



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 8
[2005 Assembly Bill 92]

**Evidentiary Significance of Alcohol
Concentration in OWI Cases With
Three or More Prior Convictions**

2005 Wisconsin Act 8 corrects an apparent oversight in legislation that recently dropped the general prohibited alcohol concentration for operating a motor vehicle from 0.1 to .08. The result of the oversight was that the state generally enjoyed an evidentiary presumption for alcohol tests showing an alcohol concentration of .08 or above only in cases involving persons with two or fewer prior OWI-related convictions; in cases involving a fourth or greater OWI-related offense, the presumption did not apply and the prosecution was required to bring in expert testimony concerning alcohol concentration.

Act 8 corrects the oversight and provides that evidence that shows a person had an alcohol concentration over the legal limit creates a presumption that the person was under the influence of an intoxicant and had an alcohol concentration above the legal limit, regardless of the number of prior convictions.

Effective Date: Act 8 takes effect on May 17, 2005.

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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.state.wi.us/>.