

2013 DRAFTING REQUEST

Bill

Received:	2/13/2013	Received By:	agary
Wanted:	As time permits	Same as LRB:	-1701
For:	Garey Bies (608) 266-5350	By/Representing:	Cory
May Contact:		Drafter:	agary
Subject:	Drunk Driving - penalties Transportation - traffic laws	Addl. Drafters:	emueller
		Extra Copies:	EVM

Submit via email: **YES**
 Requester's email: **Rep.Bies@legis.wisconsin.gov**
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**
eric.mueller@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Creating penalty enhancements for traffic violations resulting in harm to vulnerable highway users; driver education courses

Instructions:

Wants redraft of 2011 SB-431, with changes. Remove segway from definition of vulnerable highway user. Also add requirement that this be part of curriculum for driver ed courses, with some type of phase in.

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 2/20/2013	scalvin 3/7/2013	rschluet 3/7/2013	_____	_____		
/P1	agary			_____	lparisi		State

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/P1	agary	1/2 sar 08/29/2013		_____	lparisi		State

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	3/22/2013			_____	3/7/2013		S&L Crime
/1		scalvin 3/22/2013	rschluet 3/22/2013	_____	srose 3/22/2013	srose 3/26/2013	State S&L Crime

FE Sent For:

<END>

04-01-2013
(1/1)

see attached

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/P1	agary			_____	lparisi		State

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/P1		ll sac 03/22/2013	<i>[Handwritten initials]</i>	_____	lparisi		

PA's: please
 jacket ll. State
 Thx. ARG

Vers. Drafted

Reviewed

Typed

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3/7/2013

S&L

Crime

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1/?	agary	1P1 sac 03/07/2013	 3/7/13	 _____ _____			



State of Wisconsin
2011 - 2012 LEGISLATURE

FRIDAY (amh)
2/20
needed by
3/8



LRB-10001-1616/P1
ARG/med&ch

3 4
3
2011 **SENATE BILL 431**

Preliminary Draft

#EVM (RMNN) Sec

D-Note

February 6, 2012 - Introduced by Senators SCHULTZ, T. CULLEN and TAYLOR, cosponsored by Representatives ZEPNICK and HULSEY. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

gen cat

1 AN ACT to renumber and amend 346.65 (3) and 346.65 (5); to amend 343.31
2 (1) (a), 345.47 (1) (intro.), 346.17 (4), 346.22 (1) (a), (b), (c), (d) and (e), 346.22
3 (3), 346.95 (1) and (2), 349.06 (1) (a), 940.25 (1m) (a), 940.25 (1m) (b) and 940.25
4 (2) (a); and to create 340.01 (74p), 343.30 (1j) (d), 343.30 (1m), 343.31 (1) (ag),
5 343.31 (3) (cm), 346.17 (6), 346.22 (5), 346.30 (5), 346.36 (3), 346.43 (4), 346.49
6 (5), 346.56 (5), 346.60 (6), 346.65 (3) (b), 346.65 (5) (b), 346.74 (7), 346.82 (3),
7 346.95 (12), 939.22 (44m) and 940.25 (1b) of the statutes; relating to: traffic
8 violations resulting in harm to vulnerable highway users and providing a
9 penalty.

Analysis by the Legislative Reference Bureau

This bill creates penalty enhancements for traffic violations that result in bodily harm, great bodily harm, or death (collectively "harm") to vulnerable highway users. The bill defines "vulnerable highway user" as any of the following: 1) a pedestrian; 2) a bicyclist; 3) an operator of an electric personal assistive mobility device (EPAMD, commonly referred to by the tradename "Segway"); 4) an operator of a motorcycle, moped, or motor bicycle; 5) an operator of, or passenger on, an animal-drawn vehicle, farm tractor, farm truck tractor, farm trailer, or implement

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of husbandry; ⁵ (b) a person riding upon in-line skates, a horse, or a play vehicle; ⁶ (c) a law enforcement officer, traffic officer, fire fighter, or emergency medical technician, while performing his or her official duties; or ⁷ (d) a person who is rendering medical or emergency assistance to another person. For most traffic violations, the bill doubles the applicable forfeiture or fine if the violation results in harm to a vulnerable highway user, and this doubling is in addition to any other applicable penalty enhancement, such as the doubling for certain traffic violations committed in highway maintenance or construction areas or in utility work areas. However, for specific violations, the bill makes the offense a Class I or Class H felony if the violation results in harm to a vulnerable highway user. A Class I felony is punishable by a fine not exceeding \$10,000 or imprisonment not exceeding three years and six months or both. A Class H felony is punishable by a fine not exceeding \$10,000 or imprisonment not exceeding six years or both. Provisions of current law that increase the forfeiture or fine for violations committed under certain circumstances, such as in highway maintenance or construction areas or in utility work areas, continue to apply to these new, higher penalties.

* Under current law, a person who causes the death of another by operating or handling a vehicle while under the influence of an intoxicant is guilty of a Class D felony or, if the person has been convicted of a prior operating under the influence of an intoxicant or other drug (OWI) offense relating to, a Class C felony. A Class C felony is punishable by a fine not exceeding \$100,000 or imprisonment not exceeding 40 years or both. A Class D felony is punishable by a fine not exceeding \$100,000 or imprisonment not exceeding 25 years or both. A person who causes great bodily harm to another by OWI is guilty of a Class F felony. A Class F felony is punishable by a fine not exceeding \$25,000 or imprisonment not exceeding 12 years and 6 months or both. A person who causes injury to another by OWI may be fined not less than \$300 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one year or, if the person has been convicted of a prior OWI-related offense, is guilty of a Class H felony.

Under this bill, a person who causes bodily harm by OWI to a vulnerable highway user is guilty of a Class H felony.

* 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. However, if the violation results in bodily harm, great bodily harm, or death to another, the person must forfeit, respectively, \$200, \$500, or \$1,000 for the violation and the court must suspend the person's operating privilege for, respectively, ~~30 days, 90 days,~~ or 9 months.

* Under this bill, if such a failure to yield violation results in harm to a vulnerable highway user, the penalty is increased to a Class I felony, punishable by a fine not exceeding \$10,000 or imprisonment not exceeding three years and six months or

2 months, 3 months,

Department of Transportation (DOT)

SENATE BILL 431

both, and ~~the court~~ ^{DOT} must suspend the person's operating privilege for a period of one year.

Under current law, the operator of a motor vehicle must yield the right-of-way to livestock being driven over or along the highway. A person who fails to yield the right-of-way to livestock is subject to a forfeiture of not less than \$10 nor more than \$20 for the first offense and not less than \$25 nor more than \$50 for the second or subsequent offense within a year.

Under this bill, if such a failure to yield to livestock violation results in harm to a vulnerable highway user, the penalty is increased to a Class I felony and the court must suspend the person's operating privilege for a period of one year.

Under current law, the operator of a motor vehicle overtaking a bicycle ~~or EPAMD~~ proceeding in the same direction must exercise due care, leaving a safe distance but at least three feet clearance when passing the bicycle ~~or EPAMD~~, and must maintain clearance until safely past the overtaken bicycle ~~or EPAMD~~. Also, if the operator of a motor vehicle overtakes a motor bus that is stopped at an intersection on the right side of the roadway and that is receiving or discharging passengers, the operator must pass at a safe distance to the left of the motor bus and may not turn to the right in front of the motor bus at that intersection. A person who commits such a passing violation is subject to a forfeiture of not less than \$25 nor more than \$200 for the first offense and not less than \$50 nor more than \$500 for the second or subsequent offense within four years.

