



# JOAN BALLWEG

WISCONSIN STATE REPRESENTATIVE

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41<sup>ST</sup> ASSEMBLY DISTRICT

AB 256: 'Responsible Action'  
Testimony of State Representative Joan Ballweg  
Assembly Committee on Colleges and Universities  
August 15, 2013

Thank you, Chairman Nass, and committee members for holding a public hearing on Assembly Bill 256.

This bill introduces legislation to create a Responsible Action Policy for U.W. System students. The Responsible Action Policy encourages underage students who have been drinking to seek and obtain emergency assistance for themselves, or on behalf of another student who requires emergency care and medical treatment due to an overdose of alcohol, or when a student has been a victim of sexual assault or other violent crime. This legislation was brought to us by the Associated Students of Madison (ASM). Since their initial contact we have had support from many other student groups.

Under this legislation, a student who seeks and obtains emergency assistance, remains with that individual until medical assistance arrives, and fully cooperates with emergency responders or law enforcement, will not be subject to serious disciplinary actions under the UW System Code of Conduct or a citation by law enforcement for his or her personal consumption of alcohol (e.g., underage drinking). Individuals under age 21 and not enrolled in a UW System school would still qualify for this policy.

There are nearly 200 campuses nationwide that have some form of Responsible Action Policy in place (sometimes called Good Samaritan policy). All members of the Big Ten have Responsible Action Policies in place either as campus policies, by state law, or both.

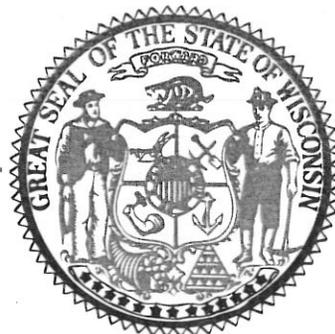
This bill is endorsed by the Tavern League of Wisconsin, United Council of UW Students, Associated Students of Madison, as well as the Student Body Presidents and Vice Presidents of UW System campuses.

This legislation will help encourage our young adults to make good, safe decisions when in an emergency situation. Wisconsin culture appreciates beer and alcohol, and we are aware that our youth do not always wait until they are of legal age to consume. This legislation is not to encourage abusing these laws, but rather to help stop further illegal or dangerous activity by taking an underage drinking citation out of the equation when faced with the decision to call for emergency police or ambulance assistance.

I would like to stress that this is not intended to serve as a loophole for students who drink underage. This bill includes penalties for students trying to abuse this legislation as a "get out of jail free" card. And while AB 256 would prohibit some UW disciplinary sanctions, there are several options open to campus personnel to impose consequences less severe than expulsion from the dorms or school. Legislative Council has provided a memo addressing the disciplinary actions available to UW System police and administrators under this bill.

There are many representatives from the universities, both student and administrative, here today. I'm happy to have their expertise available to the committee. If you have any questions, I'm happy to answer them at this time.

FRED A. RISSER  
Wisconsin State Senator



August 15, 2013

Representative Steve Nass, Chair  
Assembly Committee on Colleges and Universities  
12 West, State Capitol  
Madison, WI 53708

Dear Representative Nass,

Thank you Chairman Nass and committee members for holding a hearing on Assembly Bill 256.

Assembly Bill 256 encourages underage individuals and students who have been drinking to seek and obtain emergency assistance for themselves, or on behalf of another individual who requires emergency evaluation and/or medical treatment due to an overdose of alcohol, and/or where a student has been a victim of sexual assault or other violent crime.

Under this legislation, an individual who seeks and obtains emergency assistance, remains with that individual until medical assistance arrives, and fully cooperates with emergency responders or law enforcement, will not be cited by law enforcement for his or her personal consumption of alcohol or be subject to serious disciplinary actions under the UW System Code of Conduct.

There are nearly 200 campuses nationwide that have some form of Responsible Action Policy (sometimes called Good Samaritan policy) in place. All members of the Big Ten have Responsible Action Policies in place either as campus policies, by state law, or both.

This bill has been endorsed by the Tavern League of Wisconsin, United Council of UW Students, Associated Students of Madison, as well as the Student Body Presidents and Vice Presidents of UW System campuses.

I appreciate your willingness to schedule this measure for a public hearing. Please feel free to contact me directly with any questions or concerns.

Most Sincerely,

A handwritten signature in black ink that reads "Fred A. Risser".

