

2019 DRAFTING REQUEST

Bill

For: **John Spiros (608) 266-1182** Drafter: **eshea**  
 By: **Erin** Secondary Drafters:  
 Date: **7/9/2019** May Contact:  
 Same as LRB: **-0238**

Submit via email: **YES**  
 Requester's email: **Rep.Spiros@legis.wisconsin.gov**  
 Carbon copy (CC) to: **elisabeth.shea@legis.wisconsin.gov**  
**zachary.wyatt@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Operating sport recreational vehicles while intoxicated

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	eshea 7/9/2019		dwalker 7/9/2019	dwalker 7/9/2019	State S&L Revocation

FE Sent For:

*at intro*

<END>

## Shea, Elisabeth

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**From:** Clark, Erin  
**Sent:** Tuesday, July 09, 2019 9:15 AM  
**To:** Shea, Elisabeth  
**Subject:** RE: Co-sponsorship of LRB 0238/1 – Providing more uniform penalties for intoxicated operation of motor vehicles, ATVs, UTVs, snowmobiles, and motorboats

Correct. Thanks!

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**From:** Shea, Elisabeth <Elisabeth.Shea@legis.wisconsin.gov>  
**Sent:** Tuesday, July 09, 2019 9:15 AM  
**To:** Clark, Erin <Erin.Clark@legis.wisconsin.gov>  
**Subject:** RE: Co-sponsorship of LRB 0238/1 – Providing more uniform penalties for intoxicated operation of motor vehicles, ATVs, UTVs, snowmobiles, and motorboats

Hi Erin,

Sure thing – just to double check, we have not yet made a companion for Rep. Spiros, right?

Lis

**Elisabeth H. Shea**  
Senior Legislative Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
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[elisabeth.shea@legis.wisconsin.gov](mailto:elisabeth.shea@legis.wisconsin.gov)

*The information contained in this communication may be confidential and protected by the attorney-client privilege.*

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**From:** Clark, Erin <Erin.Clark@legis.wisconsin.gov>  
**Sent:** Tuesday, July 09, 2019 8:53 AM  
**To:** Shea, Elisabeth <Elisabeth.Shea@legis.wisconsin.gov>  
**Subject:** FW: Co-sponsorship of LRB 0238/1 – Providing more uniform penalties for intoxicated operation of motor vehicles, ATVs, UTVs, snowmobiles, and motorboats

Good Morning Elisabeth,

It looks like you're the drafting attorney on this bill. Rep. Spiros is the Assembly author. Could we get the bill jacketed for the Assembly?

Thanks!

Erin Clark  
Research Assistant  
Office of Rep. John Spiros  
86<sup>th</sup> Assembly District

(608) 266-1182

**From:** Sen. Jacque <Sen.Jacque@legis.wisconsin.gov>

**Sent:** Tuesday, July 02, 2019 10:20 AM

**To:** \*Legislative All Assembly <ALLASM@legis.wisconsin.gov>; \*Legislative All Senate <ALLSEN@legis.wisconsin.gov>

**Cc:** Rep. Spiros <Rep.Spiros@legis.wisconsin.gov>

**Subject:** Co-sponsorship of LRB 0238/1 – Providing more uniform penalties for intoxicated operation of motor vehicles, ATVs, UTVs, snowmobiles, and motorboats

**CO-SPONSORSHIP MEMORANDUM**

**TO:** All Legislators

**FROM:** Sen. André Jacque  
Rep. John Spiros

**DATE:** July 2, 2019

**RE:** Co-sponsorship of LRB 0238/1 – Providing more uniform penalties for intoxicated operation of motor vehicles, ATVs, UTVs, snowmobiles, and motorboats

**DEADLINE:** Tuesday, July 16 at 5:00pm

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Operating while intoxicated is a significant contributing factor for fatalities with any motorized vehicle.

We will be introducing legislation to make the provisions of Wisconsin laws relating to the intoxicated operation of an ATV or UTV, intoxicated boating, and intoxicated snowmobiling more consistent. Previous versions of this bill have had solid bi-partisan support and the strong support of law enforcement, including 2017 AB 873, which passed the Assembly Criminal Justice Committee with an 11-0 vote.