Under this bill, if such a passing violation results in harm to a vulnerable highway user, the penalty is increased to a Class I felony and the court must suspend the person's operating privilege for a period of one year.

Current law prohibits inattentive driving of a motor vehicle, which includes: 1) being so engaged or occupied, while driving a motor vehicle, as to interfere with the safe driving of the vehicle; 2) operating a motor vehicle equipped with a television or similar device in the front of the vehicle or otherwise visible to the operator; ~~and~~ 3) driving a motor vehicle while composing or sending an electronic text message or an e-mail message. Any person who commits form 1) ~~and~~ 3) of inattentive driving is subject to a forfeiture of not less than \$20 nor more than \$400 and any person who commits form 2) of inattentive driving is subject to a forfeiture of not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the second or subsequent offense within a year.

Under this bill, if any inattentive driving violation results in harm to a vulnerable highway user, the penalty is increased to a Class I felony and the court must suspend the person's operating privilege for a period of one year.

Current law prohibits a person from causing bodily harm or great bodily harm to another by the negligent operation of a vehicle (reckless driving). A person who commits a reckless driving violation that causes bodily harm is subject to a fine of not less than \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more than one year. A person who commits a reckless driving violation that causes great bodily harm is guilty of a Class I felony and must have his or her operating privilege revoked by ~~the Department of Transportation (DOT)~~ for one year.

insert
ANAL-A

or 4)

DOT

SENATE BILL 431

Under this bill, a reckless driving violation that causes harm or great bodily harm to a vulnerable highway user is punishable as a Class H felony and the violator must have his or her operating privilege revoked by DOT for a period of two years.

Under current law, local authorities may enact and enforce traffic regulations that are in strict conformity with state statutes and that provide for a forfeiture as a penalty.

Under this bill, if a local authority enacts a traffic regulation in strict conformity with a state statute and the statutory penalty is doubled if the violation results in harm to a vulnerable highway user, the applicable ordinance penalty for the ordinance violation must also include the doubling of the forfeiture.

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:

- insert ANAL-B*
- 1 ^{*}
SECTION 1. 340.01 (74p) of the statutes is created to read:
- 2 340.01 (74p) "Vulnerable highway user" means any of the following:
- 3 (a) A pedestrian.
- 4 (b) A bicyclist.
- 5 (c) An operator of an electric personal assistive mobility device.
- 6 (d) An operator of a motorcycle, moped, or motor bicycle.
- 7 (e) An operator of, or passenger on, an animal-drawn vehicle, farm tractor,
8 farm truck tractor, farm trailer, or implement of husbandry.
- 9 (f) A person riding upon in-line skates, a horse, or a play vehicle.
- 10 (g) A law enforcement officer, traffic officer, fire fighter, or emergency medical
11 technician, while performing his or her official duties.
- 12 (h) A person who is rendering medical or emergency assistance to another
13 person.

insert 4-1

SENATE BILL 431

Move down

(2t)(a)4. (2t)(a)4. x

1

SECTION 2. 343.30 (1j) (d) of the statutes is created to read:

2

343.30 (1j) (d) Notwithstanding ^{subds. 1. to 3.} pars. (a) to (c), for a period of one year, if the offense resulted in bodily harm, great bodily harm, or death to a vulnerable highway user.

5

SECTION 3. 343.30 (1m) of the statutes is created to read:

6

343.30 (1m) Upon conviction of a person for violating s. 346.075, 346.21, or 346.89, the court shall suspend the violator's operating privilege for a period of one year if the offense resulted in bodily harm, great bodily harm, or death to a vulnerable highway user.

10

SECTION 4. 343.31 (1) (a) of the statutes is amended to read:

11

343.31 (1) (a) Homicide or, great bodily harm, or harm to a vulnerable highway user resulting from the operation of a motor vehicle and which is criminal under s. 346.62 (4), 940.06, 940.09, 940.10 or 940.25.

14

SECTION 5. 343.31 (1) (ag) of the statutes is created to read:

15

343.31 (1) (ag) Bodily harm to a vulnerable highway user resulting from the operation of a motor vehicle and which is criminal under s. 346.62 (3).

17

SECTION 6. 343.31 (3) (cm) of the statutes is created to read:

18

343.31 (3) (cm) Any person convicted under s. 346.62 (3) or (4) or 940.10, or under s. 940.06 if the offense resulted from the operation of a motor vehicle, shall have his or her operating privilege revoked for 2 years if the offense resulted in bodily harm, great bodily harm, or death to a vulnerable highway user.

22

SECTION 7. 345.47 (1) (intro.) of the statutes is amended to read:

23

345.47 (1) (intro.) If the defendant is found guilty, the court may enter judgment against the defendant for a monetary amount not to exceed the maximum forfeiture provided for the violation, plus costs, fees, and surcharges imposed under

insert s-21

SENATE BILL 431

SECTION 7

1 ch. 814, and, in addition, may suspend or revoke his or her operating privilege under
 2 s. 343.30. If the violation is one described in s. 346.17 (6) (c), 346.22 (5) (c), 346.65
 3 (3) (b) or (5) (b), or 346.95 (12) (c), or if the forfeiture for the violation has been doubled
 4 under s. 346.17 (6), 346.22 (5), 346.30 (5), 346.36 (3), 346.43 (4), 346.49 (5), 346.56
 5 (5), 346.60 (6), 346.74 (7), 346.82 (3), 346.95 (12), or 349.06 (4), ^{(1)(a)} the court may also
 6 order the defendant to perform community service work. Upon entering judgment,
 7 the court shall notify the defendant personally, if the defendant is present, and in
 8 writing that the defendant should notify the court if he or she is unable to pay the
 9 judgment because of poverty, as that term is used in s. 814.29 (1) (d). If the defendant
 10 is present and the court, using the criteria in s. 814.29 (1) (d), determines that the
 11 defendant is unable to pay the judgment because of poverty, the court shall provide
 12 the defendant with an opportunity to pay the judgment in installments, taking into
 13 account the defendant's income. If the judgment is not paid or if the defendant fails
 14 to make any ordered installment payment, the court shall order:

15 **SECTION 8.** 346.17 (4) of the statutes is amended to read:

16 346.17 (4) ~~Any~~ Except as provided in sub. (6) (c), any person violating s. 346.075
 17 may be required to forfeit not less than \$25 nor more than \$200 for the first offense
 18 and not less than \$50 nor more than \$500 for the 2nd or subsequent violation within
 19 4 years.

20 **SECTION 9.** 346.17 (6) of the statutes is created to read:

21 346.17 (6) (a) In this subsection, "harm" means bodily harm, as defined in s.
 22 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

23 (b) If any violation under ss. 346.04 to 346.072 or 346.08 to 346.16 results in
 24 harm to a vulnerable highway user, the amount of any forfeiture or fine specified in
 25 subs. (1) to (3) or s. 939.50 for the violation shall be doubled. If sub. (5) applies with

SENATE BILL 431

1 respect to the violation, the doubling of the forfeiture under this subsection shall
2 apply in addition to any doubling under sub. (5).

3 (c) If any violation under s. 346.075[✓] results in harm to a vulnerable highway
4 user, the person who commits the violation is guilty of a Class I felony.

5 SECTION 10. 346.22 (1) (a), (b), (c), (d) and (e)^{✗ ✗ ✗ ✗ ✗} of the statutes are amended to
6 read:

7 346.22 (1) (a) Except as provided in par. (b), (c), (d), or (e) or sub. (5) (c), any
8 person violating s. 346.18, 346.20 (1), or 346.215 (2) (b) or (3) may be required to
9 forfeit not less than \$20 nor more than \$50 for the first offense and not less than \$50
10 nor more than \$100 for the 2nd or subsequent conviction within a year.

