



## 2005 SENATE BILL 344

September 22, 2005 - Introduced by Senators COGGS, RISSER, CARPENTER, PLALE, ROESSLER and TAYLOR, cosponsored by Representatives YOUNG, AINSWORTH, ALBERS, BERCEAU, CULLEN, FIELDS, GRIGSBY, HAHN, OTT, SHERIDAN, SINICKI, TURNER, UNDERHEIM, A. WILLIAMS and ZEPNICK. Referred to Committee on Natural Resources and Transportation.

1     **AN ACT to amend** 48.657 (1) (a), 48.657 (1) (b), 48.657 (2g), 48.715 (2) (c), 48.715  
2           (2) (d), 48.715 (2) (f), 48.715 (3) (intro.), 48.715 (4) (a), 48.715 (4) (b) and 48.715  
3           (4) (d); and **to create** 48.658 of the statutes; **relating to:** requiring certain  
4           vehicles that are used to transport children to and from a child care provider  
5           to have child safety alarms installed, granting rule-making authority,  
6           extending the time limit for emergency rule procedures, providing an  
7           exemption from emergency rule procedures, and providing a penalty.

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### ***Analysis by the Legislative Reference Bureau***

Under current Department of Health and Family Services (DHFS) and Department of Workforce Development (DWD) administrative rules, a child may not be left unattended in a vehicle that is used to transport children to or from a day care center that is licensed by DHFS, a day care provider that is certified according to standards adopted by DWD, or a day care program that is established or contracted for by a school board (child care provider).

This bill requires a child care provider or contractor of a child care provider that is the owner or lessee of a vehicle that has a seating capacity of six or more passengers in addition to the driver and that is used to transport children to and from the child care provider (child care vehicle) to have an alarm system that prompts the driver of the child care vehicle to inspect the child care vehicle for children before exiting

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the child care vehicle (child safety alarm) and that is approved by DHFS installed in the child care vehicle before the child care vehicle is placed in service. The bill, however, grants to a child care provider or contractor of a child care provider that is the owner or lessee of a child care vehicle that is in use before the effective date of the bill a grace period of three months after the effective date of the bill to install a child safety alarm as required by the bill. Under the bill, any person who knowingly transports a child, and any child care provider or contractor of a child care provider that is the owner or lessee of a child care vehicle who knowingly permits a child to be transported, to or from a child care provider in a child care vehicle in which a child safety alarm has not been installed, is not properly maintained, or is not in good working order may be fined not more than \$1,000 or imprisoned for not more than one year in the county jail or both.

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.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 48.657 (1) (a) of the statutes is amended to read:

2           48.657 (1) (a) Violations of statutes, rules promulgated by the department  
3 under s. 48.658 (4) (a) or 48.67, or provisions of licensure under s. 48.70 (1) by the day  
4 care center. In providing information under this paragraph, the department may not  
5 disclose the identity of any employee of the day care center.

6           **SECTION 2.** 48.657 (1) (b) of the statutes is amended to read:

7           48.657 (1) (b) A telephone number at the department that a person may call  
8 to complain of any alleged violation of a statute, rule promulgated by the department  
9 under s. 48.658 (4) (a) or 48.67, or provision of licensure under s. 48.70 (1) by the day  
10 care center.

11           **SECTION 3.** 48.657 (2g) of the statutes is amended to read:

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1           48.657 **(2g)** If the report under sub. (1) indicates that the day care center is in  
2 violation of a statute, a rule promulgated by the department under s. 48.658 (4) (a)  
3 or 48.67, or a provision of licensure under s. 48.70 (1), the day care center shall post  
4 with the report any notices received from the department relating to that violation.

5           **SECTION 4.** 48.658 of the statutes is created to read:

6           **48.658 Child safety alarms in child care vehicles. (1) DEFINITIONS.** In this  
7 section:

8           (a) “Child care provider” means a day care center that is licensed under s. 48.65  
9 (1), a day care provider that is certified under s. 48.651, or a day care program that  
10 is established or contracted for under s. 120.13 (14).

11           (b) “Child care vehicle” means a vehicle that has a seating capacity of 6 or more  
12 passengers in addition to the driver, that is owned or leased by a child care provider  
13 or a contractor of a child care provider, and that is used to transport children to and  
14 from the child care provider.