Unlike Michigan and Minnesota, which link drunken driving recreational vehicle citations with motor vehicle licenses, in Wisconsin drunken drivers who lose their licenses can still drive snowmobiles, boats and ATVs. LRB 0238/1 will close the loophole in Wisconsin law that currently allows a person suspended or revoked for intoxicated driving of a car to drive a snowmobile, boat or ATV/UTV without any restrictions. The proposed bill would add suspension of ATV, snowmobile and boating privileges for 12 to 16 months on first offense and make the penalties the same for all three vehicles. Currently, individuals could commit a first offense OWI on each of these different types of vehicles without any of them counting as a repeat offense. Under this bill, a court must count previous convictions of any of these intoxicated operation or refusal laws that occurred within the previous five years when imposing a penalty for a violation of any of these laws.

Other updates for uniformity include:

1. Adopting the higher penalties for various violations where the penalties for violations of the intoxicated operation of an ATV or UTV law, the intoxicated boating law, the intoxicated snowmobiling law, and the refusal law conflict.
2. Imposing increased penalties for violating the intoxicating boating law or the intoxicated snowmobiling law or related refusal law if the motorboat or snowmobile is operated with a passenger under 16 years of age. The increased penalty already exists for a violation of the intoxicated operation of an ATV or UTV law and the ATV or UTV refusal law.

3. Repealing the provisions that imposed increased penalties for operating an ATV or UTV with an alcohol concentration level that is 0.17 or more. Under current law, these increased penalties are not imposed for violations of the intoxicated boating or the intoxicated snowmobiling laws.
4. Under current law, the sentences of persons who are convicted of certain second, third, or fourth offenses involving the operation of a motor vehicle while under the influence of an intoxicant may be reduced if the violator successfully completes a period of probation that includes alcohol and other drug treatment. This bill allows this option to be used for persons convicted of a violation of the intoxicated operation of an ATV or UTV, the intoxicated operation of an OHM, the intoxicated boating, or the intoxicated snowmobiling law or the applicable refusal law.

**To be added on as a co-sponsor of this legislation, please reply to this email or contact Nik in Sen. Jacque's office at 6-3512 or Erin in Rep. Spiros' office by 5:00pm on Tuesday, July 16th. All co-sponsors will be added to the corresponding companion bill unless otherwise noted.**

*Analysis by the Legislative Reference Bureau*

This bill makes the laws regulating the intoxicated operation of different recreational vehicles more consistent.

Under current law, a person may not operate a snowmobile, an all-terrain vehicle (ATV), a utility terrain vehicle (UTV), an off-highway motorcycle (OHM), or a motorboat while under the influence of alcohol or a controlled substance to a degree that he or she cannot operate the vehicle or boat safely. Under current law, a personal watercraft is included in the definition of "motorboat." Current law also prohibits the operation of an ATV, a UTV, an OHM, a recreational motorboat, or a snowmobile by a person who has an alcohol concentration of 0.08 or more. For motorboats being operated on a commercial basis, the maximum alcohol concentration is 0.04. These laws are respectively referred to under current law as the intoxicated operation of an ATV or UTV law, the intoxicated operation of an OHM law, the intoxicated boating law, and the intoxicated snowmobiling law. Under current law, a person who refuses to submit to a legal request for a breath, blood, or urine sample pursuant to an arrest for operating a snowmobile, an ATV, a UTV, an OHM, or a recreational motorboat while under the influence is in violation of what is known as the refusal law.

Under current law, in imposing a penalty for a violation of the intoxicated operation of an ATV or UTV, the intoxicated operation of an OHM, the intoxicated boating, or the intoxicated snowmobiling law, a court may only count a previous conviction of the same law, or the applicable refusal law. For example, if a person is before the court for violating the intoxicated snowmobiling law or the snowmobile refusal law, the court may count only previous convictions of the intoxicated snowmobiling law and the snowmobile refusal law as prior convictions. Previous convictions of the intoxicated operation of an ATV law or of the intoxicated boating law or of the applicable refusal laws may not be counted. Under this bill, a court must count previous convictions of any of these intoxicated operation or refusal laws that occurred within the previous five years when imposing a penalty for a violation of any of these laws.