11 (b) If an operator of a vehicle violates s. 346.18 (6) where persons engaged in
12 work in a highway maintenance or construction area or in a utility work area are at
13 risk from traffic, any applicable minimum and maximum forfeiture or fine specified
14 in par. (a), (c), (d), or (e) or sub. (5) (c)[✓] and s. 939.50[✓] for the violation shall be doubled.

15 (c) If Except as provided in sub. (5) (c), if a person violates s. 346.18 and the
16 violation results in bodily harm, as defined in s. 939.22 (4), to another, the person
17 shall forfeit \$200 and shall have his or her operating privilege suspended as provided
18 in s. 343.30 (1j).

19 (d) If Except as provided in sub. (5) (c), if a person violates s. 346.18 and the
20 violation results in great bodily harm, as defined in s. 939.22 (14), to another, the
21 person shall forfeit \$500 and shall have his or her operating privilege suspended as
22 provided in s. 343.30 (1j).

23 (e) If Except as provided in sub. (5) (c), if a person violates s. 346.18 and the
24 violation results in death to another, the person shall forfeit \$1,000 and shall have
25 his or her operating privilege suspended as provided in s. 343.30 (1j).

SENATE BILL 431**SECTION 11**

1 ^x
SECTION 11. 346.22 (3) of the statutes is amended to read:

2 346.22 (3) ~~Any~~ Except as provided in sub. (5) (c), any person violating s. 346.20
3 (2), (3) or (4) (b) or (c) or 346.21 may be required to forfeit not less than \$10 nor more
4 than \$20 for the first offense and not less than \$25 nor more than \$50 for the 2nd or
5 subsequent conviction within a year.

6 ^y
SECTION 12. 346.22 (5) of the statutes is created to read:

7 346.22 (5) (a) In this subsection, “harm” means bodily harm, as defined in s.
8 939.22 (4), ^ygreat bodily harm, as defined in s. 939.22 (14), ^yor death.

9 (b) If any violation under s. 346.19, ^y346.20, ^yor 346.21^y results in harm to a
10 vulnerable highway user, the amount of any forfeiture specified in subs. (1) ^yto (3) ^yfor
11 the violation shall be doubled. If sub. (1) (b) ^yapplies with respect to the violation, the
12 doubling of the forfeiture under this subsection shall apply in addition to any
13 doubling under sub. (1) (b).

14 (c) If any violation under s. 346.18 ^yor 346.21 ^yresults in harm to a vulnerable
15 highway user, the person who commits the violation is guilty of a Class I felony.

16 ^x
SECTION 13. 346.30 (5) of the statutes is created to read:

17 346.30 (5) (a) In this subsection, “harm” means bodily harm, as defined in s.
18 939.22 (4), ^ygreat bodily harm, as defined in s. 939.22 (14), ^yor death.

19 (b) If any violation under ss. 346.23 ^yto 346.29 ^yresults in harm to a vulnerable
20 highway user, the amount of any forfeiture specified in subs. (1) ^yto (4) ^yfor the violation
21 shall be doubled.

22 ^x
SECTION 14. 346.36 (3) of the statutes is created to read:

23 346.36 (3) (a) In this subsection, “harm” means bodily harm, as defined in s.
24 939.22 (4), ^ygreat bodily harm, as defined in s. 939.22 (14), ^yor death.

SENATE BILL 431

1 (b) If any violation under ss. 346.31 to 346.35 results in harm to a vulnerable
2 highway user, the amount of any forfeiture specified in subs. (1) and (2) for the
3 violation shall be doubled.

4 **SECTION 15.** 346.43 (4) of the statutes is created to read:

5 346.43 (4) (a) In this subsection, "harm" means bodily harm, as defined in s.
6 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

7 (b) If any violation under ss. 346.37 to 346.42 results in harm to a vulnerable
8 highway user, the amount of any forfeiture specified in subs. (1) to (3) for the violation
9 shall be doubled. If sub. (1) (b) 3. applies with respect to the violation, the doubling
10 of the forfeiture under this subsection shall apply in addition to any doubling under
11 sub. (1) (b) 3.

12 **SECTION 16.** 346.49 (5) of the statutes is created to read:

13 346.49 (5) (a) In this subsection, "harm" means bodily harm, as defined in s.
14 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

15 (b) If any violation under s. 346.44, 346.45, 346.455, 346.46, or 346.47 to 346.48
16 results in harm to a vulnerable highway user, the amount of any forfeiture specified
17 in subs. (1), (1g), (2), (2m), and (4) for the violation shall be doubled. If sub. (1) (c)
18 applies with respect to the violation, the doubling of the forfeiture under this
19 subsection shall apply in addition to any doubling under sub. (1) (c).

20 **SECTION 17.** 346.56 (5) of the statutes is created to read:

21 346.56 (5) (a) In this subsection, "harm" means bodily harm, as defined in s.
22 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

23 (b) If any violation under ss. 346.503 to 346.55 results in harm to a vulnerable
24 highway user, the amount of any forfeiture specified in subs. (1) to (4) for the violation
25 shall be doubled.

SENATE BILL 431**SECTION 18**

1 **SECTION 18.** 346.60 (6) of the statutes is created to read:

2 346.60 (6) (a) In this subsection, "harm" means bodily harm, as defined in s.
3 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

4 (b) If any violation under ss. 346.57 to 346.595 results in harm to a vulnerable
5 highway user, the amount of any forfeiture specified in subs. (1) to (5) for the violation
6 shall be doubled. If sub. (3m) applies with respect to the violation, the doubling of
7 the forfeiture under this subsection shall apply in addition to any doubling or other
8 penalty enhancement under sub. (3m).

9 **SECTION 19.** 346.65 (3) of the statutes is renumbered 346.65 (3) (a) and
10 amended to read:

11 346.65 (3) (a) Except as provided in par. (b) and sub. (5m), any person violating
12 s. 346.62 (3) shall be fined not less than \$300 nor more than \$2,000 and may be
13 imprisoned for not less than 30 days nor more than one year in the county jail.

14 **SECTION 20.** 346.65 (3) (b) of the statutes is created to read:

15 346.65 (3) (b) If the violation of s. 346.62 (3) causes bodily harm to a vulnerable
16 highway user, the person who commits the violation is guilty of a Class H felony.

17 **SECTION 21.** 346.65 (5) of the statutes is renumbered 346.65 (5) (a) and
18 amended to read:

19 346.65 (5) (a) Except as provided in par. (b) and sub. (5m), any person violating
20 s. 346.62 (4) is guilty of a Class I felony.

21 **SECTION 22.** 346.65 (5) (b) of the statutes is created to read:

22 346.65 (5) (b) If the violation of s. 346.62 (4) causes great bodily harm to a
23 vulnerable highway user, the person who commits the violation is guilty of a Class
24 H felony.

25 **SECTION 23.** 346.74 (7) of the statutes is created to read:

SENATE BILL 431

1 346.74 (7) (a) In this subsection, "harm" means bodily harm, as defined in s.
2 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

3 (b) If any violation under s. 346.67[✓] or ss. 346.68[✓] to 346.70[✓] results in harm to
4 a vulnerable highway user, the amount of any forfeiture or fine specified in subs. (2)[✓]
5 to (5)[✓] or s. 939.50 for the violation shall be doubled.

6 **SECTION 24.** 346.82 (3) of the statutes is created to read:

7 346.82 (3) (a) In this subsection, "harm" means bodily harm, as defined in s.
8 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

9 (b) If any violation under ss. 346.77[✓] to 346.805[✓] results in harm to a vulnerable
10 highway user, the amount of any forfeiture specified in subs. (1)[✓] and (2)[✓] for the
11 violation shall be doubled.

