing and counting under the revocation and penalty provisions, rather than the date of the violation.

Additionally, Assembly Amendment 1 to Assembly Bill 356 makes technical changes to the bill, including fixing inconsistencies with definitions among the different recreational vehicles, and correcting cross-references throughout the bill.

## **BILL HISTORY**

Assembly Amendment 1 was introduced by Representative Ott on January 23, 2020. On January 30, 2020, the Assembly Committee on Judiciary voted to recommend adoption of Assembly Amendment 1 by a vote of Ayes, 7; Noes, 0, and to recommend passage of Assembly Bill 356, as amended, by a vote of Ayes, 7; Noes, 0.

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