SENATE BILL 528 (LRB -3040)

An Act to amend 84.06 (1m), 343.07 (4) (a), 343.16 (1) (a), 343.16 (2) (cm), 345.60 (1) and 346.22 (1) (a); and to create 38.04 (4) (e) 3., 115.28 (11) (c), 343.30 (1j), 343.61 (6) (c), 345.60 (4), 346.22 (1) (c), 346.22 (1) (d), 346.22 (1) (e), 346.22 (1) (f) and 346.37 (1) (c) 4. of the statutes; relating to: authorization to operate motorcycles, stops required of vehicles at traffic control signals, vehicle failure-to-yield violations, driver education instruction, highway project planning by the Department of Transportation, and providing a penalty. (FE)

2006

01-30.	S.	Introduced by Senators **Zien**, **Reynolds**, **Lazich**, **Brown**, **S. Fitzgerald**, **Schultz** and **Breske**; cosponsored by Representatives **Pridemore**, **Honadel**, **Schneider**, **Hahn**, **Krawczyk**, **McCormick**, **Turner**, **Kleefisch**, **Ott**, **Bies**, **Pettis**, **Hundertmark**, **Hines**, **Strachota**, **Gunderson**, **Musser**, **F. Lasee**, **Kreibich**, **Albers**, **Sherman**, **Wood**, **Petrowski**, **Suder** and **Friske**.	
01-27.	S.	Read first time and referred to committee on Judiciary, Corrections and Privacy	562
01-30.	S.	Representative J. Fitzgerald added as a cosponsor	564
02-01.	S.	Public hearing held.	
02-07.	S.	Fiscal estimate received.	
02-07.	S.	Fiscal estimate received.	
02-14.	S.	Executive action taken.	
02-21.	S.	Report introduction and adoption of Senate Amendment 1 recommended by committee on Judiciary, Corrections and Privacy, Ayes 4, Noes 1 **(LRB a2250)**	608
02-21.	S.	Report passage as amended recommended by committee on Judiciary, Corrections and Privacy, Ayes 4, Noes 1	608
02-21.	S.	Available for scheduling.	
03-08.	S.	Placed on calendar 3-9-2006 by committee on Senate Organization.	
03-09.	S.	Read a second time	725
03-09.	S.	Senate amendment 1 **adopted**	725
03-09.	S.	Ordered to a third reading	725
03-09.	S.	Rules suspended	725
03-09.	S.	Read a third time and **passed**, Ayes 30, Noes 2	725
03-09.	S.	Ordered immediately messaged	725
03-21.	A.	Received from Senate	984
03-21.	A.	Read first time and referred to committee on Transportation	986
03-23.	A.	Executive action taken.	
04-07.	A.	Report concurrence recommended by committee on Transportation, Ayes 10, Noes 4	1007
04-07.	A.	Referred to committee on Rules	1007
05-02.	A.	Placed on calendar 5-4-2006 by committee on Rules.	
05-04.	A.	Rules suspended to withdraw from calendar and take up.	
05-04.	A.	Read a second time.	
05-04.	A.	Ordered to a third reading.	
05-04.	A.	Rules suspended.	
05-04.	A.	Read a third time and **concurred in**.	
05-04.	A.	Ordered immediately messaged.	
05-04.	S.	Received from Assembly concurred in.	

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2005
ENROLLED BILL

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ADOPTED DOCUMENTS:

☒ Orig ☐ Engr ___ SubAmdt ___ 05-3040/1

Amendments to above (if none, write "NONE"): SA1 — a 2250

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

Topic Rel as amended

5-9-06 [signature]

Date Enrolling Drafter

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2005 SENATE BILL 528

January 27, 2006 – Introduced by Senators ZIEN, REYNOLDS, LAZICH, BROWN, S. FITZGERALD, SCHULTZ and BRESKE, cosponsored by Representatives PRIDEMORE, HONADEL, SCHNEIDER, HAHN, KRAWCZYK, MCCORMICK, TURNER, KLEEFISCH, OTT, BIES, PETTIS, HUNDERTMARK, HINES, STRACHOTA, GUNDERSON, MUSSER, F. LASEE, KREIBICH, ALBERS, SHERMAN, WOOD, PETROWSKI, SUDER and FRISKE. Referred to Committee on Judiciary, Corrections and Privacy.