12 **SECTION 25.** 346.95 (1) and (2) of the statutes are amended to read:

13 346.95 (1) ~~Any~~ Except as provided in sub. (12) (c), any person violating s.
14 346.87, 346.88, 346.89 (2)[✓] ~~or (4)~~[✓] 346.90 to 346.92 or 346.94 (1), (9), (10), (11), (12) or (15)
15 may be required to forfeit not less than \$20 nor more than \$40 for the first offense
16 and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within
17 a year.

18 (2) ~~Any~~ Except as provided in sub. (12) (c), any person violating s. 346.89 (1)
19 or (3) (a) or 346.94 (2), (4), or (7) may be required to forfeit not less than \$20 nor more
20 than \$400.

21 **SECTION 26.** 346.95 (12) of the statutes is created to read:

22 346.95 (12) (a) In this subsection, "harm" means bodily harm, as defined in s.
23 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

SENATE BILL 431**SECTION 26**

1 (b) If any violation under ss. 346.87, 346.88, or 346.90 to 346.94 results in harm
2 to a vulnerable highway user, the amount of any forfeiture specified in subs. (1) to
3 (5e) and (6) to (11) for the violation shall be doubled.

4 (c) If any violation under s. 346.89 results in harm to a vulnerable highway
5 user, the person who commits the violation is guilty of a Class I felony.

6 **SECTION 27.** 349.06 (1) (a) of the statutes is amended to read:

7 349.06 (1) (a) Except for the suspension or revocation of motor vehicle
8 operator's licenses or except as provided in par. (b), any local authority may enact and
9 enforce any traffic regulation which is in strict conformity with one or more
10 provisions of chs. 341 to 348 and 350 for which the penalty for violation thereof is a
11 forfeiture. If a local authority enacts a traffic regulation in strict conformity with any
12 provision of ch. 346 for which the penalty under ch. 346 is doubled if the violation
13 results in harm to a vulnerable highway user, the applicable penalty for the violation
14 under the ordinance shall also include the doubling of the forfeiture.

15 **SECTION 28.** 939.22 (44m) of the statutes is created to read:

16 939.22 (44m) "Vulnerable highway user" has the meaning given in s. 340.01
17 (74p).

18 **SECTION 29.** 940.25 (1b) of the statutes is created to read:

19 940.25 (1b) Any person who does any of the following is guilty of a Class H
20 felony:

21 (a) Causes bodily harm to a vulnerable highway user by the operation of a
22 vehicle while under the influence of an intoxicant.

23 (b) Causes bodily harm to a vulnerable highway user by the operation of a
24 vehicle while the person has a detectable amount of a restricted controlled substance
25 in his or her blood.

SENATE BILL 431

1 (c) Causes bodily harm to a vulnerable highway user by the operation of a
2 vehicle while the person has a prohibited alcohol concentration, as defined in s.
3 340.01 (46m).[✓]

4 (d) Causes bodily harm to a vulnerable highway user by the operation of a
5 commercial motor vehicle while the person has an alcohol concentration of 0.04 or
6 more but less than 0.08.

7 **SECTION 30.** 940.25^{*} (1m) (a) of the statutes is amended to read:

8 940.25 (1m) (a) A person may be charged with and a prosecutor may proceed
9 upon an information based upon a violation of any combination of sub. (1) (a), (am),
10 or (b); any combination of sub. (1) (a), (am), or (bm); any combination of sub. (1) (c),
11 (cm), or (d); ~~or any combination of sub. (1) (c), (cm), or (e);~~ any combination of sub. (1b)
12 (a), (b), or (c); or any combination of sub. (1b) (a), (b), or (d) for acts arising out of the
13 same incident or occurrence.

14 **SECTION 31.** 940.25^{*} (1m) (b) of the statutes is amended to read:

15 940.25 (1m) (b) If a person is charged in an information with any of the
16 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
17 971.12. If the person is found guilty of more than one of the crimes so charged for
18 acts arising out of the same incident or occurrence, there shall be a single conviction
19 for purposes of sentencing and for purposes of counting convictions under s. 23.33
20 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under ss. 343.30 (1q) and 343.305 or
21 under s. 350.11 (3) (a) 2. and 3. ~~Subsection~~ Subsections (1) (a), (am), (b), (bm), (c),
22 (cm), (d), and (e) and (1b) (a), (b), (c), and (d) each require proof of a fact for conviction
23 which the others do not require.

24 **SECTION 32.** 940.25^{*} (2) (a) of the statutes is amended to read:

SENATE BILL 431

SECTION 32

1 940.25 (2) (a) The defendant has a defense if he or she proves by a
 2 preponderance of the evidence that the great bodily harm or bodily harm would have
 3 occurred even if he or she had been exercising due care and he or she had not been
 4 under the influence of an intoxicant, did not have a detectable amount of a restricted
 5 controlled substance in his or her blood, or did not have an alcohol concentration
 6 described under sub. (1) (b), (bm), (d) or (e) or (1b) (c) or (d).

SECTION 33. Initial applicability.

insert 14-8

7
 8 (1) This act first applies to violations committed on the effective date of this
 9 subsection.

insert 14-9

SECTION 34. Effective date.

10
 11 (1) This act takes effect on the first day of the 4th month beginning after
 12 publication.

(END)

D-Note

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1616/P1ins
ARG:.....

1

2 **INSERT 1-8:**

3 ^(no P) , driver education instruction,

4

5 **INSERT ANAL-A:**

6 ^(no P) ; and 4) driving a motor vehicle while using a cellular or wireless telephone, if the driver holds a probationary license or instruction permit

6 **INSERT ANAL-B:**

7 ⁹¹ Under current law, the Department of Public Instruction (DPI) must approve driver education courses offered by school districts, county children with disabilities education boards, and technical college districts. DPI must also establish minimum standards for driver education courses offered by private driver schools. DPI may not approve a driver education course or establish driver education course standards unless the course or standards include certain content, such as acquainting students with the hazards posed by farm machinery and animals on highways and by railroad grade crossings and providing instruction in safely dealing with these hazards.

8 Under current law, the Technical College System Board (TCSB) must approve courses of study for each program offered in technical college district schools, including driver education courses. TCSB may not approve a driver education course unless the course includes certain content, such as acquainting students with the hazards posed by farm machinery and animals on highways and by railroad grade crossings and providing instruction in safely dealing with these hazards. DOT licenses private driver schools and DOT may not license a driver school unless its course of instruction includes the content required for TCSB approval of a driver education course.

9 Under this bill, all approved driver education courses must acquaint each student with the hazards posed by motor vehicles to vulnerable highway users and provide at least 30 minutes of instruction in safely dealing with these hazards.

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INSERT 4-1:

SECTION 1. 38.04 (4) (e) 7. of the statutes is created to read:

38.04 (4) (e) 7. Acquaints each student with the hazards posed by motor vehicles to vulnerable highway users, as defined in s. 340.01 (74p), and provides at least 30 minutes of instruction in safely dealing with these hazards.

SECTION 2. 115.28 (11) (g) of the statutes is created to read:

115.28 (11) (g) Acquaint each student with the hazards posed by motor vehicles to vulnerable highway users, as defined in s. 340.01 (74p), and provide at least 30 minutes of instruction in safely dealing with these hazards.

INSERT 5-21:

SECTION 3. 343.71 (5) (g) of the statutes is created to read:

343.71 (5) (g) Acquaints each student with the hazards posed by motor vehicles to vulnerable highway users, as defined in s. 340.01 (74p), and provides at least 30 minutes of instruction in safely dealing with these hazards.

