Vote Record

Assembly Committee on Transportation

Date: 3/2/00
Moved by: Hahn
Seconded by: Turner
AB: 668
Clearinghouse Rule:
AB: SB:
Appointment:
AJR: SJR:
Other:
A: SR:

A/S Amdt:
A/S Amdt: to A/S Amdt:
A/S Sub Amdt: 1
A/S Amdt: to A/S Sub Amdt:
A/S Amdt: to A/S Amdt: to A/S Sub Amdt:

Be recommended for:

- [x] Passage
- [x] Introduction - unan
- [x] Adoption
- [ ] Rejection
- [ ] Indefinite Postponement
- [ ] Tabling
- [ ] Concurrence
- [ ] Nonconcurrence
- [ ] Confirmation

Committee Member	Aye	No	Absent	Not Voting
Rep. David Brandemuehl Chair	☒	☐	☐	☐
Rep. Jeff Stone	☒	☐	☐	☐
Rep. Eugene Hahn	☒	☐	☐	☐
Rep. Michael Huebsch	☒	☐	☐	☐
Rep. Steve Kestell	☒	☐	☐	☐
Rep. Joseph Leibham	☒	☐	☐	☐
Rep. Jerry Petrowski	☒	☐	☐	☐
Rep. Scott Suder	☒	☐	☐	☐
Rep. John Townsend	☒	☐	☐	☐
Rep. Julie Lassa	☒	☐	☐	☐
Rep. Donald Hasenohrl	☒	☐	☐	☐
Rep. Barbara Gronemus	☒	☐	☐	☐
Rep. Robert Turner	☒	☐	☐	☐
Rep. Leon Young	☒	☐	☐	☐
Rep. John Steinbrink	☒	☐	☐	☐
Rep. Larry Balow	☒	☐	☐	☐
Rep. Gary Sherman	☒	☐	☐	☐
Totals:	17	—	—	

☐ Motion Carried ☐ Motion Failed

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Rep. John Steinbrink	☒	☐	☐	☐
Rep. Larry Balow	☒	☐	☐	☐
Rep. Gary Sherman	☒	☐	☐	☐
Totals:	17			

☐ Motion Carried ☐ Motion Failed

DAVID BRANDEMUEHL

State Representative
49th Assembly District

Breske
La Fave Ladwig Roessler
Stone Kelso Darling
Goetsch Albers Huelsman
Ainsworth
Hundertmark Owens Baumgart
Spillner Rosenzweig

TO: All Legislators

FROM: Rep. David Brandemuehl

DATE: December 16, 1999

RE: Co-sponsorship of LRB 3716/1, relating to counting prior offenses of operating a motor vehicle with an operating privilege that is suspended or revoked, or of operating a commercial motor vehicle while disqualified or ordered out of service.

The Department of Transportation has discovered an oversight in 1997 WI Act 84, which rewrote the operating after revocation (OAR) and operating while suspended (OWS) law. Act 84 unintentionally fails to count prior OAR and OWS actions for the purposes of determining driver license sanctions. As a result, revoked drivers who were arrested one time prior to implementation of Act 84 will only be subject to civil penalties, rather than criminal penalties because their first offense will not count. Revoked drivers who were arrested for more than one violation or arrested after implementation of Act 84 will still be subject to criminal penalties.

The intent of LRB 3716/1 is to make all OAR and OWS offenses committed before implementation of Act 84 countable as prior offenses under the new law. The LRB analysis is printed below. If you are interested in co-sponsoring LRB 3716/1, please contact my office at 266-1170 by **January 6, 2000.** Thank you.

Analysis by the Legislative Reference Bureau

Numerous changes to the law were made by 1997 Wisconsin Act 84 regarding operating a motor vehicle with an operating privilege that is suspended or revoked and regarding operating a commercial motor vehicle while ordered out of service or while disqualified. The changes take effect May 1, 2001, or when implemented by the department of transportation, whichever is sooner. It is unclear under that act whether convictions of certain offenses committed before the implementation of 1997 Wisconsin Act 84 must be counted as prior convictions after the implementation of 1997 Wisconsin Act 84. The number of prior convictions is used, before and after implementation of 1997 Wisconsin Act 84, to determine the appropriate penalty or administrative sanction to impose on a person convicted of a second, or subsequent, similar offense.

This bill clarifies that convictions for certain offenses (operating a motor vehicle with an operating privilege that is suspended or revoked, or operating a commercial motor vehicle while ordered out of service or while disqualified) that are committed before the implementation of 1997 Wisconsin Act 84 must be counted as prior convictions after the implementation of 1997 Wisconsin Act 84.

