



2007 ASSEMBLY BILL 558

October 30, 2007 - Introduced by Representatives PRIDEMORE, ROTH, VUKMIR, LEMAHIEU, HAHN and NEWCOMER, cosponsored by Senators LAZICH, GROTHMAN and A. LASEE. Referred to Committee on Transportation.

1 **AN ACT** *to repeal* 347.48 (4) (ag), 347.48 (4) (as) (intro.), 1., 2., and 3. and 347.50
2 (3) (b) 3.; *to renumber and amend* 347.48 (4) (am) and 347.48 (4) (as) 4.; *to*
3 **amend** 343.32 (2) (bt), 347.48 (2m) (c), 347.48 (2m) (d), 347.48 (4) (b), 347.48
4 (4) (d), 347.50 (1), 347.50 (3) (a), 347.50 (3) (b) 1. and 2. and 347.50 (4); and *to*
5 **create** 347.48 (4) (a) 3. of the statutes; **relating to:** child safety restraint
6 systems and safety belt use requirements in motor vehicles.

Analysis by the Legislative Reference Bureau

Prior to the enactment of 2005 Wisconsin Act 106 (Act 106), with certain exceptions, no child under the age of four years could be transported in a motor vehicle unless that child was properly restrained in a child safety restraint system (child safety seat), and no child between the ages of four and eight years could be transported in a motor vehicle unless that child was properly restrained in a child safety seat or by a safety belt (seat belt).

Act 106, which is now current law, created a tiered structure, according to age and size, of restraint requirements for transporting children under the age of eight in a motor vehicle. A child who is:

1. Less than one year old or who weighs less than 20 pounds must be properly restrained 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

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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 between 40 and 80 pounds, and is no more than four feet nine inches tall must be properly restrained in a child booster seat.

4. Under the age of eight and exceeds the weight or height limits specified in item 3 must be properly restrained by a seat belt (as was current law before Act 106).

Under Act 106 and current law, with certain exceptions, a person may not transport a child under the age of eight in a motor vehicle unless the child is properly restrained as described above and the restraint system meets the standards established by the Department of Transportation (DOT) and is appropriate to the child's age and size.

Act 106 also made certain changes relating to the use of seat belts, including extending a vehicle operator's responsibility for passenger seat belt use to passengers who are 16 years old and to passengers in the back seat of the vehicle.

This bill repeals the provisions of Act 106 and restores to current law the applicable provisions as they existed prior to the enactment of Act 106.

For further information see the *state* 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.** 343.32 (2) (bt) of the statutes is amended to read:

2 343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit
3 points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) ~~(am)~~ (a).

4 **SECTION 2.** 347.48 (2m) (c) of the statutes is amended to read:

5 347.48 (2m) (c) If a motor vehicle is required to be equipped with safety belts
6 in this state, no person may operate that motor vehicle unless he or she reasonably
7 believes that each passenger who is at least ~~8~~ 4 years old and not more than 15 years
8 old and who is seated at a designated seating position in the front seat required under
9 49 CFR 571 to have a safety belt installed or at a designated seating position in the
10 seats, other than the front seats, for which a safety belt is required to be shoulder
11 harness has been installed is properly restrained.

12 **SECTION 3.** 347.48 (2m) (d) of the statutes is amended to read:

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1 347.48 **(2m)** (d) If a motor vehicle is required to be equipped with safety belts
2 in this state, no person who is at least 8 4 years old and who is seated at a designated
3 seating position in the front seat required under 49 CFR 571 to have a safety belt
4 installed or at a designated seating position in the seats, other than the front seats,
5 for which a ~~safety belt is required to be~~ shoulder harness has been installed may be
6 a passenger in that motor vehicle unless the person is properly restrained.

7 **SECTION 4.** 347.48 (4) (a) 3. of the statutes is created to read:

8 347.48 **(4)** (a) 3. Notwithstanding subds. 1. and 2., a person other than the
9 operator of a motor vehicle transporting a child required to be properly restrained
10 under subd. 1. or 2. may temporarily remove a child from a safety restraint system
11 to attend to the personal needs of the child under all of the following conditions:

- 12 a. When the child safety restraint system is attached to a back passenger seat.
13 b. When the person attending to the child's personal needs is seated in a back
14 passenger seat.
15 c. When the person physically restrains the child while attending to the child's
16 personal needs.

17 **SECTION 5.** 347.48 (4) (ag) of the statutes is repealed.

