



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 371
[2015 Senate Bill 455]

Operating While Intoxicated

2015 Wisconsin Act 371 makes changes to the penalties for conviction of fourth or subsequent driving under the influence of an intoxicant or other drug (OWI) and conviction of OWI causing injury.

FOURTH-OFFENSE OWI

Under **current law**, fourth-offense OWI is punished as a misdemeanor unless the offender committed an earlier OWI offense within five years prior to his or her fourth OWI offense, in which case it is a Class H felony. The penalty for misdemeanor fourth-offense OWI is a fine of \$600 to \$2,000, imprisonment for 60 days to one year, or both. The penalty for felony fourth-offense OWI is a fine of \$600 to \$10,000, imprisonment of six months to six years, or both.

The Act provides that fourth-offense OWI is a Class H felony, punishable by a fine of \$600 to \$10,000, imprisonment of 60 days to six years, or both. Under the Act, all fourth-offense OWI offenses are treated the same, regardless of when the offender committed an earlier OWI offense.

FIFTH- OR SIXTH-OFFENSE OWI

Under **current law**, a fifth- or sixth-offense OWI is a Class H felony, punishable by a fine of \$600 to \$10,000, imprisonment of six months to six years, or both.

Under **the Act**, a fifth- or sixth-offense OWI is a Class G felony, punishable by a fine of \$600 to \$25,000, imprisonment of six months to 10 years, or both.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

SEVENTH-, EIGHTH-, OR NINTH-OFFENSE OWI

Under **current law**, a seventh-, eighth-, or ninth-offense OWI is a Class G felony, punishable by a fine of up to \$25,000, imprisonment of three years to 10 years, or both.

Under **the Act**, a seventh-, eighth-, or ninth-offense OWI is a Class F felony, punishable by a fine of up to \$25,000, imprisonment of three years to 12 ½ years, or both.

TENTH- OR SUBSEQUENT OFFENSE OWI

Under **current law**, a 10th- or subsequent offense OWI is a Class F felony, punishable by a fine of up to \$25,000, imprisonment of four years to 12 ½ years, or both.

Under **the Act**, a 10th- or subsequent offense OWI is a Class E felony, punishable by a fine of up to \$50,000, imprisonment of four years to 15 years, or both.

OWI CAUSING INJURY

Wisconsin law generally prohibits causing injury to another by the operation of a vehicle while intoxicated (OWI causing injury). Prior to 2013 Wisconsin Act 224, the term “injury” was not defined in statute. 2013 Wisconsin Act 224 defined “injury” to mean “substantial bodily harm,” which means “bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone; a broken nose; a burn; a petechia; a temporary loss of consciousness, sight or hearing; a concussion; or a loss or fracture of a tooth.”

The Act removes the statutory definition of “injury” from Wisconsin’s OWI causing injury laws.

Effective date and initial applicability: The Act takes effect on January 1, 2017, except the changes regarding OWI causing injury took effect on April 27, 2016. The Act first applies to violations committed or refusals occurring on the effective date.

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