

Assembly Hearing Slip

(Please print plainly)

Date: 3/17/99

Bill No. AB 221

Subject: Rep. Jeff Stone

(Name)

(Street Address or Route Number)

(City & Zip Code) 82 and Assembly Dist.
(Representing)

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 3/17/99

Bill No. AB 221

Subject: Rep. Bonnie Ludwig

(Name)

(Street Address or Route Number)

(City & Zip Code) 82 and Assembly Dist.
(Representing)

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 3-17-99

Bill No. AB 221

Subject: Rep. Ludwig

(Name) Rep Ludwig

(Street Address or Route Number)

(City & Zip Code) 82 and Assembly Dist.
(Representing)

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

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Assembly Sergeant at Arms
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State Capitol
Madison, WI 53702

WFS a handwritten

Assembly Hearing Slip

(Please print plainly)

Date: 3-17-99

Bill No. AB 2141/2 (AB 221)

Subject: _____

(Name) Julie Clark - DOT

(Street Address or Route Number) 8204 Sheboygan Ave #351

(City & Zip Code) Madison WI 53702

(Representing) DOT

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

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Assembly Sergeant at Arms
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State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 3-17-99

Bill No. AB 221

Subject: _____

(Name) Paul Lucas

(Street Address or Route Number) 3939 W. Highland

(City & Zip Code) Milwaukee, WI 53208

(Representing) Miller Brewing Co

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

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State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 3-17-99

Bill No. AB 221

Subject: _____

(Name) Scott Stenger

(Street Address or Route Number) P.O. Box 170

(City & Zip Code) Mcelrson

(Representing) Tavern League of WI

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

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Assembly Sergeant at Arms
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State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly).

Date: March 17, 1999

Bill No. A6321

Or Subject _____

(Name) Kelly McDowell

15 N. Pinckney St.

(Street Address or Route Number)

Madison, WI 53711

(City & Zip Code)

Wisconsin State Brewers Assoc.
(Representing)

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:
Neither for nor against:

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Assembly Sergeant at Arms
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State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly).

Date: 3-17-99

Bill No. A6221

Or Subject _____

(Name) Kathi Kibor

2801 Fish Haven Rd.

(Street Address or Route Number)

Madison, WI 53713

(City & Zip Code)

WI Restaurant Assn.
(Representing)

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:
Neither for nor against:

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Assembly Sergeant at Arms
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State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly).

Date: 3-17-99

Bill No. WRB 2111/1

Or Subject _____

(Name) Bruce Lucife

11051 Towerview Dr

(Street Address or Route Number)

Greenville, WI 53942

(City & Zip Code)

Natural Food & Bever
(Representing)

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
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State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 3/12/99
Bill No. AB 221
Of
Subject

(Name) GERALD MORRIS

(Street Address or Route Number) 131 W. WILSON, #1201

(City & Zip Code) MADISON, VT 53703

(Representing) WIS. ASSOC. CRIMINAL DEFENSE LAWYERS

Speaking In favor:

Speaking against: NO

Registering In favor:

Registering against:

Speaking for information only:
Neither for nor against:

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Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, VT 53702

Assembly Hearing Slip

(Please print plainly)

Date: 3-17-99
Bill No. AB 221
Of
Subject

(Name) Tim Skelogen

(Street Address or Route Number) 2805 E. Washington Ave.

(City & Zip Code) MADISON, VT 53704

(Representing) Discussion Wholesale Beer Distributors Assoc.

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for information only:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, VT 53702

Drivers AFTER REVOCATION?

TRAVELERS EFFORTS

IID → DOT-RDU Program

Courtesy Bus' want to

Do it.

Drivers license RESTRICTION FOR IID

DOT - REINSTATEMENT FEE

- NOT JUST IID PEOPLE,
ALL REINSTATEMENTS

RA VOTE aye

269/1

FB221 VOTE aye

on passage

Beird Bonnell

FIRST JUDICIAL DISTRICT
OWI SENTENCING GUIDELINES

April 27, 1998

Wisconsin law recognizes the serious consequences of operating a motor vehicle while under the influence of an intoxicant (OWI), and specifies a range of penalties for violation of those laws. The Chief Judge of this judicial district and the judges of the Misdemeanor/Traffic Division of the Milwaukee County Circuit Court understand the extraordinary dangers OWI violations in a heavily populated community such as Milwaukee County. The judges understand that the legislature intended courts to utilize the full range of dispositional alternatives for OWI violations.

The Legislature has directed that each judicial district in the state adopt guidelines for the sentencing of OWI violations. § 346.65(2m). Indeed, in Milwaukee County, where the Misdemeanor Courts preside over thousands of OWI cases, guidelines for the sentencing of OWI violations will contribute to consistency among courts and among the cases in each court. Relative consistency will help ensure justice for offenders, victims, and the community.

The judges also appreciate the importance of discretion in evaluating the facts and circumstances of each person and each case. Therefore, these guidelines identify some of the significant criteria considered by courts in imposing a sentence and the penalty range within which each factor may fall. However, the guidelines do not require any particular sentence. Further, the guidelines acknowledge that the different criteria have different importance in each case when considered as a whole. The aggravating and mitigating circumstances in each case will be considered when choosing an appropriate sentence.

The following guidelines were first adopted as of October 5, 1995. These guidelines were reviewed and reaffirmed by the judges named below on March 6, 1998, and then approved by the Chief Judge of the First Judicial District as of April 27, 1998.

