



2011 ASSEMBLY BILL 711

March 15, 2012 – Introduced by Representatives KRUSICK, BERCEAU and RINGHAND.
Referred to Committee on Education.

1 **AN ACT** *to renumber* 343.12 (9); *to amend* 121.53 (4), 121.53 (6), 121.555 (1) (b),
2 340.01 (56) (a) 1., 341.03 (title), 341.03 (1) and 343.12 (4) (b); and *to create*
3 118.60 (10) (a) 9. and 10., 119.23 (10) (a) 9. and 10., 121.555 (2m), 343.12 (1m)
4 and 343.12 (9) (bm) of the statutes; **relating to:** the parental choice programs;
5 the operation of, and insurance requirements related to, school buses and
6 alternative methods of pupil transportation; and providing a penalty.

Analysis by the Legislative Reference Bureau

Transportation of pupils and insurance coverage

Under current law, every school board must require that a certificate of insurance is filed with the school board and the Department of Transportation (DOT) showing that an insurance policy has been procured and is in effect which covers the owner and operator of a school bus and the school board or the school board must procure an insurance policy and file the certificate with DOT. DOT may not issue registration plates for a school bus unless the certificate is on file with DOT. This insurance policy may not be canceled or terminated prior to its expiration unless notice of cancellation or termination is filed by the insurer with DOT and the school board at least ten days prior to the date of cancellation or termination. DOT must then revoke the registration of any school bus on which the policy has been canceled or terminated.

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Also under current law, a pupil who resides within the city of Milwaukee or in certain school districts (currently, only the Racine Unified School District) may, under certain conditions, attend a private school participating in a parental choice program (PCP) at state expense.

Under the bill, the same requirements that apply to a school board also apply to the governing body of a charter school and the governing body of a private school. The bill requires that the insurance policy procured by a school board, the governing body of a charter school, or the operator of a private school be in effect for the entire school year. With respect to a charter school or private school, the bill requires an insurer to provide ten days' notice to the Department of Public Instruction (DPI) if it cancels or terminates an insurance policy covering a school bus prior to the policy's expiration. The bill requires an insurer who provides this insurance coverage to a private school participating in a PCP to notify DPI of any change made to the policy. The bill also requires a private school participating in a PCP to immediately notify DPI that the school has received a notice of cancellation or termination from the insurer.

Under current law, a school board or the governing body of a private school may provide pupil transportation services by alternative methods. These alternative methods consist of a motor vehicle transporting nine or fewer passengers in addition to the operator, and a motor vehicle transporting ten or more passengers in addition to the operator when the secretary of transportation determines, at the request of the school board or governing body, that an emergency exists because no regular transportation is available. Current law requires, with certain exceptions, that motor vehicles used for alternative pupil transportation comply with the insurance requirements applicable to school buses.

The bill requires that a school board and the governing body of a private school file with DOT a certificate of insurance showing that the insurance policy applicable to a motor vehicle used as an alternative method of pupil transportation is in effect for the entire school year. The bill also requires an insurer to provide ten days' notice to DOT and the school board or governing body of a private school prior to the cancellation or termination of an insurance policy covering a motor vehicle used as an alternative method of pupil transportation. The bill requires an insurer who provides this insurance coverage to a school participating in a PCP to notify DPI of any change made to the policy. The bill also requires a private school participating in a PCP to immediately notify DPI that the school has received a notice of cancellation or termination from the insurer.

Exclusion of private schools from a PCP

Under current law, DPI may bar a private school from participating in a PCP if DPI determines that the private school has violated certain prohibitions. For example, a private school that fails to submit an independent financial audit of the school that has been conducted by a certified public accountant may be barred from participating in a PCP. The bill permits DPI to bar a school from participating in a PCP if the private school fails to procure and maintain insurance as required by DPI and under the bill.

ASSEMBLY BILL 711***School buses***

Under current law, a person may not operate a school bus without a school bus endorsement issued by DOT. A person may obtain a school bus endorsement to the person's regular motor vehicle operator's license if the person is to operate a school bus that is not a commercial motor vehicle (CMV) or to the person's commercial driver license (CDL) if the person is to operate a school bus that is a CMV.

