



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Senate Bill 611

**Assembly
Amendment 1**

Memo published: April 27, 2006

Contact: Anne Sappenfield, Senior Staff Attorney (267-9485)

Senate Bill 611 provides that if a person is the operator of a vehicle that is involved in an accident that causes the death or great bodily harm to any person, and a law enforcement officer detects any presence of alcohol or a controlled substance or other drug, the law enforcement officer may request the operator to provide one or more samples of his or her breath, blood, or urine for the purpose of determining the presence or quantity in his or her blood or breath of alcohol or a controlled substance or drug. If the person refuses, he or she may be arrested for operating while intoxicated (OWI).

As under current law relating to implied consent for chemical testing upon arrest for an OWI or OWI-related violation, if a person refuses to provide a sample for chemical testing, the officer must immediately take possession of the person's driver's license and prepare a notice of intent to revoke the person's driver's license. The person may request a court hearing on the revocation. The issues at the hearing are limited, and one of the issues is whether the officer had probable cause to arrest the person.

Assembly Amendment 1 provides that whether the officer had probable cause to arrest the person is not an issue at a hearing to contest a revocation based upon a refusal to take a test as provided under the bill because the person is not required to be arrested before the test may be requested.

Legislative History

Assembly Amendment 1 was offered by the Assembly Committee on Criminal Justice and Homeland Security. On April 26, 2006, the committee adopted the amendment and recommended concurrence in the bill, as amended, on votes of Ayes, 9; Noes, 2.

AS:tlu