



**WISCONSIN LEGISLATIVE COUNCIL
ACT MEMO**

2005 Wisconsin Act 106
[2005 Assembly Bill 618]

**Child Safety Restraints, Booster
Seats, and Safety Belt Requirements**

2005 Wisconsin Act 106 makes various changes in current law relating to child safety restraint systems and safety belt use requirements in motor vehicles.

CHILD SAFETY RESTRAINT REQUIREMENTS

CURRENT LAW

Under current law, with certain exceptions:

1. No child **under the age of four years** may be transported in a motor vehicle unless that child is properly restrained **in a child safety restraint system (child safety seat)**. A person who fails to comply with the child safety seat requirement is subject to a forfeiture of not less than \$30 nor more than \$75. However, no forfeiture may be assessed if: (a) the vehicle was not equipped with a child safety seat at the time of the violation; and (b) the person provides proof that, within 30 days after the violation, a child safety seat was purchased or leased and properly installed in the vehicle.

2. No child **between the ages of four and eight years** may be transported in a motor vehicle unless that child is properly restrained **in a child safety seat or by a safety belt (seat belt)**. A person who fails to comply with the seat belt requirement is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$25 nor more than \$200.

2005 WISCONSIN ACT 106

Restraint Requirements

Act 106 creates a **tiered structure, according to age and size**, of restraint requirements for transporting children under the age of eight in a motor vehicle.

This memo provides a brief description of the Act. For more detailed information,
consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

Under the Act, a child who is:

1. **Less than one year old or who weighs less than 20 pounds** must be “properly restrained” (defined in the Act) in a rear-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.
2. **At least one year old and weighs at least 20 pounds but is less than four years old or weighs less than 40 pounds** must be properly restrained in a forward-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.
3. **At least four years old but less than eight years old, weighs at least 40 but not more than 80 pounds, and is no more than 57 inches tall** must be properly restrained in a “child booster seat” (defined in the Act).
4. **Under the age of eight and exceeds the weight or height limits specified in item 3., above**, must be properly restrained by a seat belt.

Children who are required to be in either a rear-facing or front-facing child safety seat are also required to be positioned at a designated seating position in the back passenger seat if the vehicle is equipped with a back passenger seat.

The Act prohibits a person from transporting a child under the age of eight in a motor vehicle unless: (1) the child is restrained as described above; and (2) the restraint system meets the standards established by the Department of Transportation (DOT) and is appropriate to the child’s age and size. Certain exceptions that apply under current law continue to apply to these requirements.

Penalties; “Warning Period” for Certain Offenses

Under Act 106, **the same penalty as under current law applies** with respect to violations involving, respectively, children under age four and children between the ages of four and eight. However, with respect to violations involving children under age four, the bill imposes **an additional requirement** for avoiding imposition of a forfeiture; namely, that the person has not been issued a uniform traffic citation for violation of the child safety restraint system requirements within the immediately preceding three years.

For the first six months after the enactment of the new law, a “Warning Period” is applicable to child safety seat or seat belt violations **involving a child who is at least 4 years old and less than eight years old** (i.e., ages four to seven). If a law enforcement officer has probable cause to believe that a person has committed a violation involving a child who is four to seven years old, the officer must issue to the person a written warning, but not a citation, for the violation if the person has not been found to have committed, or received a written warning for, a previous violation involving a child (who is four to seven years old) during this six-month period. Other violations are not included in the warning period (i.e., citations will be issued). The Act requires the officer to forward a copy of the warning to DOT. The DOT must maintain a record of the warning in the driver’s record file until the final day of the six-month period.

Exception Repealed

Under **current law**, there is an exception to the child safety restraint provisions specifying that a person other than the operator of a motor vehicle transporting a child required to be properly restrained

under those provisions may **temporarily remove** a child from a safety restraint system to attend to personal needs of the child under all of the statutorily specified circumstances. [s. 347.48 (4) (a) 3., Stats.] The new law repeals this exception in current law.

SEAT BELT LAW REQUIREMENTS

The Act makes modifications to the state's seat belt law as it relates to minor passengers.

Under **current law**, with specific exceptions, no person may drive a motor vehicle unless he or she reasonably believes that each passenger who is at least four years old and not more than 15 years old is properly restrained by a seat belt. [s. 347.48 (2m) (c), Stats.]

Under Act 106:

1. In order to conform to the age changes made in the Act to the child safety restraint law (set forth above), the minimum age for which the passenger safety belt requirements apply is increased from four years old to eight years old in s. 347.48 (2m) (c) and (d), Stats.

2. The phrases "he or she reasonably believes that" and "and not more than 15 years old" are deleted from s. 347.48 (2m) (c), Stats. With these changes, the provision will read: "If a motor vehicle is required to be equipped with safety belts in this state, no person may operate that motor vehicle unless each passenger who is at least 8 years old...is properly restrained."

3. The provision in current s. 347.48 (2m) (d), Stats., that specifies that passengers sitting in seats other than the front seat must be restrained only if the safety belt has a shoulder harness is changed to require such passengers to be properly restrained in all cases in which a safety belt is required to be installed at the seating position.

Effective Date: Act 106 takes effect on **June 1, 2006**.

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