

ANDRÉ JACQUE

STATE SENATOR • 1ST SENATE DISTRICT

Phone: (608) 266-3512

Fax: (608) 282-3541

Sen.Jacque@legis.wi.gov

State Capitol · P.O. Box 7882

Madison, WI 53707-7882

*Testimony before the Senate Committee on Judiciary and Public Safety
State Senator André Jacque
June 2, 2021*

Chairman Wanggaard and Colleagues,

Thank you for the opportunity to testify today in support of Senate Bill 301, which would bring Wisconsin into greater uniformity with other states and across different types of vehicles in the way it handles intoxicated operation of all-terrain vehicles, utility terrain vehicles, off-highway motorcycles, snowmobiles, and motorboats.

Rep. Spiros and I have re-introduced this legislation to make the provisions of Wisconsin laws relating to the intoxicated operation of ATVs, UTV, boats, and snowmobiles more consistent. This bill was introduced last session as 2019 AB 356/SB 331 and was amended through the committee process and passed out of committees in the Senate and Assembly unanimously. The bill before you as introduced includes that amendment from last session. I am pleased to note the continued solid bi-partisan co-sponsorship of this legislation, and the support of the Badger Sheriffs Association, Wisconsin Sheriffs and Deputy Sheriffs Association, and Wisconsin District Attorney's Association.

Currently in Wisconsin law, penalties for intoxicated operation of an ATV, UTV, OHM (off-highway motorcycle), boat, or snowmobile may only be imposed on a previous conviction of the same vehicle. This means that an individual could be charged with intoxicated operation of an ATV, UTV, and boat and if it is a first time for each, the penalty would correlate to a first offense for each, even though this would overall be a third offense intoxicated operation. Senate Bill 301 would remedy this loophole by requiring a court to count previous convictions of intoxicated operation of ATVs, UTVs, boats, snowmobiles, and OHMs and the refusal laws of each for the past five years when imposing a penalty. Additionally, the bill standardizes penalties across the types of vehicles and the ages to which the penalties apply.

The bill also states that if found guilty of intoxicated operation of the previous mentioned vehicles for the second time in 5 years of the arrest, the court is required to revoke a person's privilege to operate a motor vehicle for a period. The person may still be eligible for an occupational driver's license during this revocation period. Additionally, if found guilty of a first time violation, a court must suspend a person's privilege to operate a recreational vehicle for a period of time, but may make an exception for occupational use on private land.

Thank you for your consideration of Senate Bill 301.

Senate Bill 301

June 3, 2021

Testimony from Rep. Spiros

Thank you Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety for allowing me to submit testimony today regarding Senate Bill 301, which makes the laws surrounding the intoxicated operation of recreational vehicles more consistent.

Currently, penalties for intoxicated operation of all-terrain vehicles (ATVs), utility terrain vehicles (UTVs), off-highway motorcycles (OHMs), boats, and snowmobiles may only be imposed on a previous conviction of the same vehicle. This means that an individual could be charged with a first offense intoxicated operation of an ATV, a first offense intoxicated operation of an UTV, and a first offense intoxicated operation of a boat all in one weekend. Overall, this would be a third offense of intoxicated operation, but for each it only counts as the first offense in the penalties that correspond. SB 301 would remedy this loophole by requiring a court to count previous convictions of intoxicated operation of the recreational vehicles and the refusal laws of each for the past five years when imposing a penalty. The bill also standardizes penalties across the types of vehicles where they currently conflict.

This bill was introduced last session as SB 331. It was amended in committees in the Senate and Assembly and then passed unanimously in both committees. The bill ultimately just ran out of time to get to the floor, where I hope it will pass this session.

Thank you again for allowing me the opportunity to submit testimony in support of this bill.



Senate Committee on Judiciary and Public Safety

2021 Senate Bill 301

Intoxicated operation of all-terrain vehicles, utility terrain vehicles, off-highway motorcycles, snowmobiles, and motorboats

June 2, 2021

Good afternoon Chair Wanggaard and members of the Committee. My name is Martin Stone, Off-Highway Vehicle Administrator with the Wisconsin Department of Natural Resources. Thank you for the opportunity to testify, for informational purposes, on Senate Bill 301 (SB 301), related to intoxicated operation of all-terrain vehicles, utility terrain vehicles, off-highway motorcycles, snowmobiles, and motorboats.

Under current law, regulatory frameworks governing the operation of vehicles while under the influence (OWI) are generally unique and limited to individual vehicle types, which means the standards, penalties, and processes associated with motor vehicle OWI are different than those associated with all-terrain vehicle (ATV) OWI, snowmobile OWI, boating OWI, and so on. As a result, the OWI laws for each legally defined vehicle type effectively reside within their own "silo", which has a notable impact for repeat offenses because the only applicable prior offenses are those occurring in the same vehicle type as the present offense. For example, an individual who is convicted of boating OWI as a first offense will again be considered a first-time offender if they operate their ATV under the influence later that year. This silo framework also means that motor vehicle OWI operating revocations do not extend to recreational vehicle operation. There is also currently no regulatory framework to suspend an individual's ability to operate a recreational vehicle after being convicted of recreational vehicle OWI, no matter the number of convictions.

SB 301 seeks to standardize, align, and simplify the recreational vehicle OWI sections into a consistent framework. This will ensure all recreational vehicle OWI violations fall into the same counting scheme for purposes of repeater sentencing, and OWI violations will be subject to the same penalties and process regardless of the recreational vehicle type. It also includes a limited tie-in to motor vehicle OWI provisions to more effectively and uniformly address OWI violations, regardless of vehicle type.

