



2005 ASSEMBLY BILL 109

February 17, 2005 – Introduced by Representatives KRAWCZYK, VAN ROY, GIELOW, MONTGOMERY, MUSSER, MEYER, NELSON, OWENS, KAUFERT, HINES, TOWNSEND, ALBERS, F. LASEE, MOULTON, VRAKAS, MCCORMICK and GUNDERSON, cosponsored by Senators ROESSLER, RISSER, BRESKE and LASSA. Referred to Committee on Judiciary.

1 **AN ACT** *to create* 895.488 of the statutes; **relating to:** immunity from civil
2 liability for those who provide, or administer the provision of, transportation
3 to an individual who is utilizing the service to avoid operating a motor vehicle
4 while under the influence of an intoxicant.

Analysis by the Legislative Reference Bureau

Under current law, certain persons are given civil immunity for their acts or omissions when performing certain services. For example, a person who renders emergency care at the scene of an accident is given civil immunity for his or her acts in providing that service. That immunity does not apply if the person is a health care provider and provides the emergency care for compensation within the scope of his or her employment.

This bill provides civil immunity for the acts or omissions of persons who administer a transportation program and the individuals who drive a motor vehicle in that transportation program. Under the bill, “transportation program” is defined as a program that is specifically created to provide transportation to individuals who utilize the service to avoid operating a vehicle while they are incapable of safely driving because of their actual or planned consumption or use of an intoxicant. The immunity does not apply to a driver in the program who is under the influence of an intoxicant or who has an alcohol concentration of 0.04 or more while driving, or whose act or omission while driving involves reckless, wanton, or intentional misconduct. The immunity does not apply to the act or omission of a person

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administering a transportation program if that act or omission involves reckless, wanton, or intentional misconduct.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 895.488 of the statutes is created to read:

2 **895.488 Civil liability exemption; transportation services.** (1) In this
3 section:

4 (a) "Intoxicant" means any of the following:

5 1. Alcohol, a controlled substance, a controlled substance analog, any other
6 drug, or a vapor-releasing substance.

7 2. Any combination of alcohol, a controlled substance, a controlled substance
8 analog, any other drug, or a vapor-releasing substance.

9 (b) "Transportation program" means a program that is specifically created to
10 provide transportation to individuals who utilize the program to avoid operating a
11 motor vehicle while under the influence of an intoxicant.

12 (c) "Under the influence of an intoxicant" means a condition in which a person's
13 ability to operate a motor vehicle, because of the consumption or use of an intoxicant,
14 is impaired to the extent that the person is less able to exercise the clear judgment
15 and steady hand necessary to handle and control a motor vehicle.

16 **(2)** Any person administering a transportation program or driving a motor
17 vehicle in that program shall be immune from civil liability for any act or omission
18 in providing transportation under that program.

19 **(3)** The civil immunity under this section does not apply to the driver of the
20 motor vehicle in the transportation program if:

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1 (a) The driver has an alcohol concentration, as defined in s. 340.01 (1v), of 0.04
2 or more or is under the influence of an intoxicant at the time that he or she is driving
3 the motor vehicle.

4 (b) The driver's act or omission while driving involves reckless, wanton, or
5 intentional misconduct.

6 (4) The civil immunity under this section does not apply to a person
7 administering the transportation program if the person's act or omission involves
8 reckless, wanton, or intentional misconduct.

9 (5) The liability of any person driving a motor vehicle in a transportation
10 program who is not immune from civil liability as the result of action described in
11 sub. (3) (a) or (b) is limited to the amounts required for an automobile liability policy
12 under s. 344.15 (1).

13 **SECTION 2. Initial applicability.**

14 (1) This act first applies to acts or omissions occurring on the effective date of
15 this subsection.

16 (END)