FRED A. RISSER  
Wisconsin State Senate

FAR:tet  
Cc: Assembly Committee on Colleges and Universities



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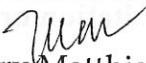
## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director*  
*Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE JOAN BALLWEG

FROM:  Mary Matthias, Senior Staff Attorney

RE: 2013 Assembly Bill 256, Relating to Underage Drinking and Requests for Emergency or Law Enforcement Assistance

DATE: August 8, 2013

This memorandum responds to several questions you have posed regarding 2013 Assembly Bill 256, relating to underage drinking and requests for emergency or law enforcement assistance. The first part of the memorandum provides a brief description of the bill; the second part of the memorandum sets forth your questions and my responses.

### BACKGROUND

The bill provides that in certain situations in which emergency assistance has been requested, an underage person who has contact with a law enforcement officer as a result of that request for assistance may not be cited for, or convicted of, certain violations related to underage drinking. In those situations an underage person is also exempt from certain disciplinary sanctions that may be imposed by a University of Wisconsin (UW) institution or campus.

An underage person may be eligible for the exemption in any of the following circumstances: (a) the underage person requested emergency medical assistance for himself or herself; (b) the underage person requested emergency medical assistance for another person; (c) another person requested assistance for the underage person; or (d) the underage person requested law enforcement assistance to report, request investigation of, or prevent a possible crime. The request for assistance may be made by dialing 911 or by other means.

To be eligible for the exemption, an underage person must remain at the scene until emergency medical assistance or law enforcement assistance arrives, must cooperate with the providers of assistance and must provide any information that is requested. These requirements do not apply if the underage person is in need of emergency medical assistance and lacks the capacity to cooperate when emergency medical assistance arrives.

If a person knowingly makes a false report of an emergency and requests assistance based on that false report, with the intent to claim an exemption from citation or conviction for underage drinking, the person is subject to a fine of \$100 to \$600 and imprisonment up to 90 days for a first offense, and a fine of up to \$10,000 and imprisonment up to six years for a second or subsequent offense within four years of a previous offense.

## QUESTIONS

**1. From which violations related to underage drinking may an underage person be exempt under the bill? Does the bill provide any exemption from citation or conviction for individuals who are 21 years of age or older?**

The bill provides an exemption from citation for, and conviction of, the underage drinking violations listed below if all of the requirements of the bill are met. The exemptions apply only to individuals who have not attained the legal drinking age. None of the bill's provisions apply to individuals who are 21 years of age or older.

- Knowingly possessing or consuming alcohol beverages unless accompanied by a parent, guardian, or spouse who has attained the legal drinking age.
- Procuring or attempting to procure alcohol beverages from a person or establishment that is licensed or permitted to sell alcohol beverages.
- Possessing or consuming alcohol beverages on licensed premises unless accompanied by a parent, guardian, or spouse who has attained the legal drinking age.
- Entering, or knowingly attempting to enter, or being on licensed premises unless accompanied by a parent, guardian, or spouse who has attained the legal drinking age or under other circumstances allowed by law.
- Falsely representing one's age for the purpose of receiving alcohol beverages from a person or establishment that is licensed or permitted to sell alcohol beverages.

**2. Does the bill create an exemption from citation and conviction for an underage person who provides alcohol beverages to other underage persons?**

No. The bill does not provide an exemption for the offense of providing alcohol beverages to a minor or providing alcohol beverages to a person who is intoxicated. Thus, if an underage person sells, dispenses, or gives alcohol beverages to another underage individual or an individual who is intoxicated, he or she may be cited and convicted for those offenses to the same extent as he or she could be under current law.

**3. May an underage person be denied the protections of the bill if law enforcement personnel determine that the underage person is "playing the system"?**

Yes. As discussed above, the bill imposes penalties on an underage person who knowingly makes a fraudulent request for assistance in an attempt to take advantage of the

exemptions provided under the bill. If a law enforcement officer who responds to a request for assistance believes that the request was made fraudulently, he or she may contact the district attorney to refer the individual for prosecution.

In addition, the protections of the bill do not apply to an underage person unless he or she remains at the scene until assistance arrives and cooperates with the providers of assistance who respond to the request for assistance. If a law enforcement officer believes that an underage person has not provided the required cooperation, and the officer has reason to believe the underage person has committed an underage drinking violation, the law enforcement officer may issue an underage drinking citation to the underage person.