Also under current law, an employer may not knowingly allow an employee to operate a CMV during any period of withdrawal of the employee's operating privileges or when the employee does not possess a valid CDL with any required endorsement. The employer also may not knowingly allow an employee to operate a CMV in violation of any law. A person who holds a CDL must report to his or her employer any conviction for a traffic violation within 30 days of the conviction and any withdrawal of operating privileges by the end of the day after the withdrawal. DOT maintains an employer notification program to permit an employer to register the name of a CDL-holding employee and be notified by DOT whenever a conviction or withdrawal of operating privileges is recorded on the employee's operating record.

Under the bill, an employer that employs any person as an operator of a school bus is responsible for determining that each such person is qualified to operate a school bus. This employer is also responsible for assuring that only employees so qualified operate the employer's school buses. If the employer employs any person holding a CDL to operate a school bus, the employer must participate in DOT's employer notification program. An employer that violates any of these requirements must forfeit not less than \$20 nor more than \$400.

Under current law, the definition of "school bus" includes a motor vehicle which carries ten or more passengers in addition to the driver or is painted in accordance with specifications established by statute and which is used for the purpose of transporting pupils to or from an elementary or high school supported by public taxation, a private school that meets criteria established by DPI, or, under certain conditions, a technical college. The bill changes the definition of "school bus" to explicitly include a motor vehicle that satisfies the above conditions and that is used for the purpose of transporting pupils to or from a charter school.

Also under current law, if a motor vehicle providing pupil transportation gets into an accident, the accident must be reported to the school board within ten days after its occurrence.

Under the bill, the accident must, if applicable, be reported to the governing body of a charter school or the governing body of a private school.

Under current law, a person may not operate or knowingly permit the operation of a motor vehicle if the registration for that vehicle is suspended, revoked, or canceled. A person who violates this prohibition may be required to forfeit not more than \$200 if the vehicle involved in the violation is an automobile or weighs 10,000 pounds or less and may be required to forfeit not more than \$500 if the vehicle involved is any other vehicle.

The bill specifically prohibits a person from operating or knowingly permitting the operation of a school bus, or motor vehicle used as an alternative method of pupil transportation, required to be covered by liability insurance unless such valid

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insurance is current on the school bus. A person who violates this prohibition may be required to forfeit not more than \$500.

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.** 118.60 (10) (a) 9. and 10. of the statutes are created to read:

2 118.60 **(10)** (a) 9. Failed to procure and maintain in effect the insurance
3 required under s. 121.53 (4) or 121.555 (2) (a).

4 10. Failed to procure and maintain in effect the insurance required by the
5 department by rule.

6 **SECTION 2.** 119.23 (10) (a) 9. and 10. of the statutes are created to read:

7 119.23 **(10)** (a) 9. Failed to procure and maintain in effect the insurance
8 required under s. 121.53 (4) or 121.555 (2) (a).

9 10. Failed to procure and maintain in effect the insurance required by the
10 department by rule.

11 **SECTION 3.** 121.53 (4) of the statutes is amended to read:

12 121.53 **(4)** Every school board, every governing body of a private school that
13 transports pupils or contracts for the transportation of pupils, and every governing
14 body of a charter school that transports pupils or contracts for the transportation of
15 pupils shall require that there be filed with it and with the department of
16 transportation a certificate of insurance showing that an insurance policy has been
17 procured and is in effect for the entire school year which covers the owner and
18 operator of the school bus and the school board governing body of the private school
19 or charter school, or shall procure an insurance policy and file such certificate with

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1 the department of transportation. Unless such certificate is on file with the
2 department of transportation, no registration plates for a school bus may be issued
3 by the department of transportation. No such policy may be terminated prior to its
4 expiration or canceled for any reason, unless a notice thereof is filed with the
5 department of transportation and with the school board or governing body of the
6 private school or charter school by the insurer at least 10 days prior to the date of
7 termination or cancellation. No such policy which covers a private school
8 participating in the program under s. 118.60 or 119.23 may be terminated prior to
9 its expiration or canceled for any reason, unless a notice thereof is also filed with the
10 department of public instruction by the insurer at least 10 days prior to the date of
11 termination or cancellation. An insurer that issues an insurance policy under this
12 section that covers a private school participating in the program under s. 118.60 or
13 119.23 shall notify the department of public instruction of any change made to the
14 policy. A private school participating in the program under s. 118.60 or 119.23 shall
15 immediately notify the department of public instruction that the school has received
16 a notice of termination or cancellation from the insurer. The department of
17 transportation shall revoke the registration of a school bus on which the policy has
18 been terminated or canceled, effective on the date of termination or cancellation.

