

2011 DRAFTING REQUEST

Bill

Received: 09/08/2011

Received By: agary

Wanted: As time permits

Companion to LRB:

For: Kathleen Bernier (608) 266-9172

By/Representing: Kate Stewart

May Contact:

Drafter: agary

Subject: Transportation - driver licenses
Transportation - traffic laws

Addl. Drafters:

Extra Copies: EVM

Submit via email: YES

Requester's email: Rep.Bernier@legis.wi.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Prohibiting cell phone use by operators holding an instruction permit or probationary license and providing a penalty for these restriction violations

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 09/14/2011	wjackson 09/20/2011		_____			S&L
/1			jfrantze 09/20/2011	_____	mbarman 09/20/2011	mbarman 09/26/2011	

FE Sent For:

at intro
9-29-11

<END>

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Pre Topic:

No specific pre topic given

Topic:

Prohibiting cell phone use by operators holding an instruction permit or probationary license and ^{providing a} ~~new~~ ^{creating} penalty for these restriction violations

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary	/1 WLj 9/20					

FE Sent For:

<END>

Gary, Aaron

From: Stewart, Kate
Sent: Thursday, September 08, 2011 12:33 PM
To: Gary, Aaron
Subject: Draft Request

Attachments: 20110908122544180.pdf



20110908122544180.pdf (173 KB)...

Aaron,

Could we get the attached bill redrafted for this session?

Thanks!

Kate Stewart
Office of Rep. Kathy Bernier
68th Assembly District
608.266.9172

-----Original Message-----

From: Network Scanning
Sent: Thursday, September 08, 2011 12:26 PM
To: Stewart, Kate
Subject: Message from "111WEST"

This E-mail was sent from "111WEST" (Aficio MP 6001).

Scan Date: 09.08.2011 12:25:44 (-0500)
Queries to: networkscanning@legis.wisconsin.gov

No Cell phone use
1st 9 months for with a learners permit.

2005 ASSEMBLY BILL 120

February 22, 2005 - Introduced by Representatives PETROWSKI, GARD, LEHMAN, AINSWORTH, ALBERS, BLACK, BOYLE, CULLEN, GUNDERSON, HAHN, HINES, JESKEWITZ, KERKMAN, KREIBICH, LEMAHIEU, OTT, PETTIS, SEIDEL, STONE, TRAVIS, VAN ROY, VOS and ZEPNICK, cosponsored by Senators OLSEN, LASSA, ROESSLER, STEPP and TAYLOR. Referred to Committee on Highway Safety.

1 AN ACT *to create* 343.07 (1) (dm), 343.07 (4) (b) 3., 343.07 (7), 343.085 (2m) (a)
2 3. and 343.085 (6) of the statutes; **relating to:** restrictions on the operation of
3 motor vehicles by persons holding instruction permits or probationary licenses
4 and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT) may issue an instruction permit to a person who is at least 15 years and 6 months of age, who has passed a knowledge test, who, if under 18 years of age, has enrolled in an approved driver education and training course, and who, except for age or lack of training in the operation of a motor vehicle, is qualified to obtain an operator's license. The permit remains valid for 12 months unless cancelled by DOT. The permit authorizes the person to operate most motor vehicles (excluding commercial motor vehicles, school buses, and Type 1 motorcycles), subject to certain restrictions, including restrictions related to persons required to accompany the permittee while operating a motor vehicle, persons who may be passengers in a motor vehicle operated by the permittee, and hours during which the permittee may operate a motor vehicle.

Under current law, a person who is at least 16 years of age and who is otherwise qualified (including having passed a knowledge test and, if under 18 years of age, having completed a driver education and training course and a basic motorcycle rider course) may obtain a Type 1 motorcycle instruction permit. The permit is valid for six months but may be renewed. The permit authorizes the person to operate a Type 1 motorcycle subject to certain restrictions related to persons who may accompany

ASSEMBLY BILL 120

the permittee on a motorcycle and hours during which the permittee may operate a motorcycle.

This bill creates an additional restriction that a person operating a motor vehicle under an instruction permit may not operate the motor vehicle, and a person operating a motorcycle under a motorcycle instruction permit may not operate the motorcycle, while using a cellular telephone or other wireless telecommunications device (cellular telephone), except to report an emergency.

Under current law, a probationary license is, with certain exceptions, issued to all applicants who qualify for an original driver's license and remains in effect for two years from the date of the licensee's next birthday. During the first nine months following issuance of a probationary license, a probationary licensee who is under 18 years of age is subject, with limited exceptions, to certain restrictions on the operation of "Class D" vehicles (automobiles and most other motor vehicles), including restrictions related to persons who may be passengers in a motor vehicle operated by the licensee and hours during which the licensee may operate a motor vehicle.