AN ACT ***to amend*** 84.06 (1m), 343.07 (4) (a), 343.16 (1) (a), 343.16 (2) (cm), 345.60 (1) and 346.22 (1) (a); and ***to create*** 38.04 (4) (e) 3., 115.28 (11) (c), 343.30 (1j), 343.61 (6) (c), 345.60 (4), 346.22 (1) (c), 346.22 (1) (d), 346.22 (1) (e), 346.22 (1) (f) and 346.37 (1) (c) 4. of the statutes; **relating to:** authorization to operate motorcycles, stops required of vehicles at traffic control signals, vehicle failure–to–yield violations, driver education instruction, ~~highway project planning by the Department of Transportation,~~ and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a vehicle facing a green traffic control signal may proceed through the intersection, a vehicle facing a yellow signal must stop before entering the intersection unless the vehicle is so close to it that a stop may not be made in safety, and a vehicle facing a red signal must stop before entering the intersection and must generally remain stopped until the signal turns green. However, if a traffic control signal is flashing red, vehicles may proceed through the intersection after stopping, as if the signal were a stop sign.

Under this bill, a motorcycle facing a red traffic control signal at an intersection may, after stopping for not less than 30 seconds, proceed cautiously through the intersection before the signal turns green if no other vehicles are present at the intersection to actuate the signal and the operator of the motorcycle reasonably

believes the signal is vehicle actuated. The operator of a motorcycle proceeding through a red signal must yield the right–of–way to any vehicle, bicyclist, or pedestrian proceeding through a green signal at the intersection or lawfully within a crosswalk or using the intersection.

Under current law, the operator of a vehicle must yield the right–of–way to another vehicle under certain circumstances, including: when turning left across traffic; at an intersection posted with a yield sign; when entering a through highway or a highway from an alley or driveway or from a parked or standing position; or when entering a highway from another highway that ends at a "T" intersection. A person who fails to yield the right–of–way as required is subject to a forfeiture of not less than $20 nor more than $50 for a first offense and not less than $50 nor more than $100 for any subsequent offense within a year, except that the forfeiture is doubled if the person fails to yield at a yield sign in a highway maintenance or construction area or in a utility work area.

Under this bill, if a person's failure to yield the right–of–way results in bodily harm to another, the person will be guilty of a Class C misdemeanor, and his or her operating privilege will be suspended for 30 days. A Class C misdemeanor is punishable by a fine not to exceed $500, imprisonment not to exceed 30 days, or both. If the violation results in great bodily harm to another, the person will be guilty of a Class B misdemeanor, and his or her operating privilege will be suspended for 90 days. A Class B misdemeanor is punishable by a fine not to exceed $1,000, imprisonment not to exceed 90 days, or both. If the violation results in the death of another, the person will be guilty of a Class A misdemeanor, and his or her operating privilege will be suspended for nine months. A Class A misdemeanor is punishable by a fine not to exceed $10,000, imprisonment not to exceed nine months, or both. Also, in addition to any penalty provided under current law for a failure–to–yield violation, the court must order a person who commits a failure–to–yield violation to attend a traffic safety school, which must acquaint the person with vehicle right–of–way rules and provide instruction on motorcycle, pedestrian, and bicycle awareness.

Current law requires all driver education courses offered by school districts, county children with disabilities education boards, technical college districts, and driver schools to acquaint each student with the hazards posed by farm machinery and animals on highways and by railroad grade crossings and to provide instruction in safely dealing with such hazards. Driver education courses must also include at least 30 minutes of instruction relating to organ and tissue donation and organ and tissue donation procedures.

This bill requires driver education courses to also include information on motorcycle, pedestrian, and bicycle awareness that is approved by a recognized motorcycle, pedestrian, or bicycle safety and awareness organization.

Under current law, an applicant for an operator's license, other than an instruction permit, authorizing operation of a motorcycle must take and pass both a knowledge test and a driving skills test, except that the Department of Transportation (DOT) must waive the driving skills test if the applicant holds an instruction permit and has successfully completed a basic rider course approved by

DOT (basic rider course). Also, DOT generally may not issue a license to any person under the age of 18 authorizing the operation of a motorcycle unless the person has successfully completed a basic rider course. DOT may also issue an instruction permit for the operation of a motorcycle to a person who meets certain qualifications for issuance of an operator's license.

