

ASSEMBLY BILL 618 (LRB -3399)

An Act to renumber and amend 347.48 (4) (a) 1., 347.48 (4) (a) 2. and 347.48 (4) (a) 3.; to amend 343.32 (2) (bt), 347.48 (2m) (c), 347.48 (2m) (d), 347.48 (4) (b), 347.48 (4) (d), 347.50 (1), 347.50 (3) (a), 347.50 (3) (b) and 347.50 (4); and to create 347.48 (4) (ag), 347.48 (4) (as) and 347.50 (3) (b) 3. of the statutes; relating to: child safety restraint systems, safety belt use requirements in motor vehicles, and providing a penalty. (FE)

2005

02-02. A. Introduced by Representatives **Petrowski, Suder, Wasserman, Ainsworth, Bies, Jensen, Kreibich, Lehman, McCormick, Molepske, Musser, Nass, Ott, Pope-Roberts, Shilling, Sinicki, Stone and Van Roy**; cosponsored by Senators **Roessler, Robson, Risser, Brown, A. Lasee, Lassa, Olsen and Wirch**.

08-19. A. Read first time and referred to committee on Highway Safety 438

08-23. A. Fiscal estimate received.

08-30. A. Fiscal estimate received.

08-31. A. Fiscal estimate received.

08-31. A. Public hearing held.

09-07. A. Assembly amendment 1 offered by Representative Petrowski (**LRB a0943**) 450

09-07. A. Fiscal estimate received.

09-14. A. Executive action taken.

09-19. A. Report Assembly Amendment 1 adoption recommended by committee on Highway Safety, Ayes 6, Noes 0 464

09-19. A. Report passage as amended recommended by committee on Highway Safety, Ayes 6, Noes 0 464

09-19. A. Referred to joint committee on Finance 464

10-26. A. Fiscal estimate received.

10-26. A. Executive action taken.

10-26. A. Assembly amendment 2 offered by committee on Finance (**LRB a1131**) 545

10-26. A. Assembly amendment 3 offered by committee on Finance (**LRB a1201**) 545

10-31. A. Report Assembly Amendment 1 adoption recommended by joint committee on Finance, Ayes 16, Noes 0 559

10-31. A. Report Assembly Amendment 2 adoption recommended by joint committee on Finance, Ayes 14, Noes 2 559

10-31. A. Report Assembly Amendment 3 adoption recommended by joint committee on Finance, Ayes 14, Noes 2 559

10-31. A. Report passage as amended recommended by joint committee on Finance, Ayes 14, Noes 2 559

10-31. A. Referred to committee on Rules 559

11-16. A. Fiscal estimate received.

11-16. A. Fiscal estimate received.

11-22. A. Fiscal estimate received.

11-22. A. Fiscal estimate received.

11-22. A. Fiscal estimate received.

11-28. A. Fiscal estimate received.

12-06. A. Fiscal estimate received.

12-06. A. Fiscal estimate received.

12-06. A. Fiscal estimate received.

12-13. A. Placed on calendar 12-15-2005 by committee on Rules.

12-13. A. Made a special order of business at 11:11 A.M. on 12-15-2005 pursuant to Assembly Resolution 45 674

12-15. A. Read a second time 693

12-15. A. Assembly amendment 1 **adopted** 693

12-15. A. Assembly amendment 2 **adopted** 693

12-15. A. Assembly amendment 3 **adopted** 693

12-15. A. Ordered to a third reading 693

12-15. A. Rules suspended 693

12-15. A. Read a third time and **passed** 693

12-15. A. Ordered immediately messaged 693

12-16. S. Received from Assembly 503

12-16. S. Read first time and referred to committee on Health, Children, Families, Aging and Long Term Care 504

2006

01-18. S. Executive action taken.