15           (c) “Child safety alarm” means an alarm system that prompts the driver of a  
16 child care vehicle to inspect the child care vehicle for children before exiting the child  
17 care vehicle.

18           **(2) CHILD SAFETY ALARMS REQUIRED.** Before a child care vehicle is placed in  
19 service, the child care provider or contractor of a child care provider that is the owner  
20 or lessee of the child care vehicle shall have a child safety alarm that is approved by  
21 the department under sub. (4) (b) installed in the child care vehicle. A person who  
22 is required under this subsection to have an approved child safety alarm installed  
23 in a child care vehicle shall ensure that the child safety alarm is properly maintained  
24 and in good working order each time the child care vehicle is used for transporting  
25 children to or from a child care provider.

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1           **(3) VIOLATION.** (a) No person may knowingly transport a child, and no child care  
2 provider or contractor of a child care provider that is the owner or lessee of a child  
3 care vehicle may knowingly permit a child to be transported, to or from a child care  
4 provider in a child care vehicle in which a child safety alarm has not been installed,  
5 is not properly maintained, or is not in good working order.

6           (b) In addition to the sanctions and penalties specified in s. 48.715, any person  
7 who violates par. (a) may be fined not more than \$1,000 or imprisoned for not more  
8 than one year in the county jail or both.

9           **(4) RULES; APPROVAL OF CHILD SAFETY ALARMS.** (a) The department of health and  
10 family services shall promulgate rules to implement this section with respect to day  
11 care centers licensed under s. 48.65 (1) and day care programs established or  
12 contracted for under s. 120.13 (14). The department of workforce development shall  
13 promulgate rules to implement this section with respect to day care providers  
14 certified under s. 48.651.

15           (b) The department of health and family services shall maintain a list of child  
16 safety alarms that are approved by that department for use in a child care vehicle.  
17 Notwithstanding s. 227.10 (1), that list need not be promulgated as rules under ch.  
18 227.

19           **SECTION 5.** 48.715 (2) (c) of the statutes is amended to read:

20           48.715 (2) (c) That a licensee stop violating any provision of licensure under s.  
21 48.70 (1) or ~~rules~~ rule promulgated by the department under s. 48.658 (4) (a) or 48.67.

22           **SECTION 6.** 48.715 (2) (d) of the statutes is amended to read:

23           48.715 (2) (d) That a licensee submit a plan of correction for violation of any  
24 provision of licensure under s. 48.70 (1) or rule promulgated by the department under  
25 s. 48.658 (4) (a) or 48.67.

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1           **SECTION 7.** 48.715 (2) (f) of the statutes is amended to read:

2           48.715 **(2)** (f) That a licensee close the intake of any new children until all  
3           violations of the provisions of licensure under s. 48.70 (1) and the rules promulgated  
4           by the department under s. 48.658 (4) (a) or 48.67 are corrected.

5           **SECTION 8.** 48.715 (3) (intro.) of the statutes is amended to read:

6           48.715 **(3)** (intro.) If the department provides written notice of the grounds for  
7           a penalty, an explanation of the types of penalties that may be imposed under this  
8           subsection, and an explanation of the process for appealing a penalty imposed under  
9           this subsection, the department may impose any of the following penalties against  
10          a licensee or any other person who violates a provision of licensure under s. 48.70 (1)  
11          or rule promulgated by the department under s. 48.658 (4) (a) or 48.67 or who fails  
12          to comply with an order issued under sub. (2) by the time specified in the order:

13          **SECTION 9.** 48.715 (4) (a) of the statutes is amended to read:

14          48.715 **(4)** (a) The department has imposed a penalty on the licensee under sub.  
15          (3) and the licensee or a person under the supervision of the licensee either continues  
16          to violate or resumes violation of a rule promulgated under s. 48.658 (4) (a) or 48.67,  
17          a provision of licensure under s. 48.70 (1), or an order under this section forming any  
18          part of the basis for the penalty.

19          **SECTION 10.** 48.715 (4) (b) of the statutes is amended to read:

20          48.715 **(4)** (b) The licensee or a person under the supervision of the licensee has  
21          committed a substantial violation, as determined by the department, of a rule  
22          promulgated under s. 48.658 (4) (a) or 48.67, a provision of licensure under s. 48.70  
23          (1), or an order under this section.