Hon. Patrick T. Sheedy
Chief Judge

Hon. Michael J. Skwierawski
Chief Judge Designee

Hon. Kitty Brennan, Br. 6
Presiding Misdemeanor Judge

Hon. Dominic Amato, Br. 11
Hon. Jeffrey Conen, Br. 30
Hon. Robert Crawford, Br. 9
Hon. Jean DiMotto, Br. 7
Hon. Clare Fiorenza, Br. 3

Hon. Ronald Goldberger, Br. 15
Hon. Bonnie Gordon, Br. 46
Hon. Richard Sankovitz, Br. 29
Hon. Maxine White, Br. 1

V. Consequences of Offense to Immediate Victim(s):

- Minimum range: OWI did not result in either accident or injury
- Medium range: OWI resulted in accident, but no injury, and victim's losses were covered by insurance
- Maximum range: OWI resulted in injury and/or accident with uninsured losses, and/or the victim suffered individual, family or employment/income consequences

VI. Cooperation of the Defendant:

- Minimum range: defendant cooperated fully with law enforcement and submitted to a BAC test
- Medium range: defendant did not cooperate with law enforcement and did not submit to a BAC test
- Maximum range: defendant was uncooperative, fled or resisted law enforcement and did not submit to a BAC test

VII. Driving - Current Offense:

- Minimum range: time, location and manner of OWI did not present apparent danger to others
- Medium range: time, location and manner of OWI presented apparent dangers to others
- Maximum range: time, location and manner of OWI presented extreme danger to others

VIII. Driving Record:

- Minimum range: except for OWI, defendant has a good driving record
- Medium range: in addition to OWI, defendant has a poor driving record including moving violations and/or other OWI violations; the interval between OWI violations should also be considered
- Maximum range: in addition to OWI, defendant has a terrible driving record including moving violations and/or other OWI violations, and/or a record of disobedience to court orders for alcohol assessment or occupational license hours, conviction for OAR/OAS during period of suspension/revocation for OWI; the interval between OWI violations should also be considered

FIFTH OFFENSE: The court must order seizure and forfeiture of defendant's vehicle

Minimum range:	\$600-1,400	180-365 days	24-36 months
Medium range:	\$600-1,700	240-365 days	28-36 months
Maximum range:	\$600-2,000	300-365 days	32-36 months

SIXTH OFFENSE: The court must order seizure and forfeiture of defendant's vehicle

Minimum range:	\$600-1,500	180-365 days	24-36 months
Medium range:	\$600-1,800	300-365 days	28-36 months
Maximum range:	\$600-2,000	330-365 days	32-36 months

** In addition to the Forfeiture/Fine, the court must impose costs and surcharges which will be added by the clerk, the amount of which will depend on (1) whether the offense is the first or not and (2) the amount of the Forfeiture/Fine, including: Clerk Fee (\$20.00), Jail Assessment (\$10.00-\$20.00), Crime Laboratories and Drug Law Enforcement Assessment (\$4.00), Justice Information System Fee (\$7.00), Victim/Witness Surcharge (\$50.00), Penalty Assessment (25% of the Fine/Forfeiture), and Driver Improvement Surcharge (\$340.00).

Additional Sentencing Provisions:

1. For each OWI violation the court shall order that defendant undergo an alcohol assessment and comply with a driver safety plan
2. Court may order a reduction in court costs, fine or forfeiture so an offender is able to pay the difference for an alcohol assessment and driver safety plan
3. Court may order community service to reduce the amount of a fine or forfeiture
4. Court may order community service that demonstrates the adverse effects of OWI or substance abuse
5. Court may order a site visit that demonstrates the effects of OWI or substance abuse
6. Court may order restitution

7. The applicable minimum and maximum Fines/Forfeitures or Incarceration may be doubled if there is a minor passenger under the age of 16 in the motor vehicle at the time of the violation or if the violation occurred where persons were engaged in work in a highway maintenance or construction area





Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 22, 1999

TO: Representative Steven Foti
Representative Jeff Stone

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 221: Operating While Intoxicated Modifications

At your request, I am providing a summary of Assembly Bill 221 and an analysis of the bill's fiscal effect.

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 19, 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.

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).

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.]

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

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 an 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

The Department of Corrections was not asked to prepare a fiscal estimate for AB 221. However, 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 fiscal impact.

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.

ASSEMBLY HIGHWAY SAFETY COMMITTEE

Representative Jeff Stone, Chairman

Public Hearing, Wednesday, March 17, 1999

Testimony Presented by Martin J. Schreiber on behalf of the Wisconsin State Brewers Association (WSBA) in support of Assembly Bill 221, relating increasing penalties for repeat and high BAC OWI offenders, mandatory six-month suspension of driving privileges for minors attempting to purchase or use alcohol, and expansion of the Safe-Rider program.

Thank you Chairman Stone and members of the Assembly Highway Safety Committee for your leadership on the important statewide goal of ensuring our highways and roads are as safe as possible for families, children, and the traveling public.

While there are a number of initiatives you as a committee could promote toward this end, it seems appropriate to begin with a bill which seeks to prevent vehicular accidents where alcohol, controlled substances, or a combination thereof, is a contributing factor in causing serious injury or death.

It's important to note, for example, that while alcohol-related crashes accounted for just 6.6% of all crashes in the state, it was a factor in 43% of all motor vehicle fatalities, and 11% of all motor vehicle injuries in 1997, according to statistics from the state Department of Transportation. The median BAC for the 28,930 persons tested that year was 0.17. About 20% or 27,456 persons were repeat OWI offenders, slightly more than half of these (12%) had 3 or more OWI convictions

As president of the Wisconsin State Brewers Association, I have the privilege of representing an industry which, in my observation and experience, is extremely committed to helping achieve the broad community goal of moderation and responsible consumption of alcohol beverage products.