This bill creates an additional restriction that a probationary licensee who is under 18 years of age may not, during the first nine months following issuance of the probationary license, operate a "Class D" vehicle while using a cellular telephone, except to report an emergency. The same exceptions that apply to existing restrictions on the licensee also apply to this new restriction.

Under current law, a person holding a probationary license or instruction permit who violates operating restrictions may be required to forfeit up to \$200 for the first offense, may be fined up to \$300 and imprisoned for not more than 30 days for the second offense within three years, and may be fined up to \$500 and imprisoned for not more than six months for the third or subsequent offense within three years.

This bill provides a different penalty for cellular telephone operating restriction violations. Under this bill, a person holding a probationary license or instruction permit who commits a cellular telephone operating restriction violation must forfeit \$50 for a first offense and not less than \$50 nor more than \$100 for each subsequent offense.

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. 343.07 (1) (dm) of the statutes is created to read:
- 2 343.07 (1) (dm) The permittee may not operate a motor vehicle while using a
- 3 cellular telephone or other wireless telecommunications device, except to report an
- 4 emergency.

in
9/14

- 2844/1
LRB-1667
ARC:wlj/pg

wanted
by 9/20

stop

B-note

11
2005 ASSEMBLY BILL 120

Please fix request sheet
OK

February 22, 2005 - Introduced by Representatives PETROWSKI, GARD, LEHMAN, AINSWORTH, ALBERS, BLACK, BOYLE, CULLEN, GUNDERSON, HAHN, HINES, JESKEWITZ, KERKMAN, KREIBICH, LEMAHIEU, OTT, PETTIS, SEIDEL, STONE, TRAVIS, VAN ROY, VOS and ZEPNICK, cosponsored by Senators OLSEN, LASSA, ROESSLER, STEPP and TAYLOR. Referred to Committee on Highway Safety.

Regen

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- 2 3. and 343.085 (6) of the statutes; relating to: restrictions on the operation of
- 3 motor vehicles by persons holding instruction permits or probationary licenses
- 4 and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT) may issue an instruction permit to a person who is at least 15 years and 6 months of age, who has passed a knowledge test, who, if under 18 years of age, has enrolled in an approved driver education and training course, and who, except for age or lack of training in the operation of a motor vehicle, is qualified to obtain an operator's license. The permit remains valid for 12 months unless cancelled by DOT. The permit authorizes the person to operate most motor vehicles (excluding commercial motor vehicles, school buses, and Type 1 motorcycles), subject to certain restrictions, including restrictions related to persons required to accompany the permittee while operating a motor vehicle, persons who may be passengers in a motor vehicle operated by the permittee, and hours during which the permittee may operate a motor vehicle.

Under current law, a person who is at least 16 years of age and who is otherwise qualified (including having passed a knowledge test and, if under 18 years of age, having completed a driver education and training course and a basic motorcycle rider course) may obtain a Type 1 motorcycle instruction permit. The permit is valid for six months but may be renewed. The permit authorizes the person to operate a Type 1 motorcycle subject to certain restrictions related to persons who may accompany

ASSEMBLY BILL 120

the permittee on a motorcycle and hours during which the permittee may operate a motorcycle.

This bill creates an additional restriction that a person operating a motor vehicle under an instruction permit may not operate the motor vehicle, and a person operating a motorcycle under a motorcycle instruction permit may not operate the motorcycle, while using a cellular telephone or other wireless telecommunications device (cellular telephone), except to report an emergency.

Under current law, a probationary license is, with certain exceptions, issued to all applicants who qualify for an original driver's license and remains in effect for two years from the date of the licensee's next birthday. During the first nine months following issuance of a probationary license, a probationary licensee who is under 18 years of age is subject, with limited exceptions, to certain restrictions on the operation of "Class D" vehicles (automobiles and most other motor vehicles), including restrictions related to persons who may be passengers in a motor vehicle operated by the licensee and hours during which the licensee may operate a motor vehicle.

This bill creates an additional restriction that a probationary licensee who is under 18 years of age may not, during the first nine months following issuance of the probationary license, operate a "Class D" vehicle while using a cellular telephone, except to report an emergency. The same exceptions that apply to existing restrictions on the licensee also apply to this new restriction.