01-20. S. Report concurrence recommended by committee on Health, Children, Families, Aging and Long Term Care, Ayes 5, Noes 0 544

EN

- 01-20. S. Available for scheduling.
- 02-01. S. Placed on calendar 2-2-2006 by committee on Senate Organization.
- 02-02. S. Read a second time.
- 02-02. S. Ordered to a third reading.
- 02-02. S. Rules suspended.
- 02-02. S. Refused to refer to committee on Natural Resources and Transportation, Ayes 12, Noes 21.
- 02-02. S. Read a third time and **concurred in**, Ayes 23, Noes 10.
- 02-02. S. Ordered immediately messaged.
- 02-02. A. Received from Senate concurred in.

**2005
ENROLLED BILL**

05en A B-618

ADOPTED DOCUMENTS:

Orig **Engr** **SubAmdt**

05-3399/1 ✓

Amendments to above (if none, write "NONE"): AA1 = LRB a 09431 ✓

AA2 = LRB a 11311 ✓

AA3 = LRB a 12011 ✓

Corrections - show date (if none, write "NONE"): None ✓

Topic Use relating clause

2-2-06
Date


Enrolling Drafter

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2005 ASSEMBLY BILL 618

August 19, 2005 - Introduced by Representatives PETROWSKI, SUDER, WASSERMAN, AINSWORTH, BIES, JENSEN, KREIBICH, LEHMAN, McCORMICK, MOLEPSKE, MUSSER, NASS, OTT, POPE-ROBERTS, SHILLING, SINICKI, STONE and VAN ROY, cosponsored by Senators ROESSLER, ROBSON, RISSER, BROWN, A. LASEE, LASSA, OLSEN and WIRCH. Referred to Committee on Highway Safety.

1 **AN ACT to renumber and amend** 347.48 (4) (a) 1., 347.48 (4) (a) 2. and 347.48
2 (4) (a) 3.; **to amend** 343.32 (2) (bt), 347.48 (2m) (c), 347.48 (2m) (d), 347.48 (4)
3 (b), 347.48 (4) (d), 347.50 (1), 347.50 (3) (a), 347.50 (3) (b) and 347.50 (4); and
4 **to create** 347.48 (4) (ag), 347.48 (4) (as) and 347.50 (3) (b) 3. of the statutes;
5 **relating to:** child safety restraint systems, safety belt use requirements in
6 motor vehicles, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, no child under the age of four years may be transported in a motor vehicle unless that child is properly restrained in a child safety restraint system (child safety seat), and no child between the ages of four and eight years may be transported in a motor vehicle unless that child is properly restrained in a child safety seat or by a safety belt (seat belt). A person who fails to comply with the child safety seat requirement, applicable to violations involving children under age four, is subject to a forfeiture of not less than \$30 nor more than \$75, but no forfeiture may be assessed if the vehicle was not equipped with a child safety seat at the time of the violation and the person provides proof that, within 30 days after the violation, a child safety seat was purchased or leased and properly installed in the vehicle. A person who fails to comply with the seat belt requirement, applicable to violations involving children between the ages of four and eight, is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or,

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for a second or subsequent violation within three years, a forfeiture of not less than \$25 nor more than \$200. A person who fails to comply with the child safety seat requirement will also incur additional fees, costs, and surcharges, but a person who fails to comply with the seat belt requirement will not.

This bill creates a tiered structure, according to age and size, of restraint requirements for transporting children under the age of eight in a motor vehicle. Under this bill, a child who is:

1. Less than one year old or who weighs less than 20 pounds must be properly restrained in a rear-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

2. At least one year old and weighs at least 20 pounds but is less than four years old or weighs less than 40 pounds must be properly restrained in a forward-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

3. At least four years old but less than eight years old, weighs between 40 and 80 pounds, and is no more than four feet nine inches tall must be properly restrained in a child booster seat positioned according to the child seating requirements described below.

4. Under the age of eight and exceeds the weight or height limits specified in Item 3., above, must be properly restrained by a seat belt (as under current law).

If a child, because of age, weight, or height, falls into more than one of these categories, the child must be transported according to the requirements of the more protective category.

