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**CAMPAIGN TO
ELIMINATE
DRUNK DRIVING**

**Testimony of Frank Harris
State Policy Specialist
Mothers Against Drunk Driving
Before the Assembly Committee on Public Safety
Regarding Assembly Bill 346
October 6, 2009**

Thank you Mr. Chairman and members of the committee for holding this important hearing and for the opportunity to submit written testimony to you today regarding Assembly Bill 346. My name is Frank Harris, State Policy Specialist with Mothers Against Drunk Driving.

Mothers Against Drunk Driving believes that Assembly Bill 346, authored by State Representative Mark Gundrum, moves Wisconsin in the right direction toward criminalizing drunk driving. This is important because since 1998, drunk driving has killed 3,196 people and injured over 67,588 in Wisconsin. Unfortunately, this bill fails to acknowledge what every other state in America has: that a driver is drunk when he or she has a blood alcohol concentration (BAC) of .08 or higher.

Assembly Bill 346 falls short as drunk drivers in Wisconsin can *still* drive drunk with a BAC from .08 to .19 and *still* receive a traffic ticket. While there are exceptions to this, the message is clear. Wisconsin still tolerates drunk driving.

MADD urges this Committee to consider an amendment to Assembly Bill 346 and to join the rest of America in making the first drunk driving offense a criminal misdemeanor when a driver is convicted with a BAC of .08, not .20 and not at .16.

.08 Blood Alcohol Concentration is Illegal

.08 BAC drivers are individuals whose critical driving skills are dangerously compromised. All of the skills that are needed to judge distance and speed, steering, visual tracking, concentration, braking, and staying in driving lanes are severely affected at .08 BAC. The risk of being killed in a crash at .08 BAC is at least 11 times that of drivers without alcohol in their system. At .10 BAC the risk is at least 29 times higher.¹

Virtually all drivers, even experienced drinkers, are significantly impaired at .08 BAC. The results of nearly 300 studies reviewed have show that at .08 BAC, virtually all drivers are impaired, which includes critical driving tasks such as divided attention, complex relation time, steering, lane changing, and judgment.ⁱⁱ In Wisconsin, the .08 BAC standard does not carry as much teeth for a first time convicted drunk driver the penalties, a traffic ticket, do not fit the crime.

Some may argue that someone who drove drunk at .08 BAC just made a “mistake” or just is sip over the illegal limit. However, quite simply this is not the case as drunk driving is not a mistake it is a choice.

An average 170-pound man must have more than four drinks in one hour on an empty stomach to reach a .08 percent blood alcohol concentration (BAC) level. A 137-pound woman would reach .08 BAC after about three drinks in an hour on an empty stomach. A 120-pound woman would not reach a.08 after three drinks in an hour on an empty stomach- a level that exceeds what is commonly accepted as social drinking.ⁱⁱⁱ

Nature of the First Time Offender

Some may argue treating the first offense of drunk driving as a criminal misdemeanor at .08 BAC is too harsh. After all, a first time arrested drunk driver made a mistake. A potentially deadly mistake by the way. This notion is misguided.

We know first-time offenders have driven drunk before—one particular study showed an average of 87 times before the first arrest.^{iv} This is a conservative estimate. In 2002, there were 159 impaired driving trips in the United States^v, yet only 1.5 million arrests for driving under the influence.^{vi} That is one arrest for every 106 times of driving under the influence.^{vii}

The bottom line is a first time convicted drunk driver has driven drunk many times before on average and by no means is a first time drunk driver. In fact, the problem of the first time drunk driver is demonstrated with the fact that most drunk driving fatalities and injuries *are not* caused by repeat offenders, but by those with no prior OWI convictions.^{viii} Therefore, MADD believes

that it makes sense to make first offense drunk driving some form of criminal misdemeanor at .08 BAC and not at .20.

Cost of Drunk Driving is Too High to Focus Only on “Hardcore” Offenders

An argument against making a first offense a criminal misdemeanor at .08 BAC may be the extra costs to the state and local governments throughout Wisconsin. These alleged fiscal costs pail in comparison to the emotional cost of a family or friend losing a loved one to a drunk driver.

These alleged fiscal costs also fail to compare with the current economic cost that Wisconsin taxpayers and governments on all levels pay to subsidize the violent crime of drunk driving.

Between 1998 and 2008, 3,196 people were killed in drunk driving crashes in Wisconsin.

Conservatively estimating the economic cost, not including quality of life losses, these deaths cost the state and taxpayers over \$3.5 billion.