Member: Committees on Education; Highway Safety; Natural Resources; Transportation (Chair); Urban & Local Affairs
Office: P.O. Box 8952, State Capitol • Madison, Wisconsin 53708-8952 • (608) 266-1170
Home: 13081 Pine Road • Fennimore, Wisconsin 53089 • (608) 822-3776
Toll-Free: (888) 872-0049 • **Fax:** (608) 282-3649 • **E-Mail:** Rep.Brandemuehl@legis.state.wi.us

Krause, Sheri

From: Clark, Julie
Sent: Thursday, February 24, 2000 4:56 PM
To: Nilsen, Paul; Sobotik, John; Maassen, Joe
Cc: Krause, Sheri; Ford, William; Biermeier, Anna; Jackson, Mary; Buehler, Kent
Subject: FW: AB 668 - Technical changes to ACT 84, OAR law - LRB 300/1 and 1388/I

Paul: At the hearing today on AB 668, technical corrections to Act 84, OAR, Bill Ford asked if we had looked at the language in the sub....because now we count "operating while placed out of service" priors, but under Act 84, we will not...do we want to count prior 343.44(1)(c) or not? After conferring with DMV staff, we feel that there are very few "operating while ordered out of service" convictions, and they are mainly for commercial vehicle type violations or log violations that can be corrected once the violation has been corrected. That's probably why they were not included in the Act 84 language for counting of priors. We recommend not including "operating while ordered out of service convictions" which will be 343.44(1)(c) under Act 84.....so if you could amend the substitute amendment you are drafting for AB 668 to say something like, "or s.343.44(1),1997 stats, except for operating while placed out of service under 343.44(1), 1997".....thanks//Julie

-----Original Message-----
From: Clark, Julie
Sent: Tuesday, February 22, 2000 8:02 AM
To: Krause, Sheri; DOT-DMV-BDS Chiefs; Maassen, Joe; Sobotik, John; Nilsen, Paul
Subject: AB 668 - Technical changes to ACT 84, OAR law - LRB 300/1 and 1388/I

Sheri: Thanks for faxing me a copy of LRB 300/1 ASA to AB 668....this draft is not complete...It should also contain a section to repeal s.343.31(1)(f).

LRB1388/1 is the simple amendment that makes the change requested by Joe Maassen to include "in the county jail"
This simple amendment to the bill is fine, however, we still need another simple amendment for the repeal of 343.31(1)(f).
Sheri: I don't have any preference as to whether we should go with the sub. or the 2 simple amendments....whatever Rep. B. prefers is fine with me. I will be at the Children & Families hearing this AM...and will stop by.

Joe/John/Chiefs: I'll put copies of these in your mailboxes.....please let me know ASAP (preferably by voice mail) if there are any changes....We need to have any amendments ready for the hearing this Thurs 2/24...Thanks

Krause, Sheri

From: Maassen, Joe
Sent: Thursday, February 10, 2000 3:49 PM
To: Krause, Sheri
Cc: Clark, Julie; Sobotik, John; Nilsen, Paul
Subject: Need Your Help

Sherri, can you check with your boss and see if he could do DOT and the courts a technical favor. Last session the legislature passed a comprehensive bill to rewrite the rules on jail for operating after revocation. It is scheduled to be implemented on May 1 of this year.

Sec. 343.44(2)(b) as recreated in s. 70 of Act 84, calls for the following penalty for OAR:

343.44(2)(b) Except as provided in par. (am), any person who violates sub. (1)(b), (c) or (d) shall be fined not more than $2500 or imprisoned for not more than one year or both...

Unfortunately, the provision does not use the words "in the county jail." Under s. 973.02 Stats., a sentence of one year many be served either in the county jail or the Wisconsin state prison system. Thus, current law inadvertently makes OAR a felony offense. That means that felony courts will have to do preliminary hearings on OAR offenses. That is a significant, unnecessary, workload impact.

Such a result was never intended. I'll also send a note from DOJ which says this has been addressed in another bill, but it won't be effective in time to meet the May 1, startup. Julie indicated Dave is doing a hearing here at Hill Farms on February 22, I think the bill number is 688...would Dave be agreeable to an amendment! If yes, I'll ask Paul Nilsen to draft it. Thanks!!!

Krause, Sheri

From: Clark, Julie
Sent: Thursday, October 07, 1999 11:10 AM
To: Vance, Vaughn; Krause, Sheri
Cc: Ford, William; Sobotik, John; Maassen, Joe
Subject: FW: How's this for a draft request?

nilsen 84 memo.doc

Vaughn/Sheri: John Sobotik, our Office of General Counsel Attorney, has discovered an oversight in Act 84 the OAR/OWS (operating while revoked/suspended) Act from last session. The way Act 84 was drafted it fails to count prior OAR & OWS actions. For example a person with 2 priors, after the enactment of Act 84, if apprehended and convicted again for OAR could only be charged as his or her first (a civil action). We have contacted Todd Meuer, Dane County Court Comm. and several law enforcement officers re. this oversight. They all feel that priors should be counted. John Sobotik's memo to Paul Nilsen below explains the issue in more detail.

Sheri, you have indicated you would send this over to Paul to be drafted. Vaughn, please consider this for a companion bill drafting and/or co-sponsorship. Thanks for your consideration.

10-7-99 - Gave request to Paul N.