Under this bill, DOT may issue an operator's license authorizing operation of a motorcycle to a person without requiring the person to take a driving skills test if the person has successfully completed a basic rider course, regardless of whether the person holds an instruction permit. In addition, DOT may not require a person applying for authorization to operate a motorcycle who has successfully completed a basic rider course to hold an instruction permit prior to DOT's issuance of a license. DOT also may not require a person applying for authorization to operate a motorcycle who holds an instruction permit to hold it for a minimum period of time before administering a driving skills test.

Under current law, DOT may plan and undertake preliminary engineering work for any highway improvement within its jurisdiction, including highway construction, reconstruction, rehabilitation, and other projects.

This bill requires DOT, in planning any highway improvement, to consider the safety of motorcycles operated on the highway.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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.** 38.04 (4) (e) 3. of the statutes is created to read:

2 38.04 **(4)** (e) 3. Includes information on motorcycle awareness, as approved by
3 a recognized motorcycle safety and awareness organization, and pedestrian and
4 bicycle awareness, as approved by a recognized pedestrian and bicycle safety and
5 awareness organization. ~~This subdivision does not apply unless the materials that~~
6 ~~provide information on motorcycle, pedestrian, and bicycle awareness are donated~~
7 ~~to the department of transportation by one or more recognized safety and awareness~~
8 ~~organizations.~~

1 ~~**SECTION 2.** 84.06 (1m) of the statutes is amended to read:~~

2 84.06 **(1m)** PLANS. The department may prepare plans, estimates and
3 specifications and undertake and perform all surveys, investigations and
4 engineering work for any highway improvement within its jurisdiction. When
5 provision has been made for the necessary funds for any such highway improvement
6 and, if federal aid is to be utilized, when the project has been approved by the proper
7 federal authorities, the department may proceed as provided in this section, with due
8 regard to any applicable federal requirement or regulation. In planning any
9 highway improvement, the department shall consider the safety of motorcycles
10 ~~operated on the highway.~~

11 **SECTION 3.** 115.28 (11) (c) of the statutes is created to read:

12 115.28 **(11)** (c) Provide information on motorcycle awareness, as approved by
13 a recognized motorcycle safety and awareness organization, and pedestrian and
14 bicycle awareness, as approved by a recognized pedestrian and bicycle safety and
15 awareness organization. ~~This paragraph does not apply unless the materials that~~
16 ~~provide information on motorcycle, pedestrian, and bicycle awareness are donated~~
17 ~~to the department of transportation by one or more recognized safety and awareness~~
18 ~~organizations.~~

19 **SECTION 4.** 343.07 (4) (a) of the statutes is amended to read:

20 343.07 **(4)** (a) ~~Upon~~ Subject to s. 343.16 (1) (a), upon application by a person
21 who qualifies for issuance of a license under s. 343.06 (1) (c) and who wishes to qualify
22 for the operation of a Type 1 motorcycle, the department may issue an instruction
23 permit for the operation of "Class M" vehicles.

24 **SECTION 5.** 343.16 (1) (a) of the statutes is amended to read:

343.16 **(1)** (a) *General.* The department shall examine every applicant for an operator's license, including applicants for license renewal as provided in sub. (3), and every applicant for authorization to operate a vehicle class or type for which the applicant does not hold currently valid authorization, other than an instruction permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or "Class M" vehicles shall include both a knowledge test and an actual demonstration in the form of a driving skills test of the applicant's ability to exercise ordinary and reasonable control in the operation of a representative vehicle. The department shall not administer a driving skills test to a person applying for authorization to operate "Class M" vehicles who has failed 2 previous such skills tests unless the person has successfully completed a rider course approved by the department. The department may, by rule, exempt certain persons from the rider course requirement of this paragraph. <u>The department may not require a person applying for authorization to operate "Class M" vehicles who has successfully completed a basic rider course approved by the department to hold an instruction permit under s. 343.07 (4) prior to the department's issuance of a license authorizing the operation of "Class M" vehicles. The department may not require a person applying for authorization to operate "Class M" vehicles who holds an instruction permit under s. 343.07 (4) to hold it for a minimum period of time before administering a driving skills test.</u> The driving skills of applicants for endorsements authorizing the operation of commercial motor vehicles equipped with air brakes, the transportation of passengers in commercial motor vehicles or the operation of school buses, as provided in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration of driving skills. The department may endorse an applicant's commercial driver license for

transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125, or for the operation of tank vehicles or vehicles towing double or triple trailers, as described in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge test. In administering the knowledge test, the department shall attempt to accommodate any special needs of the applicant. Except as may be required by the department for an "H" or "S" endorsement, the knowledge test is not intended to be a test for literacy or English language proficiency. This paragraph does not prohibit the department from requiring an applicant to correctly read and understand highway signs.

SECTION 6. 343.16 (2) (cm) of the statutes is amended to read:

343.16 **(2)** (cm) *Motorcycle waiver.* The department shall waive the driving skills test of a person applying for authorization to operate "Class M" vehicles if the applicant ~~holds an instruction permit under s. 343.07 (4) and~~ has successfully completed a basic rider course approved by the department.

SECTION 7. 343.30 (1j) of the statutes is created to read:

343.30 (1j) Upon conviction of a person for violating s. 346.18, the court shall suspend the violator's operating privilege as follows:

(a) For a period of 30 days, if the offense resulted in bodily harm to another but did not result in great bodily harm or the death of another.

(b) For a period of 90 days, if the offense resulted in great bodily harm to another but did not result in the death of another.

(c) For a period of 9 months, if the offense resulted in the death of another.

SECTION 8. 343.61 (6) (c) of the statutes is created to read:

343.61 **(6)** (c) Includes information on motorcycle awareness, as approved by a recognized motorcycle safety and awareness organization, and pedestrian and

bicycle awareness, as approved by a recognized pedestrian and bicycle safety and awareness organization. ~~This subdivision does not apply unless the materials that provide information on motorcycle, pedestrian, and bicycle awareness are donated to the department of transportation by one or more recognized safety and awareness organizations.~~

SECTION 9. 345.60 (1) of the statutes is amended to read:

345.60 **(1)** Except as provided in ~~sub. (3)~~ subs. (3) and (4), in addition to or in lieu of other penalties provided by law for violation of chs. 346 to 348, the trial court may in its judgment of conviction order the convicted person to attend, for a certain number of school days, a traffic safety school whose course and mode of instruction is approved by the secretary, subject to sub. (4), and which is conducted by the police department of the municipality, by the sheriff's office of the county, or by any regularly established safety organization.

SECTION 10. 345.60 (4) of the statutes is created to read:

345.60 **(4)** If a person is convicted of violating s. 346.18 or a local ordinance in conformity with s. 346.18, in addition to any other penalty provided by law, a court shall order the person to attend a school under sub. (1), which shall acquaint the person with vehicle right–of–way rules and provide instruction on motorcycle, pedestrian, and bicycle awareness.

SECTION 11. 346.22 (1) (a) of the statutes is amended to read:

346.22 **(1)** (a) Except as provided in par. (b), (c), (d), or (e), any person violating s. 346.18 or 346.20 (1) may be required to forfeit not less than $20 nor more than $50 for the first offense and not less than $50 nor more than $100 for the 2nd or subsequent conviction within a year.

INSERT SA1-6

SECTION 12. 346.22 (1) (c) of the statutes is created to read:

346.22 **(1)** (c) If a person violates s. 346.18 and the violation results in bodily harm, as defined in s. 939.22 (4), to another, the person ~~is guilty of a Class C misdemeanor~~ and shall have his or her operating privilege suspended as provided in s. 343.30 (1j).

INS. SA1-7

SECTION 13. 346.22 (1) (d) of the statutes is created to read:

346.22 **(1)** (d) If a person violates s. 346.18 and the violation results in great bodily harm, as defined in s. 939.22 (14), to another, the person ~~is guilty of a Class B misdemeanor~~ and shall have his or her operating privilege suspended as provided in s. 343.30 (1j).