18 **SECTION 6.** 347.48 (4) (am) of the statutes is renumbered 347.48 (4) (a) 1. and
19 amended to read:

20 347.48 **(4)** (a) 1. No person may transport a child under the age of 8 4 in a motor
21 vehicle unless the child is properly restrained ~~in compliance with par. (as) in a child~~
22 ~~safety restraint system that is appropriate to the child's age and size and that meets~~
23 ~~the standards established~~ approved by the department under this paragraph. In this
24 ~~subdivision, "properly restrained" means fastened in a manner prescribed by the~~
25 ~~manufacturer of the system which permits the system to act as a body restraint but~~

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1 does not include a system in which the only body restraint is a safety belt of the type
2 required under sub. (1). The department shall, by rule, establish standards in
3 compliance with applicable federal standards, ~~including standards under 49 CFR~~
4 ~~571.213,~~ for approved types of child safety restraint systems for those child restraint
5 systems purchased after November 1, 1982.

6 **SECTION 7.** 347.48 (4) (as) (intro.), 1., 2., and 3. of the statutes are repealed.

7 **SECTION 8.** 347.48 (4) (as) 4. of the statutes is renumbered 347.48 (4) (a) 2. and
8 amended to read:

9 347.48 (4) (a) 2. ~~Subject to subds. 1. to 3., if the~~ No person may transport a child
10 who is at least 4 years old but less than 8 years old, in a motor vehicle unless the child
11 shall be is properly restrained in a child safety restraint system approved by the
12 department under subd. 1. or in a safety belt approved by the department under sub.
13 (2). In this subdivision, "properly restrained" means fastened in a manner
14 prescribed by the manufacturer of the system which permits the system to act as a
15 body restraint.

16 **SECTION 9.** 347.48 (4) (b) of the statutes is amended to read:

17 347.48 (4) (b) The department may, by rule, exempt from the requirements
18 under pars. ~~(am) and (as)~~ par. (a) any child who because of a physical or medical
19 condition or body size cannot be placed in a child safety restraint system, ~~child~~
20 ~~booster seat,~~ or safety belt.

21 **SECTION 10.** 347.48 (4) (d) of the statutes is amended to read:

22 347.48 (4) (d) Evidence of compliance or failure to comply with pars. ~~(am) and~~
23 ~~(as)~~ par. (a) is admissible in any civil action for personal injuries or property damage
24 resulting from the use or operation of a motor vehicle but failure to comply with pars.
25 ~~(am) and (as)~~ par. (a) does not by itself constitute negligence.

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1 **SECTION 11.** 347.50 (1) of the statutes is amended to read:

2 347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.385 (5), s.
3 347.413 (1) or s. 347.415 (1m), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475 or s.
4 347.48 (2m) or (4) (a) or s. 347.489, may be required to forfeit not less than \$10 nor
5 more than \$200.

6 **SECTION 12.** 347.50 (3) (a) of the statutes is amended to read:

7 347.50 (3) (a) Any person violating s. 347.48 (4) ~~(am)~~ (a) 1. may be required to
8 forfeit not less than \$30 nor more than \$75 ~~if the child is less than 4 years old.~~

9 **SECTION 13.** 347.50 (3) (b) 1. and 2. of the statutes are amended to read:

10 347.50 (3) (b) 1. The motor vehicle was not equipped with a child safety
11 restraint system meeting the requirements under s. 347.48 (4) ~~(am)~~ (a) 1. at the time
12 the uniform traffic citation was issued.

13 2. The person provides proof that, within 30 days after the uniform traffic
14 citation was issued, a child safety restraint system meeting the requirements under
15 s. 347.48 (4) ~~(am)~~ (a) 1. was purchased or leased and properly installed in the motor
16 vehicle.

17 **SECTION 14.** 347.50 (3) (b) 3. of the statutes is repealed.

18 **SECTION 15.** 347.50 (4) of the statutes is amended to read:

19 347.50 (4) Any person violating s. 347.48 (4) ~~(am)~~ (a) 2. may be required to
20 forfeit not less than \$10 nor more than \$25 for the first offense ~~if the child is at least~~
21 ~~4 years old and less than 8 years old.~~ For a 2nd or subsequent conviction within 3
22 years ~~involving a child who is at least 4 years old and less than 8 years old,~~ a person
23 may be required to forfeit not less than \$25 nor more than \$200.

24 **SECTION 16. Initial applicability.**