Under current law, a person holding a probationary license or instruction permit who violates operating restrictions ~~may be fined up to \$200 for the first offense, may be fined up to \$300 and imprisoned for not more than 30 days for the second offense within three years, and may be fined up to \$500 and imprisoned for not more than six months for the third or subsequent offense within three years.~~

the same
* **Not** This bill provides ~~a different~~ *the same* penalty for cellular telephone operating restriction violations. ~~Under this bill, a person holding a probationary license or instruction permit who commits a cellular telephone operating restriction violation must forfeit \$50 for a first offense and not less than \$50 nor more than \$100 for each subsequent offense.~~

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:

SECTION 1. 343.07 ^(1g) (dm) of the statutes is created to read:

^{(B) (1g)} 343.07 ^(1g) (dm) The permittee may not operate a motor vehicle while using a cellular telephone or other wireless telecommunications device, except to report an emergency.

1

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ASSEMBLY BILL 120

1 **SECTION 2.** 343.07 (4) (b) 3. of the statutes is created to read:

2 343.07 (4) (b) 3. The permittee may not operate a Type 1 motorcycle while using
3 a cellular telephone or other wireless telecommunications device, except to report an
4 emergency.

5 ~~**SECTION 3.** 343.07 (7) of the statutes is created to read:~~

6 ~~343.07 (7) PENALTY FOR CERTAIN VIOLATIONS. Notwithstanding s. 343.43 (1) (d)
7 and (3m), any person who violates sub. (1) (dm) or (4) (b) 3. shall be required to forfeit
8 \$50 for the first offense and not less than \$50 nor more than \$100 for each subsequent
9 offense.~~

insert
3-6

10 **SECTION 4.** 343.085 (2m) (a) 3. of the statutes is created to read:

11 343.085 (2m) (a) 3. While using a cellular telephone or other wireless
12 telecommunications device, except to report an emergency.

13 ~~**SECTION 5.** 343.085 (6) of the statutes is created to read:~~

14 ~~343.085 (6) Notwithstanding s. 343.43 (1) (d) and (3m), any person who violates
15 sub. (2m) (a) 3. shall be required to forfeit \$50 for the first offense and not less than
16 \$50 nor more than \$100 for each subsequent offense.~~

17 **SECTION 6. Initial applicability.**

18 (1) This act first applies to licenses and permits issued on the effective date of
19 this subsection.

20 **SECTION 7. Effective date.**

21 (1) This act takes effect on the first day of the 7th month beginning after
22 publication.

23

(END)

D-Note

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2844/lins
ARG:.....

1

2

3

INSERT 3-6:

4

SECTION ~~#~~ 343.07 (7) of the statutes is amended to read:

5

343.07 (7) PENALTY FOR RESTRICTION VIOLATIONS. (a) Notwithstanding s. 343.43

6

(1) (d) and (3m), any person who violates sub. (1g) (a), (bm), ~~or~~ (d), or (dm) or (4) (b)

7

1. or 2. shall be required to forfeit \$50 for the first offense and not less than \$50 nor

8

more than \$100 for each subsequent offense.

9

(b) Upon receiving notice of a person's conviction for a violation of sub. (1g) (a),

10

(bm), ~~or~~ (d), or (dm) or (4) (b) 1. or 2., the department shall notify any adult sponsor

11

who has signed for the person under s. 343.15 (1) of the conviction.

History: 1971 c. 164; 1973 c. 199; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 128, 273; 1979 c. 345; 1983 a. 243; 1985 a. 65, 202; 1987 a. 122; 1989 a. 87, 105, 359; 1991 a. 12, 269, 316; 1993 a. 16, 24, 399; 1995 a. 27 s. 9145 (1); 1997 a. 27; 1999 a. 9; 2001 a. 93; 2003 a. 33; 2005 a. 149, 294, 466; 2007 a. 97; 2009 a. 302.

12

13

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2844/1dn

ARG:.....

Wlj

Date

ATTN: Kate Stewart

The attached draft is a redraft of 2005 AB 120. The draft has been updated to reflect statutory changes since 2005. However, the substance of the draft remains the same. *

I do not believe any change to the draft is necessary to reconcile the draft with the enactment of s. 346.89 (3), in 2009 Act 220, prohibiting a person from driving a motor vehicle while composing or sending an electronic text message or an electronic mail message.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2844/1dn
ARG:wlj:jf

September 20, 2011

ATTN: Kate Stewart

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I do not believe any change to the draft is necessary to reconcile the draft with the enactment of s. 346.89 (3), in 2009 Act 220, prohibiting a person from driving a motor vehicle while composing or sending an electronic text message or an electronic mail message.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

Barman, Mike

From: Stewart, Kate

Sent: Monday, September 26, 2011 1:36 PM

To: LRB.Legal

Subject: Draft Review: LRB 11-2844/1 Topic: Prohibiting cell phone use by operators holding an instruction permit or probationary license and providing a penalty for these restriction violations

Please Jacket LRB 11-2844/1 for the ASSEMBLY.

9/26/2011