



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2013 Assembly Bill 69

Assembly Amendment 3

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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).¹ In most circumstances, the prohibited BAC is 0.08.

Also under current law, causing injury to another person by the intoxicated operation of a vehicle is a misdemeanor, punishable by a fine of \$300 to \$2,000,² imprisonment for 30 days to one year, or both. If there was a passenger under 16 years of age in the vehicle at the time of the violation, the offense is a felony and the applicable minimum and maximum fines or periods of imprisonment are doubled. Under current law, a person may receive a shorter jail sentence if he or she completes a period of probation that includes successful completion of alcohol or drug counseling.

The Bill

The bill increases the penalties for causing injury by the intoxicated operation of a vehicle. The bill creates a variety of penalties for this crime depending on the severity of the injury caused and whether the offender was previously convicted of an OWI offense. The chart below summarizes the penalties provided under the bill.

¹ 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.

² All OWI convictions also entail a \$365 OWI surcharge.

	No Prior OWI Convictions	One or More Prior OWI Convictions
Bodily Harm	Fine of \$300 - \$2,000 Mandatory imprisonment for six months to one year.	Class H felony Confinement portion of prison sentence must be at least one year.
Substantial Bodily Harm	Class H felony Confinement portion of prison sentence must be at least two years.	Class H felony Confinement portion of prison sentence must be at least three years.
Great Bodily Harm	Class F felony Confinement portion of prison sentence must be at least three years.	Class F felony Confinement portion of prison sentence must be at least three years.

The bill contains one exception to the sentencing requirements described above. If the person injured was in the vehicle operated by the convicted person at the time of the violation, the court may impose a sentence less than the one the bill requires if it finds that the best interests of the community will be served and the public will not be harmed. The court must also place its reasons for imposing a lesser sentence on the record.

The bill makes two additional changes to current law. It eliminates the provision that subjects a person convicted of injury by intoxicated operation of a vehicle to double penalties if a minor passenger was in the vehicle at the time of the violation. It also eliminates the opportunity for a person convicted of injury by intoxicated operation of a vehicle to receive a reduced sentence in exchange for completing a period of probation that includes drug or alcohol treatment.

Assembly Amendment 3

Assembly Amendment 3 reduces the required term of imprisonment for causing bodily harm to another person by the intoxicated operation of a vehicle with no prior OWI convictions, from a minimum period of six months in confinement to a minimum period of 30 days in confinement.

Bill History

Assembly Amendment 3 was offered by Representative J. Ott. On September 12, 2013, the Assembly Committee on Judiciary recommended adoption of Assembly Amendment 3 on a vote of Ayes, 9; Noes, 0, and passage of the bill, as amended, on a vote of Ayes, 7; Noes, 2.

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