19 **SECTION 4.** 121.53 (6) of the statutes is amended to read:

20 121.53 (6) Within 10 days after its occurrence, every accident involving a motor
21 vehicle while providing transportation under this subchapter shall be reported to the
22 appropriate school board or governing body of a private school or charter school.

23 **SECTION 5.** 121.555 (1) (b) of the statutes is amended to read:

24 121.555 (1) (b) A motor vehicle transporting 10 or more passengers in addition
25 to the operator and used temporarily to provide transportation for purposes specified

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1 under s. 340.01 (56) (a) when the school board or the governing body of the private
2 school requests the secretary of transportation to determine that an emergency
3 exists because no regular transportation is available. The secretary of
4 transportation shall approve or deny the request in writing. Any authorization
5 granted under this paragraph shall specify the purpose and need for the emergency
6 transportation service.

7 **SECTION 6.** 121.555 (2m) of the statutes is created to read:

8 121.555 (2m) Every school board and every governing body of a private school
9 that provides pupil transportation services under this section shall require that
10 there be filed with it and with the department of transportation a certificate of
11 insurance showing that the insurance policy required under sub. (2) has been
12 procured and is in effect for the entire school year which covers the owner and
13 operator of the motor vehicle and the school board or governing body of the private
14 school, or shall procure an insurance policy and file such certificate with the
15 department of transportation. No such policy may be terminated prior to its
16 expiration or canceled for any reason, unless a notice thereof is filed with the
17 department of transportation and the school board or the governing body of the
18 private school by the insurer at least 10 days prior to the date of termination or
19 cancellation. No such policy which covers a private school participating in the
20 program under s. 118.60 or 119.23 may be terminated prior to its expiration or
21 canceled for any reason, unless a notice thereof is also filed with the department of
22 public instruction by the insurer at least 10 days prior to the date of termination or
23 cancellation. An insurer that issues an insurance policy under this section that
24 covers a private school participating in the program under s. 118.60 or 119.23 shall
25 notify the department of public instruction of any change made to the policy. A

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1 private school participating in the program under s. 118.60 or 119.23 shall
2 immediately notify the department of public instruction that the school has received
3 a notice of termination or cancellation from the insurer.

4 **SECTION 7.** 340.01 (56) (a) 1. of the statutes is amended to read:

5 340.01 **(56)** (a) 1. Pupils to or from a public school as defined in s. 115.01 (1) ~~or~~,
6 a private school as defined in s. 115.001 (3r), a charter school as defined in s. 115.001
7 (1), or pupils to or from a technical college when required under s. 118.15 (1).

8 **SECTION 8.** 341.03 (title) of the statutes is amended to read:

9 **341.03** (title) **Operating vehicle after suspension, revocation, or**
10 **cancellation of registration or without required insurance.**

11 **SECTION 9.** 341.03 (1) of the statutes is amended to read:

12 341.03 **(1)** PROHIBITION. No person may operate or knowingly permit the
13 operation of a motor vehicle if the registration for that vehicle is suspended, revoked,
14 or canceled under s. 285.30 (6) (d) or 342.255, ch. 344 or this chapter, ~~or~~ if the
15 registration for that vehicle is suspended, canceled, or revoked under the law of
16 another jurisdiction, or, if required under s. 121.53 or 121.555 (2) (a), valid insurance
17 is not current on the vehicle.

18 **SECTION 10.** 343.12 (1m) of the statutes is created to read:

19 343.12 **(1m)** (a) An employer that employs any person as an operator of a school
20 bus is responsible for determining that each such person is qualified under this
21 section to operate a school bus and for assuring that only employees so qualified
22 operate the employer's school buses.

23 (b) If an employer employs any person holding a commercial driver license to
24 operate a school bus, the employer shall participate in the employer notification
25 program under s. 343.247.