This bill prohibits a person from transporting a child under the age of eight in a motor vehicle unless the child is properly restrained as described above and the restraint system meets the standards established by the Department of Transportation (DOT) and is appropriate to the child's age and size. Certain exceptions that apply under current law continue to apply to these requirements.

Under the bill, the same penalty as under current law applies with respect to violations involving, respectively, children under age four and children between the ages of four and eight. However, with respect to violations involving children under age four, the bill imposes an additional requirement for avoiding imposition of a forfeiture that the person has not been issued a uniform traffic citation for violation of the child safety restraint system requirements within the immediately preceding three years. For the first six months after enactment of the bill, law enforcement officers may issue only written warnings, not citations, for child safety seat and seat belt violations if the violator has not previously received a warning or citation within this period.

Under current law, with specific exceptions, no person may drive a motor vehicle unless he or she reasonably believes that each passenger between the ages of four and 15 years is properly restrained by a seat belt. No person who is at least four years old may be a passenger in the front seat of a motor vehicle, or in a seat other than the front seat for which a shoulder harness has been installed, unless that person is properly restrained. This bill extends this seat belt requirement to

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passengers up to the age of 16 years and applies the requirement to passengers in seats other than the front seat for which safety belts are required to be installed.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 343.32 (2) (bt) of the statutes is amended to read:

2 343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit
3 points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) (a) (am).

4 **SECTION 2.** 347.48 (2m) (c) of the statutes is amended to read:

5 347.48 (2m) (c) If a motor vehicle is required to be equipped with safety belts

6 in this state, no person may operate that motor vehicle unless ~~he or she~~ reasonably

7 believes that each passenger who is at least ~~4~~ 4-8 years old ~~and not more than 15-16~~

8 years old and who is seated at a designated seating position in the front seat required

9 under 49 CFR 571 to have a safety belt installed or at a designated seating position

10 in the seats, other than the front seats, for which a ~~shoulder harness has been~~ safety

11 belt is required to be installed is properly restrained.

12 **SECTION 3.** 347.48 (2m) (d) of the statutes is amended to read:

13 347.48 (2m) (d) If a motor vehicle is required to be equipped with safety belts

14 in this state, no person who is at least ~~4~~ 4-8 years old and who is seated at a designated

15 seating position in the front seat required under 49 CFR 571 to have a safety belt

16 installed or at a designated seating position in the seats, other than the front seats,

17 for which a ~~shoulder harness has been~~ safety belt is required to be installed may be

18 a passenger in that motor vehicle unless the person is properly restrained.

19 **SECTION 4.** 347.48 (4) (a) 1. of the statutes is renumbered 347.48 (4) (am) and

20 amended to read:

INSERT
AA2-1

INSERT AA-2-2

INSERT
AA2-3

INSERT AA2-4

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SECTION 4

No AAI-1

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~~347.48 (4) (am) No Subject to par. (au), no person may transport a child under the age of 4 8 in a motor vehicle unless the child is properly restrained in compliance with par. (as) in a child safety restraint system approved that is appropriate to the child's age and size and that meets the standards established by the department. In this subdivision, "properly restrained" means fastened in a manner prescribed by the manufacturer of the system which permits the system to act as a body restraint but does not include a system in which the only body restraint is a safety belt of the type required under sub. (1) under this paragraph. The department shall, by rule, establish standards in compliance with applicable federal standards, including standards under 49 CFR 571.213, for approved types of child safety restraint systems for those child restraint systems purchased after November 1, 1982.~~

SECTION 5. 347.48 (4) (a) 2. of the statutes is renumbered 347.48 (4) (as) 4. and amended to read:

~~347.48 (4) (as) 4. No person may transport a Subject to subds. 1. to 3., if the child who is at least 4 years old but is less than 8 years old in a motor vehicle unless, the child is shall be properly restrained in a child safety restraint system approved by the department under subd. 1. or in a safety belt approved by the department under sub. (2). In this subdivision, "properly restrained" means fastened in a manner prescribed by the manufacturer of the system which permits the system to act as a body restraint.~~