By creating a recreational vehicle operating privilege revocation and a tie-in to motor vehicle operating privilege revocations for repeat offenders, SB 301 removes a current loophole that permits intoxicated operators to operate recreational vehicles on the roadway to avoid the more stringent penalties associated with operating a motor vehicle while under the influence. In short, this proposal will ensure drivers found to be unfit for operating on Wisconsin's roadways, by virtue of their motor vehicle OWI conduct, will truly be required to stay off recreational vehicles and the roadways, without being able to circumvent their restrictions by merely selecting a different vehicle type.

Additionally, the standardization of recreational vehicle penalty and process provisions under this proposal will simplify training, interpretation, and application of recreational vehicle OWI provisions at all levels of the criminal justice system. Because current OWI provisions were created at different intervals over time and were generally tied to the launch of respective vehicle programs (ATV/UTV, off-highway motorcycle, boat, and snowmobile), their laws and processes differ to varying extents, which complicates administration for all criminal justice partners.

From a comparative perspective, our surrounding states vary in their approach to aligning or linking penalties for intoxicated operation of motor vehicles and recreational vehicles. Minnesota closed a loophole in its law by creating a uniform operating privilege revocation for all types of vehicles for individuals convicted of OWI. Michigan also applies its OWI laws uniformly to all types of vehicles, including ATVs, UTVs, snowmobiles, and motorboats. Iowa applies standard motor vehicle OWI penalties to ATVs and UTVs operated on the roadway, and Illinois has a process to suspend snowmobile operating privileges for conviction of a snowmobile OWI.

It is important to recognize that recreational vehicle use on Wisconsin waterways, roadways, and trails throughout the state remains a safe endeavor. Thankfully, most individuals ride responsibly and will never witness or be party to a recreational vehicle incident. Nonetheless, Wisconsin law enforcement officers annually arrest hundreds of individuals for operating recreational vehicles while under the influence of an intoxicant, and unfortunately, we routinely respond to numerous recreational vehicle crashes where alcohol or drug use are a contributing factor. SB 301's modifications to recreational vehicle OWI laws will likely increase voluntary compliance through specific and general deterrence, helping to ensure that Wisconsin's waterways, roadways, and trails remain safe recreation destinations well into the future.

On behalf of the Department of Natural Resources, we would like to thank you for your time today. I would be happy to answer any questions you may have.



To: Members, Senate Committee on Judiciary and Public Safety
From: Badger State Sheriffs' Association (BSSA)
Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA)
Date: June 2, 2021
RE: Support for Senate Bill 301

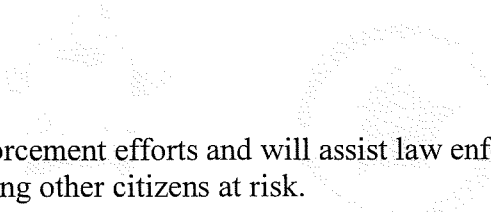
BSSA and WS&DSA submit these comments in support of SB 301. As way of background, BSSA is a statewide organization representing all of Wisconsin's 72 Sheriffs. WS&DSA is a statewide organization representing over 1,000 members, including Sheriffs, Deputies, and jail officers. BSSA and WS&DSA have a joint legislative committee and work closely on public safety issues of concern to our members.

Incidents of Operating While under the Influence (OWI) of motor and recreational vehicles continue to be dangerous and deadly to the citizens of our state. Current Wisconsin laws are inconsistent pertaining to the intoxicated operation of ATV/UTVs, intoxicated boating, and intoxicated snowmobiling. Meanwhile, there is an ongoing push for ATV/UTV operation on Wisconsin streets and highways like never before. Cities, towns, villages, and counties are being approached by ATV/UTV clubs requesting that many roads designed for motor vehicle traffic be opened for ATV/UTV traffic as well. This is becoming a major concern for Sheriffs across the state, as we work to keep not only motor vehicles but also ATV/UTVs safe as they travel down our roadways.

These activities are frequently linked with alcohol. Many ATV/UTV routes that have been designated and are being sponsored travel between various locations that serve or sell alcohol. Snowmobile routes are also funded and sponsored by establishments that serve or sell alcohol. Many boaters bring coolers of alcohol with them, which creates an environment with easy access to alcohol while operating on our lakes.

OWI is a major contributing factor in serious injuries and fatal crashes regardless of if the vehicle is a motor vehicle or a recreational vehicle. Moreover, it is a well-known fact by law enforcement that individuals who have been arrested for OWI in a motor vehicle use recreational vehicles to avoid being arrested for additional OWI, Operating after Revocation, or Operating while Suspended violations. For example, individuals who have their driver license revoked for an OWI offense may choose to drive their snowmobile or UTV rather than risk being arrested for Operating after Revocation.

This bill seeks to address this practice by adding the suspension of ATV, snowmobile and boating privileges for 12 to 16 months on the first offense and count them as previous convictions (within the previous five years) as a repeat offense. In addition, this legislation will cause all OWI offenses to result in a suspension/revocation of DOT operating privileges. This



will allow for consistency in enforcement efforts and will assist law enforcement in ensuring that dangerous operators are not placing other citizens at risk.

These changes will not only make it easier for law enforcement to enforce our OWI laws, but they will also stress that Wisconsin is serious about keeping our citizens safe both on highways and recreational trails that are open to the public. We need legislative change to help in our efforts of having “Zero in Wisconsin”, achieving zero preventable deaths on Wisconsin roads.