INSERT 14-8:

The treatment of sections 340.01 (74p), 343.30 (1m), 343.31 (1) (a) and (ag), (2t) (a) 4., and (3) (cm), 345.47 (1) (intro.), 346.17 (4) and (6), 346.22 (1) (a), (b), (c), (d), and (e), (3), and (5), 346.30 (5), 346.36 (3), 346.43 (4), 346.49 (5), 346.56 (5), 346.60 (6), 346.65 (3) (b) and (5) (b), 346.74 (7), 346.82 (3), 346.95 (1), (2), and (12) 349.06 (1) (a), 939.22 (44m), 940.25 (1b), (1m) (a) and (b), and (2) (a) of the statutes and the renumbering and amendment of sections 346.65 (3) and (5) of the statutes first apply

1 **INSERT 14-9:**

2 (2) The treatment of sections 38.04 (4) (e) 7., 115.28 (11) (g), and 343.71 (5) (g)
3 of the statutes first applies to driver education courses that begin on the effective
4 date of this subsection.

5

6

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

LRB-1616/P1dn

ARG:f:....

SAC

- date -

Please review the attached draft carefully to ensure that it is consistent with your intent.

This is a redraft of 2011 SB-431, with the requested changes. The draft is also updated to reflect statutory changes from last session. For example, 2011 Act 173 renumbered s. 343.30 (1j) to s. 343.31 (2t) (a) and amended the provision so that operating privilege suspension for failure-to-yield violations is done by DOT, not by the court.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

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

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

LRB-1616/P1dn
ARG:sac:rs

March 7, 2013

Please review the attached draft carefully to ensure that it is consistent with your intent.

This is a redraft of 2011 SB-431, with the requested changes. The draft is also updated to reflect statutory changes from last session. For example, 2011 Act 173 renumbered s. 343.30 (1j) to s. 343.31 (2t) (a) and amended the provision so that operating privilege suspension for failure-to-yield violations is done by DOT, not by the court.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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

Gary, Aaron

From: Rep.Bies
Sent: Friday, March 22, 2013 12:07 PM
To: Gary, Aaron
Subject: FW: Draft review: LRB -1616/P1 Topic: Creating penalty enhancements for traffic violations resulting in harm to vulnerable highway users; driver education courses
Attachments: 13-1616/P1; DraftersNote1

Aaron,
We'd like to have the bill jacketed. Thanks!

Cory

From: LRB.Legal
Sent: Thursday, March 07, 2013 4:36 PM
To: Rep.Bies
Subject: Draft review: LRB -1616/P1 Topic: Creating penalty enhancements for traffic violations resulting in harm to vulnerable highway users; driver education courses

Following is the PDF version of draft LRB -1616/P1 and drafter's note.



State of Wisconsin
2013 - 2014 LEGISLATURE

in
3/22



LRB-1616/P
ARG&EVM:sac:rs

wanted
3/25

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

~~No changes~~
one change 1g2

gen act

1 **AN ACT** *to renumber and amend* 346.65 (3) and 346.65 (5); *to amend* 343.31
2 (1) (a), 345.47 (1) (intro.), 346.17 (4), 346.22 (1) (a), (b), (c), (d) and (e), 346.22
3 (3), 346.95 (1) and (2), 349.06 (1) (a), 940.25 (1m) (a), 940.25 (1m) (b) and 940.25
4 (2) (a); and **to create** 38.04 (4) (e) 7., 115.28 (11) (g), 340.01 (74p), 343.30 (1m),
5 343.31 (1) (ag), 343.31 (2t) (a) 4., 343.31 (3) (cm), 343.71 (5) (g), 346.17 (6),
6 346.22 (5), 346.30 (5), 346.36 (3), 346.43 (4), 346.49 (5), 346.56 (5), 346.60 (6),
7 346.65 (3) (b), 346.65 (5) (b), 346.74 (7), 346.82 (3), 346.95 (12), 939.22 (44m) and
8 940.25 (1b) of the statutes; **relating to:** traffic violations resulting in harm to
9 vulnerable highway users, driver education instruction, and providing a
10 penalty.

Analysis by the Legislative Reference Bureau

This bill creates penalty enhancements for traffic violations that result in bodily harm, great bodily harm, or death (collectively "harm") to vulnerable highway users. The bill defines "vulnerable highway user" as any of the following: 1) a pedestrian; 2) a bicyclist; 3) an operator of a motorcycle, moped, or motor bicycle; 4) an operator of, or passenger on, an animal-drawn vehicle, farm tractor, farm truck tractor, farm trailer, or implement of husbandry; 5) a person riding upon in-line

skates, a horse, or a play vehicle; 6) a law enforcement officer, traffic officer, fire fighter, or emergency medical technician, while performing his or her official duties; or 7) a person who is rendering medical or emergency assistance to another person. For most traffic violations, the bill doubles the applicable forfeiture or fine if the violation results in harm to a vulnerable highway user, and this doubling is in addition to any other applicable penalty enhancement, such as the doubling for certain traffic violations committed in highway maintenance or construction areas or in utility work areas. However, for specific violations, the bill makes the offense a Class I or Class H felony if the violation results in harm to a vulnerable highway user. A Class I felony is punishable by a fine not exceeding \$10,000 or imprisonment not exceeding three years and six months or both. A Class H felony is punishable by a fine not exceeding \$10,000 or imprisonment not exceeding six years or both. Provisions of current law that increase the forfeiture or fine for violations committed under certain circumstances, such as in highway maintenance or construction areas or in utility work areas, continue to apply to these new, higher penalties.

* Under current law, a person who causes the death of another by operating or handling a vehicle while under the influence of an intoxicant is guilty of a Class D felony or, if the person has been convicted of a prior operating under the influence of an intoxicant or other drug (OWI) offense relating to, a Class C felony. A Class C felony is punishable by a fine not exceeding \$100,000 or imprisonment not exceeding 40 years or both. A Class D felony is punishable by a fine not exceeding \$100,000 or imprisonment not exceeding 25 years or both. A person who causes great bodily harm to another by OWI is guilty of a Class F felony. A Class F felony is punishable by a fine not exceeding \$25,000 or imprisonment not exceeding 12 years and 6 months or both. A person who causes injury to another by OWI may be fined not less than \$300 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one year or, if the person has been convicted of a prior OWI-related offense, is guilty of a Class H felony.

Under this bill, a person who causes bodily harm by OWI to a vulnerable highway user is guilty of a Class H felony.

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. However, if the violation results in bodily harm, great bodily harm, or death to another, the person must forfeit, respectively, \$200, \$500, or \$1,000 for the violation and the Department of Transportation (DOT) must suspend the person's operating privilege for, respectively, 2 months, 3 months or 9 months.

Under this bill, if such a failure to yield violation results in harm to a vulnerable highway user, the penalty is increased to a Class I felony, punishable by a fine not

exceeding \$10,000 or imprisonment not exceeding three years and six months or both, and DOT must suspend the person's operating privilege for a period of one year.

Under current law, the operator of a motor vehicle must yield the right-of-way to livestock being driven over or along the highway. A person who fails to yield the right-of-way to livestock is subject to a forfeiture of not less than \$10 nor more than \$20 for the first offense and not less than \$25 nor more than \$50 for the second or subsequent offense within a year.

Under this bill, if such a failure to yield to livestock violation results in harm to a vulnerable highway user, the penalty is increased to a Class I felony and the court must suspend the person's operating privilege for a period of one year.

