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Good Morning Committee members and guests. Thank you for hearing my testimony today on AB 180 and SB 174.

I have introduced this bill in response to an April 11th District IV Wisconsin Court of Appeals decision. Although *State v. Clinton Williams* is an unpublished decision and therefore not a binding precedent, the Court's reasoning will likely have significant influence on lower courts in District IV and possibly across the rest of the state.

In the decision the Court held that the six year confinement for a 7th OWI offense was not mandatory, although that clearly was the intent of the Legislature in passing 2009 Wisconsin Act 100. This is due to a very minor difference in wording between the language for OWI 2nd through 6th, and 7th through 10th and higher OWI offenses.

AB 180 and SB 174 strengthen the language of the State Statutes so that the three year confinement and three year extended supervision for 7th, 8th and 9th OWI is mandatory. The same language is applied to 10th and above OWI so that those sentences are also clearing mandatory, as intended by the Legislature.

Two other issues are addressed in this bill that concern Wisconsin's OWI laws.

Currently under 343.305(5) (b) a phlebotomist may only draw blood in OWI arrest cases when "under the direction of a physician". This change simply adds phlebotomist to the list of persons qualified to draw blood, since they are always under the supervision of a physicians in the course of their work.

A second change involves sec. 346.63(2), which states that someone convicted of causing injury while OWI "may be imprisoned for not less than 30 days nor more than one year..." Since the 30 day portion of the sentence was intended to be a minimum, replacing the word *may* with the word *shall* provides clarification. AB 180 and SB 174 also specifies that the mandatory minimum applies to cases in which the injury caused was at a level of substantial bodily harm.

AB 180 passed the Assembly on a vote of 95-1.

Making these minor changes to the Wisconsin Statutes will provide important guidance and clarification to Judges and District Attorneys.



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MEMORANDUM

TO: Honorable Members of the Senate Committee on Transportation, Public Safety, and Veterans and Military Affairs

FROM: David Callender, Legislative Associate *DC*

DATE: June 6, 2013

SUBJECT: Opposition to Assembly Bill 180 and Senate Bill 174

The Wisconsin Counties Association opposes Assembly Bill 180 and Senate Bill 174.

WCA considers drunken driving a serious offense that jeopardizes the safety of Wisconsin residents. From sheriff's offices' enforcement efforts to intoxicated driver treatment programs, Wisconsin's counties are at the forefront of attempts to prevent drunken driving and protect the public.

WCA is concerned about the provision in the bill that imposes a mandatory minimum jail sentence of 30 days on individuals who are convicted of causing injury by intoxicated use of a motor vehicle. WCA takes no position on the rest of the bill, which increases prison sentences for individuals convicted of multiple drunken-driving offenses.

Given recent reductions in state funding for many county programs as well as state-imposed levy limits, counties are facing an increasingly difficult financial picture. AB 180/SB 174 would add to counties' financial burdens by its use of mandatory minimum jail sentences.

Although it is difficult at this time to quantify how many offenders will be affected by this provision, the average cost of incarcerating an individual in a county jail is \$50 per day. A minimum sentence of 30 days would result in an average cost of \$1,500 per offender. Absent any corresponding increase in state funding, these costs would be borne entirely by local property taxpayers.

It is on this basis, therefore, that WCA opposes AB 180/SB 174. WCA respectfully requests the Committee to delete or modify the portion of the proposal that imposes mandatory minimum jail time for causing injury by intoxicated use of a motor vehicle.