SECTION 6. 347.48 (4) (a) 3. of the statutes is renumbered 347.48 (4) (au), and 347.48 (4) (au) (intro.), as renumbered, is amended to read:

~~347.48 (4) (au) (intro.) Notwithstanding subds. 1. and 2. pars. (am) and (as), a person other than the operator of a motor vehicle transporting a child required to be properly restrained under subd. 1. or 2. pars. (am) and (as) may temporarily~~

INSERT AAI-2

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1 remove a child from a safety restraint system to attend to the personal needs of the
2 child under all of the following conditions:

3 **SECTION 7.** 347.48 (4) (ag) of the statutes is created to read:

4 347.48 (4) (ag) In this subsection:

5 1. “Child booster seat” means a child passenger restraint system that meets the
6 applicable federal standards under 49 CFR 571.213 and is designed to elevate a child
7 from a vehicle seat to allow the vehicle’s safety belt to be properly positioned over the
8 child’s body.

9 2. “Designated seating position” has the meaning given in 49 CFR 571.3.

10 3. “Properly restrained” means any of the following:

11 a. With respect to par. (as) 1. and 2., fastened in a manner prescribed by the
12 manufacturer of the child safety restraint system which permits the system to act
13 as a body restraint but does not include a system in which the only body restraint is
14 a safety belt of the type required under sub. (1).

15 b. With respect to par. (as) 3., wearing a safety belt consisting of a combination
16 lap belt and shoulder harness approved by the department under sub. (2) and
17 fastened in a manner prescribed by the manufacturer of the safety belt so that the
18 safety belt properly fits across the child’s lap and the center of the child’s chest in a
19 manner appropriate to the child’s height, weight, and age that permits the safety belt
20 to act as a body restraint.

21 c. With respect to par. (as) 4., fastened in a manner prescribed by the
22 manufacturer of the system which permits the system to act as a body restraint.

23 **SECTION 8.** 347.48 (4) (as) of the statutes is created to read:

24 347.48 (4) (as) A child under the age of 8 years who is being transported in a
25 motor vehicle shall be restrained as follows:

ASSEMBLY BILL 618**SECTION 8**

1 1. If the child is less than one year old or weighs less than 20 pounds, the child
2 shall be properly restrained in a rear-facing child safety restraint system, positioned
3 at a designated seating position in a back passenger seat of the vehicle if the vehicle
4 is equipped with a back passenger seat.

5 2. Subject to subd. 1., if the child is at least one year old and weighs at least 20
6 pounds but is less than 4 years old or weighs less than 40 pounds, the child shall be
7 properly restrained in a forward-facing child safety restraint system, positioned at
8 a designated seating position in a back passenger seat of the vehicle if the vehicle is
9 equipped with a back passenger seat.

10 3. Subject to subsd. 1. and 2., if the child is at least 4 years old but less than 8
11 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more
12 than 57 inches in height, the child shall be properly restrained in a child booster seat.

13 **SECTION 9.** 347.48 (4) (b) of the statutes is amended to read:

14 347.48 (4) (b) The department may, by rule, exempt from the requirements
15 under ~~par. (a)~~ pars. (am) and (as) any child who because of a physical or medical
16 condition or body size cannot be placed in a child safety restraint system, child
17 booster seat, or safety belt.

18 **SECTION 10.** 347.48 (4) (d) of the statutes is amended to read:

19 347.48 (4) (d) Evidence of compliance or failure to comply with ~~par. (a)~~ pars.
20 (am) and (as) is admissible in any civil action for personal injuries or property
21 damage resulting from the use or operation of a motor vehicle but failure to comply
22 with ~~par. (a)~~ pars. (am) and (as) does not by itself constitute negligence.