WSBA/Assembly Bill 221/Page Two

Unfortunately, there remains a segment of our population who due to chronic alcohol/drug problems and/or a blatant disregard for the law continues to consume high doses of alcohol or controlled substances and then get behind the wheel of a car. All too frequently, as statistics and news account show, this can be a fatal combination.

Assembly Bill 221 is significant in its focus on these repeat and high blood alcohol content (BAC) offenders through the establishment of graduated penalties for blood alcohol content, increased sobriety limitations for persons with three or more OWI convictions, and increased mandatory minimum prison time. These added penalties are more than justified for persons who through their ongoing reckless behavior continually put innocent travelers – someone’s child, spouse, parent, grandparent or friend– in harms way.

Additionally, it is my understanding that an important component of the effort to address the repeat and high BAC effort is being sought through a separate budget amendment. That amendment would provide important state resources to maintain and expand county-based Pretrial Services’ alcohol and drug assessment and case management services for persons with multiple OWI convictions, thereby reducing recidivism and a revolving-door Correctional system result.

The proposed state investment in both the Pretrial Services and Safe-Rider programs is needed to expand availability of these highly successful programs which until now have been made possible in some areas through a combination of state, local, and private support from sponsors like Miller Brewing Company.

Assembly Bill 221 also includes what could be considered a prevention focus by making young drinking/driving offenders aware early that their behavior will not be tolerated.

In a 1997 survey of students about alcohol, 23.9% of the 12th grade respondents reported they had driven a vehicle after drinking in the previous 30 days, and 37.3% reported they had been in a vehicle driven by someone who had been drinking in the past 30 days. That same year, there were 628 convictions in the state for underage alcohol consumption and operation of a motor vehicle, 220 of which resulted in suspended operating privileges, according to DOT records.

The mandatory six-month suspension of driving privileges for minors provided in this bill is an important opportunity to make youth aware of the much more serious penalties which await them as adults if they do not exercise responsible judgment as it relates to drinking and driving.

Finally, it is my understanding that the provisions that allow for judicial discretion in ordering ignition interlock devices or vehicle seizure are in response to concerns about the significant local cost and red tape under the present blanket state-mandated approach.

Again, the Wisconsin State Brewers Association is interested in working with you toward the common goal of improved highway and road safety through a targeted effort on the high BAC and repeat OWI offender, as well as the other significant "prevention" aspects of Assembly Bill 221. The ultimate goal being the protection of innocent and precious lives. We respectfully ask and urge your support of this important legislation. Thank you.



Date: March 17, 1999

To: Assembly Committee on Highway Safety
Representative Jeff Stone, Chair

From: Kathi Kilgore, Government Relations Specialist
Wisconsin Restaurant Association

Re: Support of AB221

The Wisconsin Restaurant Association represents over 7,000 foodservice outlets in the state of Wisconsin. Approximately half of our members 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 takes a major step forward in fighting these two problems.

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

WRA believes that this package of legislation effectively gets at the heart of the problems of drunk driving **and** underage drinking. We have long felt that the best way to curb these problems is by creating tougher penalties for those that violate the law, sometimes repeatedly. And Assembly Bill 221 does just that!

By offering grants for safe-ride programs, increasing penalties for underage drinking and drunk driving and by dramatically raising the penalties for repeated offenders of the law, AB221 cuts to the core of the problems. This legislation demonstrates that the state is serious about putting an end to underage drinking and drunk driving and sends a loud and very clear message that will make people stop to think before they get behind the wheel. The time has never been better for the passage of this legislation and we ask for your support.

TESTIMONY ON AB 221
ASSEMBLY HIGHWAY SAFETY COMMITTEE
MARCH 16, 1999

Good morning Mr. Chairman and members of the Assembly Highway Safety Committee. My name is Paul Lucas and I'm the Regional Director for Government Affairs for Philip Morris Management Corporation. I'm responsible for all Miller Brewing Company issues in Wisconsin and I work out of Miller's corporate headquarters in Milwaukee.

I'm here today on behalf of Miller to speak in support of AB 221. It is Miller's opinion that this bill provides a much-needed focus on two critical areas of the drunk-driving problem – the high BAC driver and the repeat offender.

That the Miller Brewing Company supports this effort to reduce drunk-driving should come as no surprise -- like all of you, our 2,000 plus Wisconsin employees, their families and loved ones all share the very same highways.

Since 1987, states all over this country have seen great progress in reducing the incidences of drunk-driving. In fact, in Wisconsin, drunk-driving has dropped 32% in that same time period.

We believe this progress is due to a combination of factors – tough new laws, the activism of advocacy groups such as MADD, and the efforts of the alcohol beverage industry in promoting responsible consumption and programs such as Safe Ride and the designated driver.

However, in spite of this progress, all of these efforts have been unable to influence the behavior of the repeat offender and the high BAC abuser.

That is why we applaud the efforts of Reps. Stone and Foti and Senator Shibilski, as well as others, in putting this measure forward – an effort that provides additional tools and a more intense focus on these serious problem areas.

At Miller, we believe that society expects us to be part of the public debate, involved in finding workable and reasonable solutions to problems caused by the abuse of our product. AB 221 is a step in that direction and we ask the committee to lend its support to passing this bill.