The bill makes the provisions of the intoxicated operation of an ATV or UTV, the intoxicated operation of an OHM, the intoxicated boating, and the intoxicated snowmobiling laws more consistent. These changes include:

1. Adopting the higher penalties for various violations where the penalties for violations of the intoxicated operation of an ATV or UTV law, the intoxicated operation of an OHM law, the intoxicated boating law, the intoxicated snowmobiling law, and the refusal law conflict.
2. Imposing increased penalties for violating the intoxicated operation of an OHM law, the intoxicated boating law, or the intoxicated snowmobiling law or related refusal law if the OHM, motorboat, or snowmobile is operated with a passenger under 16 years of age. The increased penalty already exists for a violation of the intoxicated operation of an ATV or UTV law and the ATV or UTV refusal law.
3. Repealing the provisions that imposed increased penalties for operating an ATV or UTV with an alcohol concentration level that is 0.17 or more. Under current law, these increased penalties are not imposed for violations of the intoxicated boating or the intoxicated snowmobiling laws.

The bill provides that when counting the number of convictions within the previous five years, the previous convictions for intoxicated operation of that same type of recreational vehicle or the related refusal law that occurred before the effective date of this bill are counted, but previous convictions for the other three types of recreational vehicles that occurred before the effective date of this bill are not counted.

The bill also requires a court to enter an order to suspend the person's privilege to operate a snowmobile, an ATV, a UTV, an OHM, and a motorboat for a period of not less than 12 months and not more than 16 months if the court imposes a penalty for a violation of the intoxicated operation of an ATV or UTV, the intoxicated operation of an OHM, the intoxicated boating, or the intoxicated snowmobiling law or the related refusal law. The bill allows the court, as part of the order, to authorize the person to operate an ATV, UTV, OHM, or snowmobile exclusively on land under the management and control of the person's immediate family, or to operate a recreational motorboat, if the court finds that such operation is essential for the purpose of engaging in an occupation or trade. The bill also provides a forfeiture and additional six-month period of operating privilege suspension for violating the order of suspension.

Under the bill, if the person is found guilty of a violation of the intoxicated operation of an ATV or UTV, the intoxicated operation of an OHM, the intoxicated boating, or the intoxicated snowmobiling law or the related refusal law and has, within the previous five years, violated one of these laws, the court is required to revoke the person's privilege to operate a motor vehicle for not less than six months and not more than 12 months. Also under the bill, the person may be eligible for an occupational driver's license at any time during the revocation period. The bill requires the person whose operating privilege was revoked to pay a \$140 reinstatement fee.

Under the bill, if a person has had his or her privilege to operate a motor vehicle suspended or revoked for a violation of a prohibition against operating a motor vehicle while intoxicated, the person may not operate a snowmobile, an ATV, a UTV, an OHM, or a motorboat during the period of that motor vehicle operating privilege suspension or revocation. The bill also provides a forfeiture and an additional six-month period of operating privilege suspension for violating the order of suspension.

Under current law, the sentences of persons who are convicted of certain second, third, or fourth offenses involving the operation of a motor vehicle while under the influence of an intoxicant may be reduced if the violator successfully completes a period of probation that includes alcohol and other drug treatment. A person may complete a treatment program and receive a reduced period of imprisonment only once. This bill allows this option to be used for persons convicted of a violation of the intoxicated operation of an ATV or UTV, the intoxicated operation of an OHM, the intoxicated boating, or the intoxicated snowmobiling law or the applicable refusal law.

Because this bill proposes to revoke a person's operating privilege upon conviction for an offense, the Department of Transportation, as required by law, will prepare a report to be printed as an appendix to this bill.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

**Walker, Dan**

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**From:** LRB.Legal  
**To:** Rep.Spiros  
**Subject:** Draft review: LRB -3657/1  
**Attachments:** 19-3657/1

**State of Wisconsin - Legislative Reference Bureau  
One East Main Street - Suite 200 - Madison**

**The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent.** If you have any questions concerning the draft or would like to have it redrafted, please contact Elisabeth Shea, Senior Legislative Attorney, at (608) 504-5885, at [elisabeth.shea@legis.wisconsin.gov](mailto:elisabeth.shea@legis.wisconsin.gov), or at One East Main Street, Suite 200.

**We will jacket this draft for introduction in the Assembly.**

**If a jacket is needed immediately, please let us know in your response e-mail so we know to immediately jacket the proposal for you.**

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will submit a request to DOA when the draft is introduced. You may obtain a fiscal estimate on the draft prior to introduction by contacting our program assistants at [LRB.Legal@legis.wisconsin.gov](mailto:LRB.Legal@legis.wisconsin.gov) or at (608) 266-3561. If you requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on the current version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

**Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.**