



## 1995 ASSEMBLY BILL 288

April 4, 1995 - Introduced by Representatives VRAKAS, REYNOLDS, LEHMAN, BOCK, GARD, LADWIG, ALBERS, HAHN, OLSEN and SILBAUGH, cosponsored by Senators HUELSMAN and DARLING. Referred to Committee on Criminal Justice and Corrections.

1     **AN ACT to repeal** 23.33 (4c) (b) 4., 30.681 (2) (d), 346.63 (2) (b), 350.101 (2) (d),  
2           940.09 (2) and 940.25 (2) of the statutes; **relating to:** removing the defendant's  
3           right to assert the defense of due care in a case involving injury, great bodily  
4           harm or death resulting from the intoxicated operation of any type of vehicle  
5           or involving death resulting from the intoxicated operation or handling of a  
6           firearm or airgun.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if a person is charged with causing the death of a person by the operation or handling of a firearm or airgun, or with causing the death, great bodily harm or injury of a person as the result of the operation of an all-terrain vehicle, boat, motor vehicle or snowmobile, while under the influence of an intoxicant or while having a prohibited alcohol concentration, the defendant can assert a due care defense against that charge. Under that defense, the defendant is found not guilty of the charge if he or she proves that the death, in a case involving a firearm or airgun, or the death, great bodily harm or injury, in a case involving a boat, vehicle or snowmobile, would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant or did not have a prohibited alcohol concentration while operating or handling the firearm or airgun or while operating the vehicle, boat or snowmobile. This bill repeals this defense in all situations, for firearms, airguns, all-terrain vehicles, boats, motor vehicles and snowmobiles.

