



2009 SENATE BILL 103

March 3, 2009 – Introduced by Senators A. LASEE, COWLES, LEHMAN, CARPENTER, RISSER, LASSA, HARSDORF, TAYLOR, DARLING, SCHULTZ, OLSEN and HANSEN, cosponsored by Representatives BARCA, TOWNSEND, VAN ROY, BIES, SPANBAUER, LOTHIAN, PETROWSKI, A. OTT, FRISKE and STRACHOTA. Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

1 **AN ACT** *to amend* 346.02 (10) and (11); and *to create* 346.89 (3) and 346.95 (10)
2 of the statutes; **relating to:** restrictions on the operation of motor vehicles by
3 persons using electronic text messaging devices and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits inattentive driving of a motor vehicle, which means that a driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle. Any person convicted of inattentive driving may be required to forfeit not less than \$20 nor more than \$400.

This bill prohibits the use of an electronic text messaging device, except to report an emergency, by anyone who is operating a motor vehicle in this state. An “electronic text messaging device” is defined as an electronic device, including a cellular telephone, personal digital assistant, or portable or mobile computer while being used for purposes of text communications, that is capable of transmitting or receiving text communications to or from one or more other persons. The definition of electronic text messaging device does not include devices that transmit or receive emergency alert messages or messages relating to the operation of the vehicle or an accessory that is integrated into the electrical system of a vehicle, including global positioning system devices. The bill provides an exception to this prohibition for persons operating authorized emergency vehicles. Persons who violate this prohibition may be required to forfeit not less than \$100 nor more than \$400 for a first offense, and not less than \$200 nor more than \$800 for a second or subsequent conviction. Persons who, in the course of using an electronic text messaging device

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while operating a motor vehicle, cause bodily harm to another person must be fined not less than \$300 nor more than \$2,000 or be imprisoned for not more than 30 days in the county jail, or both. Persons who, in the course of using an electronic text messaging device while operating a motor vehicle, cause great bodily harm to another person must be fined not less than \$300 nor more than \$2,000 or be imprisoned for not less than 30 days nor more than one year in the county jail, or both. Persons who, in the course of using an electronic text messaging device while operating a motor vehicle, cause the death of another person or an unborn child are guilty of a Class G felony, which is punishable by a fine not to exceed \$25,000 or imprisonment not to exceed ten years, or both.

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.

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

1 **SECTION 1.** 346.02 (10) and (11) of the statutes are amended to read:

2 **346.02 (10) APPLICABILITY TO SNOWMOBILES.** The operator of a snowmobile upon
3 a roadway shall in addition to the provisions of ch. 350 be subject to ss. 346.04,
4 346.06, 346.11, 346.14 (1), 346.18, 346.19, 346.20, 346.21, 346.26, 346.27, 346.33,
5 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50 (1) (b), 346.51,
6 346.52, 346.53, 346.54, 346.55, 346.87, 346.88, 346.89 (1) and (2), 346.90, 346.91,
7 346.92 (1) and 346.94 (1) and (9).

8 **(11) APPLICABILITY TO ALL-TERRAIN VEHICLES.** The operator of an all-terrain
9 vehicle on a roadway is subject to ss. 346.04, 346.06, 346.11, 346.14 (1), 346.18,
10 346.19, 346.20, 346.21, 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40,
11 346.44, 346.46, 346.47, 346.48, 346.50 (1) (b), 346.51, 346.52, 346.53, 346.54, 346.55,
12 346.71, 346.87, 346.88, 346.89 (1) and (2), 346.90, 346.91, 346.92 (1) and 346.94 (1)
13 and (9) but is not subject to any other provision of this chapter.

14 **SECTION 2.** 346.89 (3) of the statutes is created to read:

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1 346.89 (3) (a) In this subsection, “electronic text messaging device” means any
2 electronic device, including a cellular telephone, personal digital assistant, or
3 portable or mobile computer while being used for purposes of text communication,
4 that is capable of receiving or transmitting a text message, electronic mail, or other
5 text communications to or from one or more other persons, but does not include any
6 device whose primary function is transmitting and receiving emergency alert
7 messages and messages related to the operation of the vehicle or an accessory that
8 is integrated into the electrical system of a vehicle, including a global positioning
9 system device.

10 (b) No person may operate, as defined in s. 343.305 (1) (c), any motor vehicle
11 while viewing, transmitting information into, or otherwise operating an electronic
12 text messaging device, except to report an emergency.

13 (c) This subsection does not apply to operators of authorized emergency
14 vehicles.

15 **SECTION 3.** 346.95 (10) of the statutes is created to read:

16 346.95 (10) (a) In this subsection:

17 1. “Bodily harm” has the meaning given in s. 939.22 (4).

18 2. “Great bodily harm” has the meaning given in s. 939.22 (14).

19 (b) Except as provided in pars. (c) to (f), any person violating s. 346.89 (3) (b)
20 may be required to forfeit not less than \$100 nor more than \$400 for the first offense
21 and not less than \$200 nor more than \$800 for the 2nd or subsequent conviction.

22 (c) Any person who, in the course of a violation of s. 346.89 (3) (b), causes bodily
23 harm to another person shall be fined not less than \$300 nor more than \$2,000 or be
24 imprisoned for not more than 30 days in the county jail, or both.