**4. Is the UW System prohibited from imposing *any* sanctions against a student to whom the exemption applies under the bill?**

No. The bill prohibits institutions and campuses within the UW System from imposing only the following four types of sanctions, for the specific underage drinking violations described above, when the requirements of the bill are met:

- Removal from a course in progress.
- Enrollment restrictions on a course or program.
- Suspension or expulsion.
- Exclusion from student housing.

Under the bill, UW System institutions or campuses may impose other types of sanctions against students who violate UW System rules or policies pertaining to underage drinking violations, as provided in s. UWS 17.10, Wis. Adm. Code. Those sanctions, which are referred to as disciplinary sanctions in the UW System administrative rules, include all of the following:

- A written reprimand.
- Denial of specified university privileges.
- Payment of restitution.
- Educational or service sanctions, including community service.
- Disciplinary probation.
- Imposition of reasonable terms and conditions on continued student status.

**5. May an underage person be prosecuted for illegal activities other than underage drinking violations that are discovered in the course of responding to a request for assistance?**

Yes. The provisions of the bill provide exemption from citation or conviction for only the specific underage drinking offenses described above. The bill provides no exemptions for

other violations, such as controlled substances violations, that may be discovered by law enforcement in the course of responding to a request for assistance. If law enforcement discovers evidence of any other type of violation, the underage person may be cited or convicted for those offenses.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

MM:ty



TO: Members, Assembly Committee on Colleges and Universities  
FROM: Maureen Busalacchi, Health First Wisconsin  
RE: Assembly Bill 256  
DATE: August 15, 2013

Underage and binge drinking are critical public health issues that Wisconsin – like many other states in the nation – needs to address. Particularly, underage drinking in the college atmosphere can lead to many unfortunate outcomes including violence, injuries and too many tragic and preventable deaths. We are pleased that the Legislature is interested in preventing harms from underage drinking. With a few changes, we believe that Assembly Bill 256 could be beneficial for health and safety of college students and all people in Wisconsin.

Studies estimate that annually, 1,825 college students between the ages of 18 and 24 die from alcohol-related unintentional injuries in the U.S. Additionally, 599,000 students are unintentionally injured under the influence of alcohol, 696,000 students are assaulted by another student who has been drinking, and 97,000 students are victims of alcohol-related sexual assault or date rape. These numbers are astounding and unfortunate. Together, we can work to move forward legislation to reduce and prevent alcohol-related violence and injuries.

This bill aims to save lives and assist victims of sexual assaults or other violent crimes. The requirements outlined in the bill that would protect an individual from a citation by law enforcement and sanctions from the UW system school are fair. However, we would like to see a few minor changes to improve this bill.

There is no doubt that there will be individuals, whether they request emergency medical assistance for themselves or for another person, who use this provision multiple times. It would be wise to address this circumstance in the bill. If a student is repeatedly involved in cases of alcohol over-use, he or she may have alcohol-related issues that should be addressed. Whether the individual is experiencing alcohol abuse and dependence or academic-related problems, there should be an appropriate response to remedy the problem. For example, the individual should meet with a counselor, be mandated to take a class, or at some point receive a citation from law enforcement or disciplinary action from the UW system school, to ensure their health and safety. To truly help individuals who are over-using alcohol, this bill must clearly address how to assist students who repeatedly use this system.

Additionally, this bill would be greatly improved by clarifying what disciplinary sanctions UW system schools could take against students. Some campuses would like to review incidents on a case-by-case basis and if warranted, enroll the student in their campus alcohol education curriculum. The legislation should clarify that UW system schools still have the right to impose other sanctions, except for the four prohibited in this bill, as they see fit on a case-by-case basis.

We respectfully ask this committee to address the concerns listed above and then support this legislation.

AB 256: 'Responsible Action'  
Written Testimony of Jessica Joanis  
Director of Residence Life, Ripon College  
Committee on Colleges and Universities  
August 15, 2013

I would like to thank the Committee on Colleges and Universities for allowing me to comment on Assembly Bill 256.

I work at Ripon College, a small, private institution here in Ripon, WI. My role on campus is the Director of Residence Life and I work closely with our students and student handbook. My office and staff of both professional level and student staff are responsible for College policy enforcement and are the first responders when dealing with alcohol consumption and alcohol emergencies on campus.