Conservative Economic Cost of Drunk Driving Fatalities in Wisconsin*

Year	Cost ^{ix}	DUI Fatalities(.08 BAC or higher) ^{x,xi}	Total
1998	\$1,004,500	243	\$244,093,500
1999	\$1,004,500	266	\$267,197,000
2000	\$993,300	295	\$293,023,500
2001	\$1,028,000	309	\$317,652,000
2002	\$1,057,000	312	\$329,784,000
2003	\$1,057,000	324	\$342,468,000
2004	\$1,154,000	297	\$342,738,000
2005	\$1,164,000	322	\$374,808,000
2006	\$1,187,000	307	\$364,409,000
2007	\$1,249,000	313	\$390,937,000
2008	\$1,249,000	208	\$259,792,000
Total		3,196	\$3,526,902,000

**Does not include Quality of life losses, Economic Cost of injuries and non injury crashes.*

Since 1998, 67,588 people have been injured in alcohol related crashes in Wisconsin.^{xii} Using figures from the cost of an alcohol related injury in 2000, the National Highway Traffic Safety Administration (NHTSA) estimates an alcohol related crash injury costs on average \$48,000.^{xiii} Using this formula, injuries caused by alcohol related crashes is over \$3.2 billion since 1998 in Wisconsin. This does not include the quality of life losses or an adjustment to modern day costs of alcohol related crashes since 2000.

Alcohol Related Crash Injuries in Wisconsin 1998-2008

Year	Injuries	Estimate in 2000 Dollars	Total
1998	6,850	\$48,000	\$328,800,000
1999	6,563	\$48,000	\$315,024,000
2000	6,836	\$48,000	\$328,128,000
2001	6,586	\$48,000	\$316,128,000
2002	6,570	\$48,000	\$315,360,000
2003	6,445	\$48,000	\$309,360,000
2004	6,221	\$48,000	\$298,608,000
2005	5,992	\$48,000	\$287,616,000
2006	5,654	\$48,000	\$271,392,000
2007	5,552	\$48,000	\$266,496,000
2008	4,319	\$48,000	\$207,312,000
Total	67,588		\$3,244,224,000

Conclusion

The state motto of Wisconsin is *Forward*. Yet for the forward state, Wisconsin, remains the only state not to make a first drunk driving offense something more than a traffic ticket. Members of the Committee, please amend AB 346 to make a first offense a criminal misdemeanor at .08 BAC.

Thank you.

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- ⁱ Zador, Paul, Sheila Krawchuk, and Robert Voas. "Relative Risk of Fatal Crash Involvement by BAC, Age, and Gender." HS 809 050. Washington, DC: U.S. Department of Transportation, National Highway Traffic Safety Administration, 2000.
- ⁱⁱ National Highway Traffic Safety Administration. "Traffic Safety Facts: .08 Illegal Per Se." Washington, DC: U.S. Department of Transportation, National Highway Traffic Safety Administration, May 2003. <http://www.nhtsa.dot.gov/people/injury/New-fact-sheet03/Point08BAC.pdf>
- ⁱⁱⁱ National Highway Traffic and Safety Administration, Report to Congress on Alcohol Limits, DOT HS 807 879, October 1992.
- ^{iv} Zador, Paul, Sheila Krawchuk, and B. Moore (1997) "Drinking and Driving Trips, Stops by Police, and Arrests: Analysis of the 1995 National Survey of Drinking and Driving Attitudes and Behavior," Rockville, MD: ESTAT, Inc. 1997.
- ^v (Quinlan, Kyran P., et al. "Alcohol-Impaired Driving Among US Adults, 1993-2002." *American Journal of Preventive Medicine* 28 (4) (2005): 346-350.)
- ^{vi} FBI, 2003
- ^{vii} <http://www.roadcrewonline.org/files/researchpaper.pdf>
- ^{viii} "Wisconsin 2003 Traffic Crash Facts: Section 6:Alcohol" <http://www.dot.state.wi.us/safety/motorist/crashfacts/docs/alcohol-section6.pdf>
- ^{ix} Estimated Economic cost of traffic deaths obtained from Wisconsin Department of Transportation.
- ^x NHTSA-FARS Query, 2009. <http://www.madd.org/docs/Updated%201982-2007%20AR-DD%20Related%20Traffic%20Fatalities.pdf>.
- ^{xi} National Highway Traffic Safety Administration. "2008 Traffic Safety Annual Assessment-Highlights" DOT 811 172. Washington DC: National Highway Traffic Safety Administration, June 2009. <http://www-nrd.nhtsa.dot.gov/Pubs/811172.PDF>
- ^{xii} Alcohol Related Injuries obtained from Traffic Crash Statistics from Wisconsin Department of Transportation
- ^{xiii} National Highway Traffic Safety Administration. Impaired Driving in Wisconsin. http://www.nhtsa.dot.gov/people/injury/alcohol/impaired_driving_pg2/WI.htm