March 29, 1999

Representative Jeff Stone
Chairman, Assembly Highway Safety Committee
P.O. Box 8953
Madison, WI 53708

Dear Chairman Stone:

In the near future, the Assembly Highway Safety Committee will be in executive session to consider AB 221, strengthening the state's drunk driving laws. The measure includes a number of provisions aimed at the high blood alcohol content (BAC) driver and the repeat offender.

On behalf of Miller Brewing Company, I testified in support of AB 221 and just wanted to touch base with you again to re-emphasize Miller's strong support for this measure. Miller is convinced that the alcohol beverage industry needs to be part of the solutions to the problems and tough issues resulting from the abuse of our products. We believe society expects brewers, wholesalers and retailers to play a part in finding workable solutions, supporting reasonable approaches. Otherwise, laws we feel won't work and laws that will hurt our businesses – such as lowering the BAC – will be advanced.

AB 221, in our opinion, is a reasonable, workable approach to removing dangerous drivers from our highways. Again, on behalf of the Miller Brewing Company and our 2,000 plus Wisconsin employees, I ask you to support this bill.

Thanks much for your consideration of this request.

Best wishes,

Paul J. Lucas
Regional Director – State Government Affairs

WISCONSIN STATE BREWERS ASSOCIATION

2700 South Shore Drive, Suite A
Milwaukee, WI 53207

Martin J. Schreiber
President

(414) 482 1214
(414) 482 1474 FAX

March 31, 1999

MEMBERS

Appleton Brewing Co.
Appleton

Capital Brewery
Middleton

Cherryland Brewery
Sturgeon Bay

Gray Brewing Company
Janesville

The Great Dane Brewing Co.
Madison

JT Whitney's Pub & Brewery
Madison

Leinenkugel Brewing Co.
Chippewa Falls

Miller Brewing Company
Milwaukee

New Glarus Brewing Co.
New Glarus

Randy's Fun Hunters Brewery
Whitewater

Sprecher Brewing Co., Inc.
Milwaukee

Stevens Point Brewery
Stevens Point

Water Street Brewery
Milwaukee

Representative Jeff Stone, Chairman
Assembly Highway Safety Committee
P.O. Box 8953
Madison, Wisconsin 53708

Dear Chairman Stone:

On behalf of the Wisconsin State Brewers Association (WSBA), I respectfully ask that you vote to support approval of Assembly Bill 221, important legislation addressing the serious problem of repeat and high BAC traffic offenders.

Unfortunately, there remains a segment of our population who due to alcoholism or blatant disregard for the law continues to consume high doses of alcohol and get behind the wheel of a car. All too frequently, as statistics and news accounts show, this can be a fatal combination.

As an industry committed to the broad community goal of moderation and responsible consumption of alcohol beverage products, Wisconsin brewers stand behind AB 221 and its goal of saving precious and innocent lives. Again, we ask and encourage your support.

Sincerely,



Martin J. Schreiber
WSBA President

*Thank you for your leadership
in sponsoring this legislation!*

OWI AND RELATED ALCOHOL PENALTIES - Effective January 1, 1999

Conviction	Fine or Forfeiture	Jail	Suspension or Revocation	Occupational License	Assessment	Points
OWI, First [346.63(1)(a)(b)] (Per se AC .10)	\$150-\$300 ⁷ [346.65(2)(a)] (plus \$340 surcharge) [346.655]		6-9 month suspension ⁷ [343.30(1)(b)2]	Immediately [343.30(1)(b)2]	YES	6
OWI, Second (Within 10 years) ¹ (Per se AC .10)	\$300-\$1,000 ⁷ (plus \$340 surcharge) [346.65(2)(b)]	5 days to 6 months ⁷ [346.65(2)(b)]	12-18 month revocation ⁷ [343.30(1)(b)3]	After 60 days ^{2 and 3} [343.30(1)(b)3]	YES	6
OWI, Third (Within lifetime) ¹ (Per se AC .08)	\$600-\$2,000 ⁷ (plus \$340 surcharge) [346.65(2)(c)]	30 days to 1 year ⁷ [346.65(2)(c)]	2-3 year revocation ⁷ [343.30(1)(b)4] Vehicle must be immobilized or equipped with IID or may be seized [346.65(6)(a)1]	After 90 days ^{2 and 3} [343.30(1)(b)4]	YES	6
OWI, Fourth (Within lifetime) ¹ (Per se AC .08)	\$600-\$2,000 ⁷ (plus \$340 surcharge) [346.65(2)(d)]	60 days to 1 year ⁷ [346.65(2)(d)]	2-3 year revocation ⁷ [343.30(1)(b)4] Vehicle seized if owned by offender [346.65(6)(a)2]	After 90 days ^{2 and 3} [343.30(1)(b)4]	YES	6
OWI, Fifth or more (Within lifetime) ¹ (Per se AC .08)	\$600-\$2,000 ⁷ (plus \$340 surcharge) [346.65(2)(e)]	6 months to 5 years ⁷ [346.65(2)(e)]	2-3 year revocation ⁷ [343.30(1)(b)4] Vehicle seized if owned by offender [346.65(6)(a)2]	After 90 days ^{2 and 3} [343.30(1)(b)4]	YES	6
Causing Injury While OWI [346.63(2)(a)]	\$300-\$2,000 ⁷ (plus \$340 surcharge) [346.65(3)]	30 days to 1 year ⁷ [346.65(3)]	1-2 year revocation ⁷ [343.31(3)(e)]	After 60 days [343.31(3)(b)]	YES	6
Causing Great Bodily Harm by OWI ^{4,8} [940.25(1)]	Up to \$10,000 ⁷ (plus \$340 surcharge) [939.50(3)(d)]	Up to 5 years ⁷ imprisonment [939.50(3)(d)]	2 year revocation ⁷ [343.31(3)(f)]	After 120 days [343.31(3)(a)]	YES	0
Homicide While OWI ^{4,8} [940.09(1)]	Up to \$10,000 ⁷ (plus \$340 surcharge) [939.50(3)(b)]	Up to 40 years ⁷ imprisonment [939.50(3)(b)]	5 year revocation ⁷ [343.31(3)(c)]	After 120 days [343.31(3)(a)]	YES	0
Chemical Test Refusal (First) [343.305(10)(b)2]			1 year revocation ⁷ [343.305(10)(b)2]	After 30 days [343.305(10)(b)2]	YES	0
Chemical Test Refusal (Second) (Within 10 years) [343.305(10)(b)3]			2 year revocation ⁷ [343.305(10)(b)3]	After 90 days ³ [343.305(10)(b)3]	YES	0
Chemical Test Refusal (Third) (Within lifetime) [343.305(10)(b)4]			3 year revocation ⁷ [343.305(10)(b)4]	After 120 days ³ [343.305(10)(b)4]	YES	0
Administrative Suspension for Prohibited Alcohol Concentration [343.305(7)]			6 month suspension [343.305(7)(a)]	Immediately [343.305(8)(d)]	NO	0
Absolute Sobriety (If under age 21) [346.63(2m)]	\$98.30 (Forfeiture and costs) ⁵ [346.65(2q)]		3 month suspension ⁶ [343.30(1p)]	Immediately [346.63(2m)]	NO	0
Open Container (Driver)	\$209.00 (Forfeiture and costs) ⁵ [346.935] [346.95(2m)]					
Open Container (Passenger)	\$147.50 (Forfeiture and costs) ⁵ [346.935] [346.95(2m)]					

