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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

<b>2013 Assembly Bill 67</b>	<b>Assembly Amendment 2</b>
<i>Memo published: October 30, 2013</i> <i>Contact: Michael Queensland, Staff Attorney (266-3810)</i>	

### **Current Law**

Current law prohibits operating a motor vehicle while intoxicated (OWI). OWI offenses include operating a vehicle while under the influence of an intoxicant and operating with a prohibited blood-alcohol concentration (BAC).<sup>1</sup> In most circumstances, the prohibited BAC is 0.08. A local unit of government may also enact ordinances proscribing OWI, as long as the ordinances are in conformity with the state traffic law.

Generally, a first-offense OWI is a civil traffic violation punishable by forfeiture. A person cited for an OWI civil traffic violation or an ordinance in conformity with that statute, may either appear in court to plead not guilty to the violation or pay the forfeiture associated with the violation and avoid an appearance in court. Generally, a person who pays the forfeiture is considered to have pled guilty or no contest to the charge.

### **The Bill**

The bill provides that a person charged with first-offense OWI, either under the state statute or a local ordinance in conformity with that statute, must appear, in person, in court to enter a plea of guilty, no contest, or not guilty to the charge.

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<sup>1</sup> Generally, the prohibition against OWI is against operating under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination of an intoxicant, a controlled substance and a controlled substance analog. It also includes operating under the influence of any other drug to a degree that renders the person incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree that renders the person incapable of safely driving. Finally, it includes operating with a prohibited alcohol concentration or a detectable amount of a restricted controlled substance in his or her blood. For the sake of brevity, this memorandum simply refers to these offenses as “operating while intoxicated” or OWI.

**Assembly Amendment 2**

Assembly Amendment 2 specifies that if a person fails to appear, in person, in court to enter a plea, the court must enter a default judgment against the person and impose the applicable penalties, including a \$300 surcharge on the person for his or her failure to appear, except that the court must withhold imposing a forfeiture for the violation until the person appears, in person, before the court. In addition, the court must issue a warrant for the person's arrest so that the person may appear before the court for the court to impose a forfeiture for the violation. The \$300 surcharge may be retained by the court to offset the costs of holding a hearing to impose the forfeiture.

**Bill History**

Assembly Amendment 2 was offered by Representative J. Ott. On September 12, 2013, the Assembly Committee on Judiciary recommended adoption of Assembly Amendment 2 on a vote of Ayes, 6; Noes, 3, and passage of the bill, as amended, on a vote of Ayes, 9; Noes, 0.

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