I started working here at Ripon in 2004 and in my nine years of experience I have witnessed student behavior after the effects of alcohol in a variety of different circumstances. In my experience the fear of repercussion, sanction, and "getting in trouble" often prevail when a student consuming alcohol has to make decisions. This includes decisions about whether or not to call 911 for a friend who has had too much to drink or was in some sort of danger. At Ripon College we have always tried to eliminate that fear for our students as a way to encourage them to call for help in those situations. If a student has been hospitalized for alcohol poisoning, been physically or sexually assaulted, been the victim of theft or other crimes, or just found themselves in need of help after the consumption of alcohol-we have looked at the bigger safety issue before the alcohol consumption when approaching judicial sanctions from the Institution. As of August 2012 the College put that language into its official student handbook. That language can be found here:

#### Emergency Alcohol Amnesty

The emergency alcohol amnesty policy is designed to encourage students to seek help in an alcohol or drug emergency without hesitating because of worry about receiving policy violation sanctions from the College. This policy also applies to someone who has been a crime victim, who also may be intoxicated and therefore reluctant to report the crime. If in doubt about a person's safety related to alcohol or drug use, seek help by calling 911 or security/professional residence life staff at 748-8703.

Emergency amnesty protects a student from policy violations when they are seeking help in an emergency. Judicial amnesty granted by the College for alcohol or drug sanctions will be granted to students who, in good faith, report, or experience themselves, an alcohol or drug emergency or crime victimization. However, a student will not be granted protection under this policy if campus officials (e.g., residence life staff, campus safety) intervene beforehand.

1. Students may be required to participate in an appropriate alcohol educational program depending upon their involvement in the situation. Failure to comply will invalidate protection under this policy.

2. A record of all requests for assistance under this policy shall be maintained by the dean of students. Records kept as a result of this policy shall not be noted on the student's conduct record as a policy violation. Students involved may still need to meet with residence life staff for a review of the incident, but this meeting will not result in sanctions from the College.

3. This policy does not preclude disciplinary action regarding other violations of College policy, such as causing or threatening physical harm, sexual abuse, damage to property, harassment, hazing, etc. Students should also be aware that this policy does not prevent action by local and state authorities.

4. Nothing in this policy shall prevent an individual who is obligated by state or federal law to do so from reporting, charging or taking other action related to the possible criminal prosecution of any student.

Excerpt from the Ripon College Student Handbook: <http://www.ripon.edu/wp-content/uploads/2012/10/Handbook.pdf>

Assembly Bill 256 accomplishes this same goal of eliminating fear in our students in order to address necessary safety concerns, while safeguarding against abuses of the law. As someone who works closely with students and often responds to emergencies on campus, I welcomed the addition of our Emergency Alcohol Amnesty policy to our handbook as a way to alleviate student concern of sanction in times of crisis. I support Assembly Bill 256 as a way to extend that alleviated concern to other students in Wisconsin and hopefully increase the likelihood that a student will call for help for themselves or others despite alcohol being involved.

Thank you,  
Jessica Joanis



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Division of Student Life

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## STUDENT ALCOHOL SANCTIONS AT UW-MADISON

Depending on factors such as the student's behavior, level of impairment and degree of disruption to him/herself or others, a student may experience one or more of the following sanctions as a result of consuming alcohol:

### Badger Alcohol Check

In fall 2007, the Division of Student Life launched a program intended to curb students' excessive drinking at Badger football games. "Badger Alcohol Check" requires all students with a prior ejection or citation at a home football game to blow into a portable Breathalyzer test before a game to prove their sobriety before being admitted. Underage students must blow a 0.00 for admittance, while students of legal drinking age need to blow below the legal limit of 0.08. The total number of citations at home football games has decreased in each of the past two years.

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### BASICS

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### Conduct Violations

The Dean of Students Office (DoSO) in the Division of Student Life administers the UW System Code of Conduct, the document governing behavior on university property and by university students. The office also offers assistance to students who need advocacy or referrals to services on or off campus. Assistant deans talk with several hundred students each year about alcohol use or abuse, as well as the behaviors that often accompany excessive alcohol consumption.

If a student is arrested or cited for possession of alcohol or is found to have consumed alcohol in an illegal, unsafe and/or irresponsible manner — particularly on university property — it is a violation of the University of Wisconsin System Code of Conduct and may be referred to Student Assistance and Judicial Affairs. Students who harass, intimidate or assault another student while using alcohol may also be referred to DoSO for violating the Code of Conduct.