¹The 10-year and lifetime periods are measured from the date of refusal or violation that resulted in conviction [346.65(2)(c)]. Offenses occurring prior to 1/1/89 may not be counted. [1997 Wis. Act 237 - s. 9348(2f)].

²Absolute sobriety is mandatory for an occupational license for persons with 2 or more suspensions, revocations or convictions. [343.307(1), 343.10(5)(a)(2)]

³Persons with 2 or more suspensions, revocations or convictions counted under 343.307(1), must complete assessment and be in compliance with a driver safety plan to be eligible for an occupational license. [343.30(1)(b)3, 343.10(2)(c)]

⁴If repeat offender, court may immobilize, equip with an ignition interlock device (IID) or seize vehicle. [940.09(1d), 940.25(1d)]

⁵This represents the deposit for these offenses as set forth in the Uniform State Traffic Deposit Schedule, 1998 edition.

⁶Absolute sobriety refusal results in a 6 month revocation and cannot be counted as priors. [343.305(10)(cm)]

⁷Fines, forfeitures, jail and revocation/suspension penalties are doubled for a person convicted of OWI when a person under 16 years of age was in the vehicle at the time of the offense.

[346.65(2)(f) and (2)(j)(d), 343.30(1)(b)4m, 343.305(10)(b)4m]

⁸1997 Wis Act 295, created new offenses of causing death or great bodily harm to unborn children by OWI and doubles the penalties if an unborn child is in the vehicle at the time the driver committed the offense of causing death or great bodily harm by OWI.

Source: WisDOT [As of 1/1/99]

OWI:

OWI Offense	BAC Prohibited
1 st	.10 or >BAC
2 nd	.10 or > BAC
3 rd	.08 or >BAC
adds for 4 th and subsequent	absolute sobriety (.02 BAC)

(**Bold = Present law**)

	Penalty	This proposal adds		
OWI offense	under 0.15 BAC	0.15 - 0.199 BAC	0.20 -0.249 BAC	.25 or more
2 nd in 10 years	1 year to 18 mo. Rev. \$300-\$1,000 fine - 30 days - 1 yr in jail	2 times penalty	3 times penalty (felony)	4 times penalty (felony)
3 rd	2-3 year Rev. \$600 - \$2,000 fine - 60 days to 1 yr in jail	2 times penalty	3 times penalty (felony)	4 times penalty (felony)
4 th and subsequent	2-3 years Rev. \$600 - \$2,000 fine - 120 days - 1 year in jail	2 times penalty	3 times penalty (felony)	4 times penalty (felony)

(**Bold = Present law**)

REFUSALS:

BAC Refusal	Penalty
1 st	1 year - 3 year revocation
2 nd in 10 years	2 year to 6 year revocation
3 rd and subsequent	3 year -12 year revocation

(**Bold = Present law**)

Other OWI Offenses:

Offense:	.15 - .199 BAC	.20 - .249 BAC	..25 or > BAC
OWI - Injury - 1-2 Year Rev	2 times	3 times	4 times
OWI - Great Bodily Harm - 2 Year Rev	4 Year Rev.	6 Year Rev.	8 Year Rev.
OWI - Death - 5 year Rev.	10 Year Rev.	15 Year Rev.	20 Year Rev.