Under current law, the operator of a motor vehicle overtaking a bicycle proceeding in the same direction must exercise due care, leaving a safe distance but at least three feet clearance when passing the bicycle, and must maintain clearance until safely past the overtaken bicycle. Also, if the operator of a motor vehicle overtakes a motor bus that is stopped at an intersection on the right side of the roadway and that is receiving or discharging passengers, the operator must pass at a safe distance to the left of the motor bus and may not turn to the right in front of the motor bus at that intersection. A person who commits such a passing violation is subject to a forfeiture of not less than \$25 nor more than \$200 for the first offense and not less than \$50 nor more than \$500 for the second or subsequent offense within four years.

Under this bill, if such a passing violation results in harm to a vulnerable highway user, the penalty is increased to a Class I felony and the court must suspend the person's operating privilege for a period of one year.

Current law prohibits inattentive driving of a motor vehicle, which includes: 1) being so engaged or occupied, while driving a motor vehicle, as to interfere with the safe driving of the vehicle; 2) operating a motor vehicle equipped with a television or similar device in the front of the vehicle or otherwise visible to the operator; and 3) driving a motor vehicle while composing or sending an electronic text message or an e-mail message; and 4) driving a motor vehicle while using a cellular or wireless telephone, if the driver holds a probationary license or instruction permit. Any person who commits form 1) or 3) of inattentive driving is subject to a forfeiture of not less than \$20 nor more than \$400 and any person who commits form 2) or 4) of inattentive driving is subject to a forfeiture of not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the second or subsequent offense within a year.

Under this bill, if any inattentive driving violation results in harm to a vulnerable highway user, the penalty is increased to a Class I felony and the court must suspend the person's operating privilege for a period of one year.

Current law prohibits a person from causing bodily harm or great bodily harm to another by the negligent operation of a vehicle (reckless driving). A person who commits a reckless driving violation that causes bodily harm is subject to a fine of not less than \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more than one year. A person who commits a reckless driving violation that

causes great bodily harm is guilty of a Class I felony and must have his or her operating privilege revoked by DOT for one year.

Under this bill, a reckless driving violation that causes harm or great bodily harm to a vulnerable highway user is punishable as a Class H felony and the violator must have his or her operating privilege revoked by DOT for a period of two years.

Under current law, local authorities may enact and enforce traffic regulations that are in strict conformity with state statutes and that provide for a forfeiture as a penalty.

Under this bill, if a local authority enacts a traffic regulation in strict conformity with a state statute and the statutory penalty is doubled if the violation results in harm to a vulnerable highway user, the applicable ordinance penalty for the ordinance violation must also include the doubling of the forfeiture.

Under current law, the Department of Public Instruction (DPI) must approve driver education courses offered by school districts, county children with disabilities education boards, and technical college districts. DPI must also establish minimum standards for driver education courses offered by private driver schools. DPI may not approve a driver education course or establish driver education course standards unless the course or standards include certain content, such as acquainting students with the hazards posed by farm machinery and animals on highways and by railroad grade crossings and providing instruction in safely dealing with these hazards.

Under current law, the Technical College System Board (TCSB) must approve courses of study for each program offered in technical college district schools, including driver education courses. TCSB may not approve a driver education course unless the course includes certain content, such as acquainting students with the hazards posed by farm machinery and animals on highways and by railroad grade crossings and providing instruction in safely dealing with these hazards. DOT licenses private driver schools and DOT may not license a driver school unless its course of instruction includes the content required for TCSB approval of a driver education course.

Under this bill, all approved driver education courses must acquaint each student with the hazards posed by motor vehicles to vulnerable highway users and provide at least 30 minutes of instruction in safely dealing with these hazards.

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) 7. of the statutes is created to read:

1 38.04 (4) (e) 7. Acquaints each student with the hazards posed by motor
2 vehicles to vulnerable highway users, as defined in s. 340.01 (74p), and provides at
3 least 30 minutes of instruction in safely dealing with these hazards.

4 **SECTION 2.** 115.28 (11) (g) of the statutes is created to read:

5 115.28 (11) (g) Acquaint each student with the hazards posed by motor vehicles
6 to vulnerable highway users, as defined in s. 340.01 (74p), and provide at least 30
7 minutes of instruction in safely dealing with these hazards.

8 **SECTION 3.** 340.01 (74p) of the statutes is created to read:

9 340.01 (74p) “Vulnerable highway user” means any of the following:

10 (a) A pedestrian.

11 (b) A bicyclist.

12 (c) An operator of a motorcycle, moped, or motor bicycle.

13 (d) An operator of, or passenger on, an animal-drawn vehicle, farm tractor,
14 farm truck tractor, farm trailer, or implement of husbandry.

15 (e) A person riding upon in-line skates, a horse, or a play vehicle.

16 (f) A law enforcement officer, traffic officer, fire fighter, or emergency medical
17 technician, while performing his or her official duties.

18 (g) A person who is rendering medical or emergency assistance to another
19 person.

20 **SECTION 4.** 343.30 (1m) of the statutes is created to read:

21 343.30 (1m) Upon conviction of a person for violating s. 346.075, 346.21, or
22 346.89, the court shall suspend the violator’s operating privilege for a period of one
23 year if the offense resulted in bodily harm, great bodily harm, or death to a
24 vulnerable highway user.

25 **SECTION 5.** 343.31 (1) (a) of the statutes is amended to read:

1 343.31 (1) (a) Homicide ~~or~~, great bodily harm, or harm to a vulnerable highway
2 user resulting from the operation of a motor vehicle and which is criminal under s.
3 346.62 (4), 940.06, 940.09, 940.10 or 940.25.

4 **SECTION 6.** 343.31 (1) (ag) of the statutes is created to read:

5 343.31 (1) (ag) Bodily harm to a vulnerable highway user resulting from the
6 operation of a motor vehicle and which is criminal under s. 346.62 (3).

7 **SECTION 7.** 343.31 (2t) (a) 4. of the statutes is created to read:

8 343.31 (2t) (a) 4. Notwithstanding subs. 1. to 3., for a period of one year, if the
9 offense resulted in bodily harm, great bodily harm, or death to a vulnerable highway
10 user.

11 **SECTION 8.** 343.31 (3) (cm) of the statutes is created to read:

12 343.31 (3) (cm) Any person convicted under s. 346.62 (3) or (4) or 940.10, or
13 under s. 940.06 if the offense resulted from the operation of a motor vehicle, shall
14 have his or her operating privilege revoked for 2 years if the offense resulted in bodily
15 harm, great bodily harm, or death to a vulnerable highway user.

16 **SECTION 9.** 343.71 (5) (g) of the statutes is created to read:

17 343.71 (5) (g) Acquaints each student with the hazards posed by motor vehicles
18 to vulnerable highway users, as defined in s. 340.01 (74p), and provides at least 30
19 minutes of instruction in safely dealing with these hazards.

20 **SECTION 10.** 345.47 (1) (intro.) of the statutes is amended to read:

21 345.47 (1) (intro.) If the defendant is found guilty, the court may enter
22 judgment against the defendant for a monetary amount not to exceed the maximum
23 forfeiture provided for the violation, plus costs, fees, and surcharges imposed under
24 ch. 814, and, in addition, may suspend or revoke his or her operating privilege under
25 s. 343.30. If the violation is one described in s. 346.17 (6) (c), 346.22 (5) (c), 346.65

1 (3) (b) or (5) (b), or 346.95 (12) (c), or if the forfeiture for the violation has been doubled
2 under s. 346.17 (6), 346.22 (5), 346.30 (5), 346.36 (3), 346.43 (4), 346.49 (5), 346.56
3 (5), 346.60 (6), 346.74 (7), 346.82 (3), 346.95 (12), or 349.06 (1) (a), the court may also
4 order the defendant to perform community service work. Upon entering judgment,
5 the court shall notify the defendant personally, if the defendant is present, and in
6 writing that the defendant should notify the court if he or she is unable to pay the
7 judgment because of poverty, as that term is used in s. 814.29 (1) (d). If the defendant
8 is present and the court, using the criteria in s. 814.29 (1) (d), determines that the
9 defendant is unable to pay the judgment because of poverty, the court shall provide
10 the defendant with an opportunity to pay the judgment in installments, taking into
11 account the defendant's income. If the judgment is not paid or if the defendant fails
12 to make any ordered installment payment, the court shall order:

13 **SECTION 11.** 346.17 (4) of the statutes is amended to read:

14 346.17 (4) Any Except as provided in sub. (6) (c), any person violating s. 346.075
15 may be required to forfeit not less than \$25 nor more than \$200 for the first offense
16 and not less than \$50 nor more than \$500 for the 2nd or subsequent violation within
17 4 years.