While one violation of this nature may result in a warning or reprimand, multiple violations or first violations with other dangerous behavior could result in disciplinary probation, suspension or expulsion from the university or dismissal from University Housing. These more serious disciplinary sanctions are recorded on a student's transcript and can be viewed by potential graduate programs or employers.

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### Detox Transport

Excessive alcohol use can lead to serious medical consequences, including injuries from falls and traffic accidents, frostbite and hypothermia, and death from alcohol poisoning. When UWPD or MPD officers encounter a student who is nonresponsive, disoriented and unable to answer simple questions or otherwise determined to pose a risk to himself or herself, the officers may transport

the student to a detoxification facility or hospital emergency room for medical monitoring. The minimum length of stay in the detox facility is 12 hours.

In general, students who are transported to detox or a hospital have a high blood alcohol content (BAC); however, transport judgments are made based on factors such as level of responsiveness, regardless of BAC.

During the **2010–2011** academic year, UW Police transported **133 students** to the local detox center. This number does not include students who were taken to a detox facility or a local emergency room by city police or paramedics.

Students will be billed **\$407 (fall 2011)** for each transport to the detox center. Students are responsible for emergency room charges.

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### Legal Consequences

Citations for underage drinking, possession of a fake ID, and other alcohol-related violations may be issued by the University of Wisconsin Police Department (UWPD) or the City of Madison Police Department (MPD). In both cases, they have the full force of law and are not just “disciplinary reminders” that will disappear upon graduation. Fines must be paid and court-ordered sanctions must be fulfilled.

Both the University Police and the City of Madison notify the Dean of Students office of any students who receive alcohol-related citations from the Madison Police Department.

Be aware that alcohol is often a contributing factor in other crimes, including vandalism, disorderly conduct, robbery, assault and battery, driving while intoxicated, and sexual assault. Reduce your chances of becoming a perpetrator or victim of such crimes by using alcohol in a moderate and responsible manner.

Sample Fines (as of Fall 2011)	
Underage drinking citation	\$263.50 (first offense)
Possession of fake ID	\$500
Providing alcohol to underage persons	\$361 (first offense)
Providing alcohol to underage persons	Jail (second offense)

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### Parent/Guardian Notification

When a student under 21 is taken to a detox facility, the Division of Student Life or University Housing may contact parents to enlist their assistance in curbing this level of dangerous behavior.

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## RESPONSIBLE ACTION GUIDELINES

**Guiding Principle:** When someone is in danger, University of Wisconsin-Madison students are expected to seek immediate assistance, such as calling 9-1-1. The purpose of these guidelines is to create a situation where responsible action is encouraged and expected.

Scope of Guidelines:

- Victims of Crime-** In those cases where a student has been a victim of sexual assault and/or a violent crime while under the influence of alcohol, neither the Dean of Students, University Housing nor UW-Madison Police will pursue disciplinary actions against the student victim (or against a witness) for his or her improper use of alcohol (e.g., underage drinking). A student victim who is under the influence of alcohol at the time of a sexual assault is entitled to university and community assistance and encouraged to seek help.
- Person in Need of Medical Attention-** When a student requires emergency evaluation and/or treatment to a medical facility for an overdose of alcohol, that student, as part of a disciplinary response, may be required to complete an alcohol assessment and/or education program in addition to other disciplinary action from the University. There may be a charge incurred if the student has an assessment off-campus and for some education programs. In addition, as per the University Parental/Guardian Involvement Guideline, a parental/guardian contact normally occurs when a student is transported to Detox/ER for overdoses of alcohol.
- Caller-** When a student calls on behalf of an impaired individual, remains with that individual until assistance arrives, and fully cooperates with emergency responders, the caller will not be subject to disciplinary actions under the UW System Code of Conduct, sanctions from the Division of University Housing, or citation by UW-Madison Police for his or her personal consumption of alcohol (e.g., underage drinking).
- Organization-** A representative of an organization hosting an event is expected to promptly call for assistance if they become aware of an emergency. Failure to call will be considered an "aggravating circumstance" and will be factored into further disciplinary action.

The guidelines apply only to disciplinary actions related to the caller's personal consumption of alcohol. They do not apply to supplying of alcohol, use or possession of other drugs illegally, or other crimes.

Feedback, questions or accessibility issues: [Email webmaster](#) | [Accessibility resources](#)

Division of Student Life | 70 Bascom Hall, Madison, WI 53706 | 608-263-5700

Contact us at: [dean@studentlife.wisc.edu](mailto:dean@studentlife.wisc.edu)

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