(**Bold = Present law**)

Juvenile Offenses:

Present Law	LRB
1 st - optional - 30-90 days suspension	Mandatory 6 Mo. -1 year suspension
2 nd /12 Mo. - optional 1 year suspension	Mandatory 1 year - 18 mo. suspension
3 rd /12 Mo. - optional 2 years revocation	Mandatory 2 - 5 years suspension

LRB2141/2

- Ignition Interlock Devices as an option for all OWI offenses. Consistent with the spirit of the 1995 Governor's Task Force on OAR/OWI recommendations
The references to which vehicle must have the IID installed: "a", "the", "all", on owned/leased vehicles is not clear.
Suggestion: Placing the IID restriction on the Driver's License would reduce ambiguity, allow for more effective enforcement of IID requirement, and reduce DMV effort to process IID/seizure/immobilization orders.
- Absolute sobriety (.02 BAC) after a 4th and subsequent conviction: Consistent with the spirit of the 1995 Governor's Task Force on OAR/OWI recommendations.
- OWI Penalty enhancers Higher fines increase the number of those unable to pay. May result in more license withdrawals for Failure to Pay Forfeiture and operating after suspension or while revoked. (About 1/3 of OWI offenders do not pay their monetary penalties)
DMV does not always get BAC information from the court.
- BAC test refusal penalty enhancers Sentencing Guidelines, created by 1987 Act 3, already require consideration of the BAC level in imposing sentence.
Penalty structure may encourage more people to refuse BAC test.
- Driver license withdrawal for underage alcohol violations Penalties for underage person operating a vehicle with BAC are less severe than those for underage consumption/possession.
Mandatory license suspension may eliminate youth diversion programs
Significant increase in DMV staff needed to process additional suspension cases.
- Safe Ride Program: Increase Occupational License and Reinstatement fees to fund program. Revenue for program but no funding for program administration.
Suggestion: Remove "within the past 2 year" from Section 14. DMV does not track a time period for fees paid.
- Vehicle seizure made optional Reduces law enforcement costs and DMV processing.
Creates further confusion over which county has responsibility to initiate vehicle forfeiture action.
- Implementation date 1st day of 4th month after publication. 3 months is not sufficient for implementation.

State Representative
Bonnie L. Ladwig
63rd Assembly District



Assistant Majority Leader

**Testimony for Rep. Bonnie Ladwig
LRB 2141- Drunk Driving Package
High BAC Levels**

Dear Chairman Townsend and members of the Highway Safety Committee:

Thank you for holding a public hearing on this very important bill. I have authored the section of this bill that would increase the penalties for operating while intoxicated (OWI) bases on how high your blood alcohol level is at the time of arrest. (BAC) Simply put, the drunker you are, the tougher the penalty.

Drunk driving continues to be a problem that plagues our state's roads, and most drunk drivers are people who have excessively high BAC's. Drivers with a BAC of over .15 amount to about 1% of weekend drivers but are responsible for nearly 50% of all fatal traffic accidents.

Aggressive efforts over the last 10 years have reduced drunk driving fatalities by one-third. But statistics show that almost no reduction in fatalities caused by hardcore drunk drivers. These are the people who are usually the most resistant to changing their behavior, and are usually the repeat offenders.

A system of escalating fines and penalties would help us better identify and process hardcore drunk drivers. My goal with this bill is to further reduce the number of fatalities and injuries that are a result of this irresponsible and small population of all drivers.

Seven other states have already passed similar legislation including Florida, Idaho, Minnesota, Maine, New Hampshire, New Mexico, and Washington. In addition, two other states, Kansas and Montana have passed legislation require installation of an ignition interlock device for convicted drunk drivers with high BAC's.

Getting these extremely dangerous people off the road is very important to me, as it should be to all of you. This section of the bill is necessary to ensure the safety of all drivers.

Thank you for the opportunity to testify in front of you, and I welcome any questions.



STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

Date: April 13, 1999

To: Representative Stone

From: Mike Barman
LRB Legal Section – Front Office

Subject: *Early Copy Of Fiscal Estimate*

Bill Number: 1999 AB 221

LRB Number: 99-2141/2

Agency/Prepared By: SPD

Enclosed is a early “faxed” copy of a draft your office was the primary author of.

This copy is for your information. The quality of the “faxed” copy is not adequate for release. The agency that prepared this fiscal should also be sending a “clean” copy over to DOA for release. When we receive the “clean” copy back from DOA we will forward it on to your office for your review and for later release.

If you have any questions you can contact me at 266-3561.

NOTE PLEASE RETURN THIS BILL DRAFT AND THIS TRANSMITTAL SHEET WITH YOUR FISCAL ESTIMATE FORMS

IF THERE IS A FISCAL EFFECT TO THE BILL PLEASE SUBMIT THE FISCAL ESTIMATE WORKSHEET

TO: Gina Pruski
Public Defender Board

FROM: Deborah Uecker
Division of Executive Budget and Finance
101 East Wilson Street
Administration Building, 10th Floor
Madison, WI 53702

SUBJECT: Fiscal Estimate - LRB Number 2141/2
1998 Bill Number

AB 221

Please provide the necessary information on fiscal estimate forms and return two (2) copies to Deborah Uecker, no later than: 19-Mar-99

If you cannot comply with the above deadline for any reason, please call Deborah at 267-0371.

Provide local government costs.

_____ is responsible for local government costs.

ALSO SENT TO:	
Circuit Courts / Court of Appeals / Supreme Court	
District Attorneys	
Department of Justice	
Department of Transportation	
Public Defender Board	

DATE DOA SENT TO AGENCY:

12-Mar-99

DATE DOA RECEIVED FROM AGENCY:

TO BE COMPLETED BY AGENCY:

Name and phone number of person who prepared the fiscal estimate.