24          **SECTION 11.** 48.715 (4) (d) of the statutes is amended to read:

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1           48.715 (4) (d) The licensee or a person under the supervision of the licensee has  
2 violated, as determined by the department, a rule promulgated under s. 48.658 (4)  
3 (a) or 48.67, a provision of licensure under s. 48.70 (1), or an order under this section  
4 that is the same as or similar to a rule promulgated under s. 48.658 (4) (a) or 48.67,  
5 a provision of licensure under s. 48.70 (1), or an order under this section that the  
6 licensee or a person under the supervision of the licensee has violated previously.

**SECTION 12. Nonstatutory provisions.**

8           (1) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES; RULES.

9           (a) *Proposed rules.* The department of health and family services and the  
10 department of workforce development shall submit in proposed form the rules  
11 required under section 48.658 (4) (a) of the statutes, as created by this act, to the  
12 legislative council staff under section 227.15 (1) of the statutes no later than the first  
13 day of the 6th month beginning after the effective date of this subsection.  
14 Notwithstanding section 227.137 (2) of the statutes, the secretary of administration  
15 may not require the department of workforce development to prepare an economic  
16 impact report for the rules required under section 48.658 (4) (a) of the statutes, as  
17 created by this act.

18           (b) *Emergency rules.* Using the procedure under section 227.24 of the statutes,  
19 the department of health and family services and the department of workforce  
20 development may promulgate as emergency rules the rules required under section  
21 48.658 (4) (a) of the statutes, as created by this act, for the period before the effective  
22 date of the rules submitted under paragraph (a). Notwithstanding section 227.24 (1)  
23 (c) and (2) of the statutes, emergency rules promulgated under this paragraph  
24 remain in effect until the date on which the rules submitted under paragraph (a) take  
25 effect. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department

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1 of health and family services and the department of workforce development are not  
2 required to provide evidence that promulgating a rule under this paragraph as an  
3 emergency rule is necessary for the preservation of public peace, health, safety, or  
4 welfare and is not required to provide a finding of emergency for a rule promulgated  
5 under this paragraph.

6 (2) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES; GRACE PERIOD.  
7 Notwithstanding section 48.658 (2) of the statutes, as created by this act, a child care  
8 provider, as defined in section 48.658 (1) (a) of the statutes, as created by this act, or  
9 a contractor of a child care provider that is the owner or lessee of a child care vehicle,  
10 as defined in section 48.658 (1) (b) of the statutes, as created by this act, that is used  
11 to transport children to and from a child care provider, as defined in section 48.658  
12 (1) (a) of the statutes, as created by this act, on the day before the effective date of  
13 this subsection shall have a child safety alarm, as defined in section 48.658 (1) (c) of  
14 the statutes, as created by this act, that is approved by the department of health and  
15 family services under section 48.658 (4) (b) of the statutes, as created by this act,  
16 installed in the child care vehicle by a qualified technician or mechanic by the first  
17 day of the 3rd month beginning after the effective date of this subsection.

18 **SECTION 13. Initial applicability.**

19 (1) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES. Except as provided in  
20 subsection (2), this act first applies to a child care vehicle, as defined in section 48.658  
21 (1) (b) of the statutes, as created by this act, that is used to transport children to or  
22 from a child care provider, as defined in section 48.658 (1) (a) of the statutes, as  
23 created by this act, on the effective date of this subsection.

24 (2) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES; GRACE PERIOD. This act first  
25 applies to a child care vehicle, as defined in section 48.658 (1) (b) of the statutes, as

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1 created by this act, described in SECTION 12 (2) of this act that is used to transport  
2 children to or from a child care provider, as defined in section 48.658 (1) (a) of the  
3 statutes, as created by this act, on the first day of the 3rd month beginning after the  
4 effective date of this subsection.

5 **SECTION 14. Effective dates.** This act takes effect on the first day of the 12th  
6 month beginning after publication, except as follows:

7 (1) RULES. SECTION 12 (1) of this act takes effect on the day after publication.

8 (END)