INS. SA1-8

SECTION 14. 346.22 (1) (e) of the statutes is created to read:

346.22 **(1)** (e) If a person violates s. 346.18 and the violation results in death to another, the person ~~is guilty of a Class A misdemeanor~~ and shall have his or her operating privilege suspended as provided in s. 343.30 (1j).

INS. SA1-9

SECTION 15. 346.22 (1) (f) of the statutes is created to read:

346.22 **(1)** (f) If a court finds that a person violated s. 346.18, the court shall, in addition to any other penalty provided by law, order the person to attend a traffic safety school as provided under s. 345.60 (4).

INS. SA1-11

SECTION 16. 346.37 (1) (c) 4. of the statutes is created to read:

346.37 **(1)** (c) 4. Notwithstanding subd. 1., a motorcycle facing a red signal at an intersection may, after stopping as required under subd. 1. for not less than ~~30~~ seconds, proceed cautiously through the intersection before the signal turns green if no other vehicles are present at the intersection to actuate the signal and the operator of the motorcycle reasonably believes the signal is vehicle actuated. The operator of a motorcycle proceeding through a red signal under this subdivision shall yield the right–of–way to any vehicular traffic, pedestrian, bicyclist, or rider of an

INS. SA1-10

electric personal assistive mobility device proceeding through a green signal at the intersection or lawfully within a crosswalk or using the intersection. INS. SA1-12

SECTION 17. Initial applicability.

~~(1) The treatment of section 84.06 (1m) of the statutes first applies to highway improvements for which planning is begun on the effective date of this subsection.~~

(2) The treatment of sections 38.04 (4) (e) 3., 115.28 (11) (c), and 343.61 (6) (c) of the statutes first applies to driver education courses that are begun on the effective date of this subsection.

(3) The treatment of sections 343.30 (1j), 345.60 (1) and (4), 346.22 (1) (a), (c), (d), (e), and (f), and 346.37 (1) (c) 4. of the statutes first applies to violations occurring on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of sentencing a person. INS. SA1-14

(4) The treatment of sections 343.07 (4) (a) and 343.16 (1) (a) and (2) (cm) of the statutes first applies to applications for an operator's license submitted to the department of transportation on the effective date of this subsection.

SECTION 18. Effective date.

(1) This act takes effect on the first day of the 4th month beginning after publication.

(END)

SENATE AMENDMENT 1,

TO 2005 SENATE BILL 528

February 21, 2006 – Offered by COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY.

At the locations indicated, amend the bill as follows:

1. Page 1, line 6: delete the material beginning with "highway" and ending with "Transportation," on line 7.

2. Page 3, line 5: delete the material beginning with "This" and ending with "organizations." on line 8.

3. Page 4, line 1: delete lines 1 to 10.

4. Page 4, line 15: delete the material beginning with "This" and ending with "organizations." on line 18.

5. Page 7, line 2: delete the material beginning with "This" and ending with "organizations." on line 5.

6. Page 7, line 24: after that line insert:

SA1-6

"**SECTION 11m.** 346.22 (1) (b) of the statutes is amended to read:

SA1-6

346.22 **(1)** (b) If an operator of a vehicle violates s. 346.18 (6) where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic, any applicable minimum and maximum forfeiture specified in par. (a), (c), (d), or (e) for the violation shall be doubled.".

7. Page 8, line 2: delete the material beginning with "is" and ending with "misdemeanor" on line 3 and substitute "shall forfeit $200". SA1-7

8. Page 8, line 7: delete the material beginning with "is" and ending with "misdemeanor" on line 8 and substitute "shall forfeit $500". SA1-8

9. Page 8, line 12: delete "is guilty of a Class A misdemeanor" and substitute "shall forfeit $1,000". SA1-9

10. Page 8, line 19: on lines 19, 23 and 24, after "motorcycle" insert ", moped, motor bicycle, or bicycle". SA1-10

11. Page 8, line 20: delete "30" and substitute "45". SA1-11

12. Page 9, line 2: after "intersection." insert "This subdivision does not affect any authorization for a bicyclist under subd. 2.". SA1-12

13. Page 9, line 4: delete lines 4 and 5.

14. Page 9, line 9: after "(a)," insert "(b),". SA1-14

(END)