Gina Pruski
(Name)

260-6782
(Phone Number)

PLEASE SEND ORIGINAL COPIES OF THE FORMS THAT CAN BE REPRODUCED

FISCAL ESTIMATE DOA-2048 N(R10/98)	X ORIGINAL <input type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL	1999 Session LRB or Bill No./Adm. Rule No. AB 221 (LRB 2141/2) Amendment No. if Applicable
--	---	---

Subject

Changes to the OWI laws

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

X Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- | | |
|--|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> Create New Appropriation | |

Decrease Costs

Local: No local government costs

- | |
|--|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
| 2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |

- | |
|---|
| 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
| 4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |

5. Types of Local Governmental Units Affected:
- | | | |
|---|---|---------------------------------|
| <input type="checkbox"/> Towns | <input type="checkbox"/> Villages | <input type="checkbox"/> Cities |
| <input type="checkbox"/> Counties | <input type="checkbox"/> Others _____ | |
| <input type="checkbox"/> School Districts | <input type="checkbox"/> WTCS Districts | |

Fund Sources Affected

X GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

s. 20.550 (1)(t)

Assumptions Used in Arriving at Fiscal Estimate

This bill makes various changes to the OWI laws. Enactment of this bill would have the following fiscal impact on the State Public Defender's Office (SPD).

First, the bill's provision reducing the prohibited alcohol concentration (PAC) from .08 to .02 for persons with three or more prior OWI convictions would likely increase the number of OWI cases handled by the SPD, thus increasing costs.

Second, the bill's provisions increasing the mandatory minimum period of imprisonment for OWI 2nd, 3rd, and 4th may affect the number of persons who opt to have a jury trial instead of plead guilty to the charge, thus increasing costs.

Third, the bill's provisions doubling, tripling, and quadrupling the penalties for OWIs involving certain PAC levels will increase costs because such provisions would change certain OWIs from misdemeanors to felonies. Felony cases are more expensive than misdemeanor cases because additional hearings are involved (i.e. a preliminary hearing) and the penalties are more severe. Also, longer suspension and revocation periods as well as an increase in fine amounts could increase the number of operating after suspension (OAS) or operating after revocation (OAR) cases.

Finally, the bill's provisions making suspensions mandatory for juveniles involved in certain alcohol offenses could increase the number of OAS or OAR cases.

With the data presently available, the SPD is unable to estimate the costs involved with the above provisions. Also, this fiscal estimate assumes that the private bar would handle any additional cases that may be created by enactment of this bill.

Long-Range Fiscal Implications
Indeterminate at this time.

Agency/Prepared by: (Name & Phone No.) Public Defender/Gina Pruski/6-6782	Authorized Signature/Telephone No. /6-6782	Date April 13, 1999
--	---	------------------------

- Ignition Interlock Devices as an option for all OWI offenses. Consistent with the spirit of the 1995 Governor's Task Force on OAR/OWI recommendations
The references to which vehicle must have the IID installed: "a", "the", "all", on owned/leased vehicles is not clear.
* Suggestion: Placing the IID restriction on the Driver's License would reduce ambiguity, allow for more effective enforcement of IID requirement, and reduce DMV effort to process IID/seizure/immobilization orders.
- Absolute sobriety (.02 BAC) after a 4th and subsequent conviction: Consistent with the spirit of the 1995 Governor's Task Force on OAR/OWI recommendations.
- OWI Penalty enhancers
Higher fines increase the number of those unable to pay. May result in more license withdrawals for Failure to Pay Forfeiture and operating after suspension or while revoked. (About 1/3 of OWI offenders do not pay their monetary penalties)
DMV does not always get BAC information from the court.
- ? BAC test refusal penalty enhancers
Sentencing Guidelines, created by 1987 Act 3, already require consideration of the BAC level in imposing sentence.
Penalty structure may encourage more people to refuse BAC test.
- Driver license withdrawal for underage alcohol violations
Penalties for underage person operating a vehicle with BAC are less severe than those for underage consumption/possession.
Mandatory license suspension may eliminate youth diversion programs
Significant increase in DMV staff needed to process additional suspension cases.
- Safe Ride Program: Increase Occupational License and Reinstatement fees to fund program.
Revenue for program but no funding for program administration.
? Suggestion: Remove "within the past 2 year" from Section 14.
• DMV does not track a time period for fees paid.
- Vehicle seizure made optional
Reduces law enforcement costs and DMV processing.
Creates further confusion over which county has responsibility to initiate vehicle forfeiture action.
- Implementation date 1st day of 4th month after publication. 3 months is not sufficient for implementation.

OWI:

OWI Offense	BAC Prohibited
1 st	.10 or >BAC
2 nd	.10 or > BAC
3 rd	.08 or >BAC
adds for 4 th and subsequent	absolute sobriety (.02 BAC)

(Bold = Present law)

	Penalty	This proposal adds		
OWI offense	under 0.15 BAC	0.15 - 0.199 BAC	0.20 -0.249 BAC	.25 or more
2 nd in 10 years	1 year to 18 mo. Rev. \$300-\$1,000 fine - 30 days - 1 yr in jail	2 times penalty	3 times penalty (felony)	4 times penalty (felony)
3 rd	2-3 year Rev. \$600 - \$2,000 fine - 60 days to 1 yr in jail	2 times penalty	3 times penalty (felony)	4 times penalty (felony)
4 th and subsequent	2-3 years Rev. \$600 - \$2,000 fine - 120 days - 1 year in jail	2 times penalty	3 times penalty (felony)	4 times penalty (felony)

*(Bold = Present law)***REFUSALS:**

BAC Refusal	Penalty
1 st	1 year - 3 year revocation
2 nd in 10 years	2 year to 6 year revocation
3 rd and subsequent	3 year -12 year revocation

*(Bold = Present law)***Other OWI Offenses:**

Offense:	.15 - .199 BAC	.20 - .249 BAC	..25 or > BAC
OWI - Injury - 1-2 Year Rev	2 times	3 times	4 times
OWI - Great Bodily Harm - 2 Year Rev	4 Year Rev.	6 Year Rev.	8 Year Rev.
OWI - Death - 5 year Rev.	10 Year Rev.	15 Year Rev.	20 Year Rev.

