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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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<b>2009 Assembly Bill 181</b>	<b>Assembly Amendment 1 and Assembly Amendment 2</b>
<i>Memo published: April 16, 2010</i> <span style="float: right;"><i>Contact: Melissa Schmidt, Staff Attorney (266-2298)</i></span>	

**Assembly Amendment 1**

When **2009 Assembly Bill 181** (the bill) was introduced, the penalty for a repeat offense of operating a motor vehicle after revocation (OAR) within a five-year period was a crime, punishable by a fine of not more than \$2,500, imprisonment for not more than one year in the county jail, or both. Since the introduction of the bill, 2009 Wisconsin Act 28 (Biennial Budget Act) decriminalized a repeat OAR by making the penalty a forfeiture of not more than \$2,500 (See SECTION 2954 of Act 28).

Because **the bill** reorganizes pertinent statutes, the criminal penalty for a repeat OAR in place at the time the bill was introduced, while unchanged by the bill, is set forth in the text of the bill. (See page 8, lines 20-24 of the bill.) Therefore, if the bill is enacted as introduced, the penalty language in the bill for a repeat OAR would conflict with the new penalty under Act 28.

**Assembly Amendment 1** (AA1) reconciles the bill with Act 28 by removing the criminal penalty language of the bill as it applies to a repeat OAR. Therefore, the penalty for a repeat OAR would be a forfeiture as provided under Act 28.

**Assembly Amendment 2**

Also, when **the bill** was introduced, a court was **required** to revoke a person's operating privileges upon a conviction for operating a vehicle while the person's driver's license was suspended, revoked, or disqualified. Since the introduction of the bill, 2009 Wisconsin Act 102 has been enacted, giving a court the **discretion** of whether or not to revoke a person's operating privileges under these circumstances.

Just like Act 102, **the bill** also gives a court the **discretion** to revoke a person's operating privileges for operating while suspended, revoked, or disqualified, instead of requiring mandatory

revocation. Because Act 102 is now current law, *Assembly Amendment 2* (AA2) makes technical changes to the bill to reflect the fact that a court, under current law, now has this discretion.

**Legislative History**

AA1 was offered by Representative Krusick on August 20, 2009. On September 4, 2009, AA1 was recommended for adoption by the Assembly Committee on Criminal Justice by a vote of Ayes, 10; Noes, 0. The bill, as amended, was recommended for passage on a vote of Ayes, 8; Noes, 2.

AA2 was offered by Representative Krusick on February 22, 2010. On April 15, 2010, the Assembly adopted AA1 and AA2, and passed the bill, as amended, by a voice vote.

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