



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2013 Assembly Bill 61

**Assembly
Amendments 1 and 2**

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2013 Assembly Bill 61 creates a private right of action that an alcohol beverage retailer may bring against an underage person if the underage person engages in conduct that violates the state's underage drinking law and certain conditions are met. If the underage person is a minor and not emancipated, the bill authorizes the civil action to be brought against the underage person's parent or guardian. If an alcohol beverage retailer prevails in a civil action brought under the bill, the bill requires a court to award \$1,000 in damages and the costs of bringing the civil action, including the costs of reasonable attorney fees.

Under the bill, before an alcohol beverage retailer may bring a civil action, the retailer must provide notice of the action to the person being sued. In addition, the bill prohibits an alcohol beverage retailer from bringing a civil action under the bill if the retailer is convicted of or cited for a violation related to the same incident giving rise to the underage person's violation, unless the retailer has a defense to the charge of the violation.

Assembly Amendment 1 adds a condition that must be satisfied before an alcohol beverage retailer may bring a civil action under the bill. Specifically, in order to bring a civil action, the amendment requires a retailer to report the underage person's unlawful conduct to law enforcement at or near the time the conduct occurs or is first discovered.

Assembly Amendment 2 removes reasonable attorney fees from the award that an alcohol beverage retailer is entitled to recover as part of a judgment in a civil action brought under the bill.

Bill History

Assembly Amendments 1 and 2 to Assembly Bill 61 were offered by Representative Jacque and Representative Kahl on April 23, 2013. On April 30, 2013, the Assembly Committee on State Affairs voted to recommend the adoption of both amendments on votes of Ayes, 9; Noes, 0; and Absent, 2. On the same day, the committee voted to recommend the passage of Assembly Bill 61, as amended, also on a vote of Ayes, 9; Noes, 0; and Absent, 2.

AH:jal