*(Bold = Present law)***Juvenile Offenses:**

Present Law	LRB
1 st - optional - 30-90 days suspension	Mandatory 6 Mo. -1 year suspension
2 nd /12 Mo. - optional 1 year suspension	Mandatory 1 year - 18 mo. suspension
3 rd /12 Mo. - optional 2 years revocation	Mandatory 2 - 5 years suspension

FISCALESTIMATE
DOA-2048 N(R10/98)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

OWI Laws

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This bill makes revisions to the OWI laws including: 1) permitting ignition interlock on 1st offense; 2) prohibiting persons with three or more OWI convictions from operating a vehicle with a BAC of more than .02; 3) increases mandatory imprisonment times; 4) creating a tiered BAC system with varying increased penalties, and 5) providing mandatory driver's license suspensions for underage drinking violations.

It is expected that the increased penalties and mandatory imprisonment times will cause more cases to be contested resulting in more trials and jury trials. The same can be said for the mandatory license suspension for underage drinking violations. Also, it is expected that fewer underage persons will attend alcohol education programs because the possibility of a suspension presently serves as encouragement for them to attend the classes. Once suspension is mandatory that incentive is removed. Additional driving after suspension violations can also be expected. This additional litigation increases both state and county costs for the courts by requiring additional judge, court reporter, court staff and juror time. The exact increase in costs is impossible to predict with the data available.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Director of State Courts

Authorized Signature/Telephone No.

Sheryl Dewan
6-6984

Date

4/13/99

The tiered BAC system will require judges to modify their existing OWI sentencing guidelines which are required by statute. It may also result in additional plea bargaining.

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect DOA-2047 (R10/94)	ORIGINAL CORRECTED	UPDATED SUPPLEMENTAL	LRB or Bill No./Adm. Rule No. AB 221	Amendment No.
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Subject OWI Laws

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations – Salaries and Fringes	\$	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations – Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$	\$ -
B. State Costs by Source of Funds		
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues – Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$	\$ -

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$ + indeter.	\$ + indeter.
NET CHANGE IN REVENUES	\$ + indeter.	\$ + indeter.

Agency/Prepared by: (Name & Phone No.) Director of State Courts	Authorized Signature/Telephone No. <i>Sheyl Bema</i>	Date 4/13/99
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STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
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LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-8522
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REFERENCE FAX: (608) 266-5648

Date: April 14, 1999

To: Representative Stone

From: Mike Barman
LRB Legal Section – Front Office

Subject: *Early Copy Of Fiscal Estimate*

Bill Number: 1999 ^{AB}221

LRB Number: 99-2141/2

Agency/Prepared By: CTS

Enclosed is a early “faxed” copy of a draft your office was the primary author of.

This copy is for your information. The quality of the “faxed” copy is not adequate for release. The agency that prepared this fiscal should also be sending a “clean” copy over to DOA for release. When we receive the “clean” copy back from DOA we will forward it on to your office for your review and for later release.

If you have any questions you can contact me at 266-3561.

FISCALESTIMATE
DOA-2048 N(R10/98)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

1999 Session

LRB or Bill No./Adm. Rule No.
AB 221 (99-2141/2)
Amendment No. if Applicable

Subject

OWI Laws

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This bill makes revisions to the OWI laws including: 1) permitting ignition interlock on 1st offense; 2) prohibiting persons with three or more OWI convictions from operating a vehicle with a BAC of more than .02; 3) increases mandatory imprisonment times; 4) creating a tiered BAC system with varying increased penalties, and 5) providing mandatory driver's license suspensions for underage drinking violations.

It is expected that the increased penalties and mandatory imprisonment times will cause more cases to be contested resulting in more trials and jury trials. The same can be said for the mandatory license suspension for underage drinking violations. Also, it is expected that fewer underage persons will attend alcohol education programs because the possibility of a suspension presently serves as encouragement for them to attend the classes. Once suspension is mandatory that incentive is removed. Additional driving after suspension violations can also be expected. This additional litigation increases both state and county costs for the courts by requiring additional judge, court reporter, court staff and juror time. The exact increase in costs is impossible to predict with the data available.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Director of State Courts

Author/Signature/Telephone No.

Sheryl Dewan 6-6984

Date

4/13/99

The tiered BAC system will require judges to modify their existing OWI sentencing guidelines which are required by statute. It may also result in additional plea bargaining.

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect DOA-2047 (R10/94)	ORIGINAL	UPDATED	LRB or Bill No./Adm. Rule No. AB 221	Amendment No.
	CORRECTED	SUPPLEMENTAL		
Subject OWI Laws				

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:

	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$	\$ -
B. State Costs by Source of Funds		
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$	\$ -

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$ + indeter.	\$ + indeter.
NET CHANGE IN REVENUES	\$ + indeter.	\$ + indeter.

Agency/Prepared by: (Name & Phone No.) Director of State Courts	Authorized Signature/Telephone No. <i>Sheryl Dewa</i>	Date 4/13/99
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