18 **SECTION 12.** 346.17 (6) of the statutes is created to read:

19 346.17 (6) (a) In this subsection, "harm" means bodily harm, as defined in s.
20 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

21 (b) If any violation under ss. 346.04 to 346.072 or 346.08 to 346.16 results in
22 harm to a vulnerable highway user, the amount of any forfeiture or fine specified in
23 subs. (1) to (3) or s. 939.50 for the violation shall be doubled. If sub. (5) applies with
24 respect to the violation, the doubling of the forfeiture under this subsection shall
25 apply in addition to any doubling under sub. (5).

1 (c) If any violation under s. 346.075 results in harm to a vulnerable highway
2 user, the person who commits the violation is guilty of a Class I felony.

3 **SECTION 13.** 346.22 (1) (a), (b), (c), (d) and (e) of the statutes are amended to
4 read:

5 346.22 (1) (a) Except as provided in par. (b), (c), (d), or (e) or sub. (5) (c), any
6 person violating s. 346.18, 346.20 (1), or 346.215 (2) (b) or (3) may be required to
7 forfeit not less than \$20 nor more than \$50 for the first offense and not less than \$50
8 nor more than \$100 for the 2nd or subsequent conviction within a year.

9 (b) If an operator of a vehicle violates s. 346.18 (6) where persons engaged in
10 work in a highway maintenance or construction area or in a utility work area are at
11 risk from traffic, any applicable minimum and maximum forfeiture or fine specified
12 in par. (a), (c), (d), or (e) or sub. (5) (c) and s. 939.50 for the violation shall be doubled.

13 (c) If Except as provided in sub. (5) (c), if a person violates s. 346.18 and the
14 violation results in bodily harm, as defined in s. 939.22 (4), to another, the person
15 shall forfeit \$200.

16 (d) If Except as provided in sub. (5) (c), if a person violates s. 346.18 and the
17 violation results in great bodily harm, as defined in s. 939.22 (14), to another, the
18 person shall forfeit \$500.

19 (e) If Except as provided in sub. (5) (c), if a person violates s. 346.18 and the
20 violation results in death to another, the person shall forfeit \$1,000.

21 **SECTION 14.** 346.22 (3) of the statutes is amended to read:

22 346.22 (3) ~~Any~~ Except as provided in sub. (5) (c), any person violating s. 346.20
23 (2), (3) or (4) (b) or (c) or 346.21 may be required to forfeit not less than \$10 nor more
24 than \$20 for the first offense and not less than \$25 nor more than \$50 for the 2nd or
25 subsequent conviction within a year.

1 **SECTION 15.** 346.22 (5) of the statutes is created to read:

2 346.22 (5) (a) In this subsection, “harm” means bodily harm, as defined in s.
3 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

4 (b) If any violation under s. 346.19, 346.20, or 346.215 results in harm to a
5 vulnerable highway user, the amount of any forfeiture specified in subs. (1) to (3) for
6 the violation shall be doubled. If sub. (1) (b) applies with respect to the violation, the
7 doubling of the forfeiture under this subsection shall apply in addition to any
8 doubling under sub. (1) (b).

9 (c) If any violation under s. 346.18 or 346.21 results in harm to a vulnerable
10 highway user, the person who commits the violation is guilty of a Class I felony.

11 **SECTION 16.** 346.30 (5) of the statutes is created to read:

12 346.30 (5) (a) In this subsection, “harm” means bodily harm, as defined in s.
13 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

14 (b) If any violation under ss. 346.23 to 346.29 results in harm to a vulnerable
15 highway user, the amount of any forfeiture specified in subs. (1) to (4) for the violation
16 shall be doubled.

17 **SECTION 17.** 346.36 (3) of the statutes is created to read:

18 346.36 (3) (a) In this subsection, “harm” means bodily harm, as defined in s.
19 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

20 (b) If any violation under ss. 346.31 to 346.35 results in harm to a vulnerable
21 highway user, the amount of any forfeiture specified in subs. (1) and (2) for the
22 violation shall be doubled.

23 **SECTION 18.** 346.43 (4) of the statutes is created to read:

24 346.43 (4) (a) In this subsection, “harm” means bodily harm, as defined in s.
25 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

1 (b) If any violation under ss. 346.37 to 346.42 results in harm to a vulnerable
2 highway user, the amount of any forfeiture specified in subs. (1) to (3) for the violation
3 shall be doubled. If sub. (1) (b) 3. applies with respect to the violation, the doubling
4 of the forfeiture under this subsection shall apply in addition to any doubling under
5 sub. (1) (b) 3.

6 **SECTION 19.** 346.49 (5) of the statutes is created to read:

7 346.49 (5) (a) In this subsection, “harm” means bodily harm, as defined in s.
8 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

9 (b) If any violation under s. 346.44, 346.45, 346.455, 346.46, or 346.47 to 346.48
10 results in harm to a vulnerable highway user, the amount of any forfeiture specified
11 in subs. (1), (1g), (2), (2m), and (4) for the violation shall be doubled. If sub. (1) (c)
12 applies with respect to the violation, the doubling of the forfeiture under this
13 subsection shall apply in addition to any doubling under sub. (1) (c).

14 **SECTION 20.** 346.56 (5) of the statutes is created to read:

15 346.56 (5) (a) In this subsection, “harm” means bodily harm, as defined in s.
16 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

17 (b) If any violation under ss. 346.503 to 346.55 results in harm to a vulnerable
18 highway user, the amount of any forfeiture specified in subs. (1) to (4) for the violation
19 shall be doubled.

20 **SECTION 21.** 346.60 (6) of the statutes is created to read:

21 346.60 (6) (a) In this subsection, “harm” means bodily harm, as defined in s.
22 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

23 (b) If any violation under ss. 346.57 to 346.595 results in harm to a vulnerable
24 highway user, the amount of any forfeiture specified in subs. (1) to (5) for the violation
25 shall be doubled. If sub. (3m) applies with respect to the violation, the doubling of

1 the forfeiture under this subsection shall apply in addition to any doubling or other
2 penalty enhancement under sub. (3m).

3 **SECTION 22.** 346.65 (3) of the statutes is renumbered 346.65 (3) (a) and
4 amended to read:

5 346.65 (3) (a) Except as provided in par. (b) and sub. (5m), any person violating
6 s. 346.62 (3) shall be fined not less than \$300 nor more than \$2,000 and may be
7 imprisoned for not less than 30 days nor more than one year in the county jail.

8 **SECTION 23.** 346.65 (3) (b) of the statutes is created to read:

9 346.65 (3) (b) If the violation of s. 346.62 (3) causes bodily harm to a vulnerable
10 highway user, the person who commits the violation is guilty of a Class H felony.