23 **SECTION 11.** 347.50 (1) of the statutes is amended to read:

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1 347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.413 (1) or s.
2 347.415 (1m), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475 or s. 347.48 (2m) or (4)
3 (a) or s. 347.489, may be required to forfeit not less than \$10 nor more than \$200.

4 **SECTION 12.** 347.50 (3) (a) of the statutes is amended to read:

5 347.50 (3) (a) Any person violating s. 347.48 (4) (a) ~~1.~~ (am) may be required to
6 forfeit not less than \$30 nor more than \$75 if the child is less than 4 years old.

7 **SECTION 13.** 347.50 (3) (b) of the statutes is amended to read:

8 347.50 (3) (b) No forfeiture may be assessed under par. (a) if all of the following
9 apply:

10 1. The motor vehicle was not equipped with a child safety restraint system
11 meeting the requirements under s. 347.48 (4) (a) ~~1.~~ (am) at the time the uniform
12 traffic citation was issued; ~~and,~~

13 2. The person provides proof that, within 30 days after the uniform traffic
14 citation was issued, a child safety restraint system meeting the requirements under
15 s. 347.48 (4) (a) ~~1.~~ (am) was purchased or leased and properly installed in the motor
16 vehicle.

17 **SECTION 14.** 347.50 (3) (b) 3. of the statutes is created to read:

18 347.50 (3) (b) 3. The person has not, within the immediately preceding 3 years,
19 been issued a uniform traffic citation for a violation of s. 347.48 (4) (am).

20 **SECTION 15.** 347.50 (4) of the statutes is amended to read:

21 347.50 (4) Any person violating s. 347.48 (4) (a) ~~2.~~ (am) may be required to
22 forfeit not less than \$10 nor more than \$25 for the first offense if the child is at least
23 4 years old and less than 8 years old. For a 2nd or subsequent conviction within 3
24 years involving a child who is at least 4 years old and less than 8 years old, a person
25 may be required to forfeit not less than \$25 nor more than \$200.

**ASSEMBLY AMENDMENT 1,
TO 2005 ASSEMBLY BILL 618**

September 7, 2005 – Offered by Representative PETROWSKI.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 4, line 1: delete “~~No~~ Subject to par. (au), no” and substitute “No”. AA1-1

3 **2.** Page 4, line 21: delete lines 21 to 25 and substitute:

4 “**SECTION 6m.** 347.48 (4) (a) 3. of the statutes is repealed.” AA1-2

5 **3.** Page 5, line 1: delete lines 1 and 2. AA1-3

6 **4.** Page 8, line 6: delete “(2m) or (4)” and substitute “(4) (am)”. AA1-4

7 **5.** Page 8, line 7: after “act,” insert “involving a child who is at least 4 years
8 old and less than 8 years old.” AA1-5

9 **6.** Page 8, line 9: after “violation” insert “of section 347.48 (4) (am) of the
10 statutes, as affected by this act, involving a child who is at least 4 years old and less
11 than 8 years old.” AA1-6

12 (END)

**ASSEMBLY AMENDMENT 2,
TO 2005 ASSEMBLY BILL 618**

October 26, 2005 - Offered by JOINT COMMITTEE ON FINANCE.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 6: delete "he or she reasonably" and substitute "he or she
3 reasonably".

AA2-1

4 **2.** Page 3, line 7: delete "believes that" and substitute "believes that".

AA2-2

5 **3.** Page 3, line 7: delete "and not more than ~~15~~ 16" and substitute "and not more
6 than 15".

AA2-3

7 **4.** Page 3, line 8: delete "years old" and substitute "years old".

AA2-4

8

(END)

**ASSEMBLY AMENDMENT 3,
TO 2005 ASSEMBLY BILL 618**

October 26, 2005 – Offered by JOINT COMMITTEE ON FINANCE.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 8, line 14: after that line insert:

3 “(2) Section 20.003 (4) of the statutes does not apply to the actions of the
4 legislature in enacting this act.”

5 (END)

AA3-1