

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB174)

Received: 10/27/1999

Received By: **olsenje**

Wanted: **Soon**

Identical to LRB:

For: **David Travis (608) 266-5340**

By/Representing: **Bill**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - guns and weapons**

Extra Copies: **MGD**

Pre Topic:

No specific pre topic given

Topic:

Absolute sobriety

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	olsenje 10/27/1999	ygeller 10/28/1999	kfollet 10/28/1999	_____	lrb_docadmin 10/28/1999	lrb_docadmin 10/28/1999	

FE Sent For:

<END>

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/1	olsenje	1 10/28 JG	KJF 10/28	KJF/MVC 10/28			

FE Sent For:

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20859

Travis - by Bill AB-174 Simple amendment

If off-duty officer doing this, O.D. BAC
context.

O.D. BAC

impairment for anything other than alcohol

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340.01(1v)

(1v) (intro.) "**Alcohol concentration**" means any of the following:

340.01(1v)(a)

(a) The number of grams of alcohol per 100 milliliters of a person's blood.

340.01(1v)(b)

(b) The number of grams of alcohol per 210 liters of a person's breath.

340.01(46m)

(46m) (intro.) "Prohibited **alcohol concentration**" means one of the following:

340.01(46m)(a)

(a) If the person has one or no prior convictions, suspensions or revocations, as counted under s. 343.307 (1), an alcohol concentration of 0.1 or more.

340.01(46m)(b)

(b) If the person has 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), an alcohol concentration of 0.08 or more.

885.235

885.235 Chemical tests for intoxication.

885.235(1)

(1) (intro.) In this section:

885.235(1)(a)

(a) "**Alcohol concentration**" means the number of grams of alcohol in 100 milliliters of a person's blood or the number of grams of alcohol in 210 liters of a person's breath.

885.235(1)(b)

(b) "Controlled substance" has the meaning specified in s. 961.01 (4).

885.235(1)(bd)

(bd) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

885.235(1)(c)

(c) "Drug" has the meaning specified in s. 450.01 (10).

885.235(1g)

(1g) (intro.) In any action or proceeding in which it is material to prove that a person was under the influence of an intoxicant or had a prohibited alcohol concentration or a specified alcohol concentration while operating or driving a motor vehicle or, if the vehicle is a commercial motor vehicle, on duty time, while operating a motorboat, except a sailboat operating under sail alone, while operating a snowmobile, while operating an all-terrain vehicle or while handling a firearm,

evidence of the amount of alcohol in the person's blood at the time in question, as shown by chemical analysis of a sample of the person's blood or urine or evidence of the amount of alcohol in the person's breath, is admissible on the issue of whether he or she was under the influence of an intoxicant or had a prohibited alcohol concentration or a specified alcohol concentration if the sample was taken within 3 hours after the event to be proved. The chemical analysis shall be given effect as follows without requiring any expert testimony as to its effect:

885.235(1g)(a)

(a)

885.235(1g)(a)1.

1. The fact that the analysis shows that the person had an alcohol concentration of more than 0.0 but less than 0.08 is relevant evidence on the issue of being under the combined influence of alcohol and a controlled substance, a controlled substance analog or any other drug, but, except as provided in par. (d) or sub. (1m), is not to be given any prima facie effect.

885.235(1g)(a)2.

2. The fact that the analysis shows that the person had an alcohol concentration of more than 0.0 but less than 0.1 is relevant evidence on the issue of being under the combined influence of alcohol and a controlled substance, a controlled substance analog or any other drug but, except as provided in par. (d) or sub. (1m), is not to be given any prima facie effect.

885.235(1g)(b)

(b) Except with respect to the operation of a commercial motor vehicle as provided in par. (d), the fact that the analysis shows that the person had an alcohol concentration of more than 0.04 but less than 0.1 is relevant evidence on the issue of intoxication or an alcohol concentration of 0.1 or more but is not to be given any prima facie effect.

885.235(1g)(bd)

(bd) Except with respect to the operation of a commercial motor vehicle as provided in par. (d), the fact that the analysis shows that the person had an alcohol concentration of more than 0.04 but less than 0.08 is relevant evidence on the issue of intoxication or an alcohol concentration of 0.08 or more, but is not to be given any prima facie effect.

885.235(1g)(c)

(c) The fact that the analysis shows that the person had an alcohol concentration of 0.1 or more is prima facie evidence that he or she was under the influence of an intoxicant and is prima facie evidence that he or she had an alcohol concentration of 0.1 or more.

885.235(1g)(cd)

(cd) In cases involving persons who have 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), the fact that the analysis shows that the person had an alcohol concentration of 0.08 or more is prima facie evidence that he or she was under the influence of an intoxicant and is prima facie evidence that he or she had an alcohol concentration of 0.08 or more.

885.235(1g)(d)

(d) The fact that the analysis shows that the person had an alcohol concentration of 0.04 or more is prima facie evidence that he or she was under the influence of an intoxicant with respect to operation of a commercial motor vehicle and is prima facie evidence that he or she had an alcohol concentration of 0.04 or more.

885.235(1m)

(1m) In any action under s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m) or (7) or 350.101 (1) (c), evidence of the amount of alcohol in the person's blood at the time in question, as shown by chemical analysis of a sample of the person's blood or urine or evidence of the amount of alcohol in the person's breath, is admissible on the issue of whether he or she had an alcohol concentration in the range specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m) or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7) if the sample was taken within 3 hours after the event to be proved. The fact that the analysis shows that the person had an alcohol concentration of more than 0.0 but not more than 0.1 is prima facie evidence that the person had an alcohol concentration in the range specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m) or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7).

885.235(2)

(2) The concentration of alcohol in the blood shall be taken prima facie to be three-fourths of the concentration of alcohol in the urine.

885.235(3)

(3) If the sample of breath, blood or urine was not taken within 3 hours after the event to be proved, evidence of the amount of alcohol in the person's blood or breath as shown by the chemical analysis is admissible only if expert testimony establishes its probative value and may be given prima facie effect only if the effect is established by expert testimony.

885.235(4)

(4) The provisions of this section relating to the admissibility of chemical tests for alcohol concentration or intoxication shall not be construed as limiting the introduction of any other competent evidence bearing on the question of whether or not a person was under the influence of an intoxicant, had a specified alcohol concentration or had an alcohol concentration in the range specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m) or 350.101 (1) (c).



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa0859/1

JEO:.....

JLg

Thurs 10/27
by 10:00 am

ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 174

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At the locations indicated, amend the bill as follows:

1. Page 2, line 1: delete that line and substitute:

"SECTION 1g. 167.31 (1) (am)^x of the statutes is created to read:

167.31 (1) (am) "Alcohol concentration" has the meaning given in s. 340.01 (1v).

SECTION 1h. 167.31 (1) (ft)^x of the statutes is created to read:

167.31 (1) (ft) "Under the influence of an intoxicant" means that the actor's ability to handle a firearm is materially impaired because of his or her consumption of a controlled substance, as defined under s. 961.01 (4)^v, a controlled substance analog, as defined in s. 961.01 (4m)^v, or any other drug, as defined in s. 450.01 (10), or because of his or her consumption of any combination of an alcohol beverage, a controlled substance, a controlled substance analog or any other drug.

SECTION 1m. 167.31 (2) (d)^x of the statutes is amended to read:"