11 **SECTION 24.** 346.65 (5) of the statutes is renumbered 346.65 (5) (a) and
12 amended to read:

13 346.65 (5) (a) Except as provided in par. (b) and sub. (5m), any person violating
14 s. 346.62 (4) is guilty of a Class I felony.

15 **SECTION 25.** 346.65 (5) (b) of the statutes is created to read:

16 346.65 (5) (b) If the violation of s. 346.62 (4) causes great bodily harm to a
17 vulnerable highway user, the person who commits the violation is guilty of a Class
18 H felony.

19 **SECTION 26.** 346.74 (7) of the statutes is created to read:

20 346.74 (7) (a) In this subsection, "harm" means bodily harm, as defined in s.
21 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

22 (b) If any violation under s. 346.67 or ss. 346.68 to 346.70 results in harm to
23 a vulnerable highway user, the amount of any forfeiture or fine specified in subs. (2)
24 to (5) or s. 939.50 for the violation shall be doubled.

25 **SECTION 27.** 346.82 (3) of the statutes is created to read:

1 346.82 (3) (a) In this subsection, “harm” means bodily harm, as defined in s.
2 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

3 (b) If any violation under ss. 346.77 to 346.805 results in harm to a vulnerable
4 highway user, the amount of any forfeiture specified in subs. (1) and (2) for the
5 violation shall be doubled.

6 **SECTION 28.** 346.95 (1) and (2) of the statutes are amended to read:

7 346.95 (1) Any Except as provided in sub. (12) (c), any person violating s.
8 346.87, 346.88, 346.89 (2) or (4), 346.90 to 346.92 or 346.94 (1), (9), (10), (11), (12) or
9 (15) may be required to forfeit not less than \$20 nor more than \$40 for the first offense
10 and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within
11 a year.

12 (2) Any Except as provided in sub. (12) (c), any person violating s. 346.89 (1)
13 or (3) (a) or 346.94 (2), (4), or (7) may be required to forfeit not less than \$20 nor more
14 than \$400.

15 **SECTION 29.** 346.95 (12) of the statutes is created to read:

16 346.95 (12) (a) In this subsection, “harm” means bodily harm, as defined in s.
17 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death.

18 (b) If any violation under ss. 346.87, 346.88, or 346.90 to 346.94 results in harm
19 to a vulnerable highway user, the amount of any forfeiture specified in subs. (1) to
20 (5e) and (6) to (11) for the violation shall be doubled.

21 (c) If any violation under s. 346.89 results in harm to a vulnerable highway
22 user, the person who commits the violation is guilty of a Class I felony.

23 **SECTION 30.** 349.06 (1) (a) of the statutes is amended to read:

24 349.06 (1) (a) Except for the suspension or revocation of motor vehicle
25 operator’s licenses or except as provided in par. (b), any local authority may enact and

1 enforce any traffic regulation which is in strict conformity with one or more
2 provisions of chs. 341 to 348 and 350 for which the penalty for violation thereof is a
3 forfeiture. If a local authority enacts a traffic regulation in strict conformity with any
4 provision of ch. 346 for which the penalty under ch. 346 is doubled if the violation
5 results in harm to a vulnerable highway user, the applicable penalty for the violation
6 under the ordinance shall also include the doubling of the forfeiture.

7 **SECTION 31.** 939.22 (44m) of the statutes is created to read:

8 939.22 (44m) “Vulnerable highway user” has the meaning given in s. 340.01
9 (74p).

10 **SECTION 32.** 940.25 (1b) of the statutes is created to read:

11 940.25 (1b) Any person who does any of the following is guilty of a Class H
12 felony:

13 (a) Causes bodily harm to a vulnerable highway user by the operation of a
14 vehicle while under the influence of an intoxicant.

15 (b) Causes bodily harm to a vulnerable highway user by the operation of a
16 vehicle while the person has a detectable amount of a restricted controlled substance
17 in his or her blood.

18 (c) Causes bodily harm to a vulnerable highway user by the operation of a
19 vehicle while the person has a prohibited alcohol concentration, as defined in s.
20 340.01 (46m).

21 (d) Causes bodily harm to a vulnerable highway user by the operation of a
22 commercial motor vehicle while the person has an alcohol concentration of 0.04 or
23 more but less than 0.08.

24 **SECTION 33.** 940.25 (1m) (a) of the statutes is amended to read:

1 940.25 (1m) (a) A person may be charged with and a prosecutor may proceed
2 upon an information based upon a violation of any combination of sub. (1) (a), (am),
3 or (b); any combination of sub. (1) (a), (am), or (bm); any combination of sub. (1) (c),
4 (cm), or (d); ~~or any combination of sub. (1) (c), (cm), or (e);~~ any combination of sub. (1b)
5 (a), (b), or (c); or any combination of sub. (1b) (a), (b), or (d) for acts arising out of the
6 same incident or occurrence.

7 **SECTION 34.** 940.25 (1m) (b) of the statutes is amended to read:

8 940.25 (1m) (b) If a person is charged in an information with any of the
9 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
10 971.12. If the person is found guilty of more than one of the crimes so charged for
11 acts arising out of the same incident or occurrence, there shall be a single conviction
12 for purposes of sentencing and for purposes of counting convictions under s. 23.33
13 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under ss. 343.30 (1q) and 343.305 or
14 under s. 350.11 (3) (a) 2. and 3. ~~Subsection~~ Subsections (1) (a), (am), (b), (bm), (c),
15 (cm), (d), and (e) and (1b) (a), (b), (c), and (d) each require proof of a fact for conviction
16 which the others do not require.

17 **SECTION 35.** 940.25 (2) (a) of the statutes is amended to read:

18 940.25 (2) (a) The defendant has a defense if he or she proves by a
19 preponderance of the evidence that the great bodily harm or bodily harm would have
20 occurred even if he or she had been exercising due care and he or she had not been
21 under the influence of an intoxicant, did not have a detectable amount of a restricted
22 controlled substance in his or her blood, or did not have an alcohol concentration
23 described under sub. (1) (b), (bm), (d) or (e) or (1b) (c) or (d).

24 **SECTION 36. Initial applicability.**

Basford, Sarah

From: Bruce, Cory
Sent: Tuesday, March 26, 2013 8:54 AM
To: LRB.Legal
Subject: Draft Review: LRB -1616/1 Topic: Creating penalty enhancements for traffic violations resulting in harm to vulnerable highway users; driver education courses

Please Jacket LRB -1616/1 for the ASSEMBLY.

Barman, Mike

From: Barman, Mike
Sent: Monday, April 01, 2013 1:55 PM
To: Bruce, Cory
Subject: RE: Rep. Bies: Request for FE on bill drafts

Good afternoon Cory,

I submitted an "Early FE" request for LRB-1424/1 and LRB-1616/1 to DOA for assignment.

You had already requested an "Early FE" for LRB-1641 on 03/07/2013 ... nothing back on that one yet (DOA assigned that one to DOC).

Please let me know if I can be of further assistance.

Mike Barman (Lead Program Assistant)

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office

1 East Main Street, Suite 200, Madison, WI 53703

(608) 266-3561 / mike.barman@legis.wisconsin.gov

From: Bruce, Cory
Sent: Monday, April 01, 2013 1:29 PM
To: Barman, Mike
Subject: Rep. Bies: Request for FE on bill drafts

Mike,
I'd like to request FE for the following bill drafts:

LRB 1424 – relating to technical college districts

LRB 1616 – Vulnerable Highway users

LRB 1641 – Reimbursement to counties and tribes for probation, extended supervision or parole revocation proceedings.

Please let me know if you have any questions.

Thanks,
Cory Bruce
Office of Rep. Bies