



## 2007 SENATE BILL 355

December 13, 2007 - Introduced by Senators A. LASEE, COWLES, BRESKE, DARLING, HANSEN, CARPENTER, SCHULTZ, RISSER, ELLIS, OLSEN and TAYLOR, cosponsored by Representatives BIES, A. OTT, WASSERMAN, ALBERS, NELSON, MUSSER, STASKUNAS, HAHN, NERISON, BERCEAU, VAN ROY and NYGREN. Referred to Committee on Transportation and Tourism.

1     **AN ACT** *to create* 346.89 (3) and 346.95 (10) of the statutes; **relating to:**  
2             restrictions on the operation of motor vehicles by persons using electronic text  
3             messaging devices and providing a penalty.

---

### *Analysis by the Legislative Reference Bureau*

Current law prohibits inattentive driving, which means that a driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle. Any person convicted of inattentive driving may be required to forfeit not less than \$20 nor more than \$400.

This bill prohibits the use of an electronic text messaging device by anyone who is operating a motor vehicle in this state. An "electronic text messaging device" is defined as a cellular telephone, personal digital assistant, portable or mobile computer while being used for purposes of text communications, or other electronic device capable of being used to record text communications or to transmit or receive text communications with one or more other persons. The definition of electronic text messaging device does not include devices that transmit or receive emergency alert messages or messages relating to the operation of the vehicle or an accessory that is integrated into the electrical system of a vehicle, including non-portable global positioning system devices. The bill provides an exception to this prohibition for persons operating authorized emergency vehicles. The prohibition applies regardless of whether use of the electronic text messaging device interferes with operation of the vehicle. Persons who violate this prohibition may be required to forfeit not less than \$100 nor more than \$400 for a first offense, and not less than

**SENATE BILL 355**

\$200 nor more than \$800 for a second or subsequent offense within one year. Persons who, in the course of using an electronic text messaging device while operating a motor vehicle, cause an accident resulting in bodily harm to another person must be fined not less than \$300 nor more than \$2,000 or be imprisoned for not more than 30 days in the county jail, or both. Persons who, in the course of using an electronic text messaging device while operating a motor vehicle, cause an accident resulting in great bodily harm to another person must be fined not less than \$300 nor more than \$2,000 or be imprisoned for not less than 30 days nor more than one year in the county jail, or both. If persons who, in the course of using an electronic text messaging device while operating a motor vehicle cause an accident resulting in the death of another person or in the death of an unborn child, the person is guilty of a Class G felony, which is punishable by a fine not to exceed \$25,000 or imprisonment not to exceed ten years, or both.

---

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

1           **SECTION 1.** 346.89 (3) of the statutes is created to read:

2           346.89 (3) (a) In this subsection, “electronic text messaging device” means any  
3           electronic device, including a cellular telephone, personal digital assistant, or  
4           portable or mobile computer while being used for purposes of text communication,  
5           that is capable of receiving or transmitting a text message, electronic mail, or other  
6           text communications to one or more other persons, but does not include any device  
7           whose primary function is transmitting and receiving emergency alert messages and  
8           messages related to the operation of the vehicle or an accessory that is integrated into  
9           the electrical system of a vehicle, including a global positioning system device.

10           (b) No person may operate, as defined in s. 343.305 (1) (c), any motor vehicle  
11           while viewing, transmitting information into, or otherwise operating an electronic  
12           text messaging device.

13           (c) This subsection does not apply to operators of authorized emergency  
14           vehicles.

15           **SECTION 2.** 346.95 (10) of the statutes is created to read:

**SENATE BILL 355**

1           346.95 (10) (a) In this subsection:

2           1. "Bodily harm" has the meaning given in s. 939.22 (4).

3           2. "Great bodily harm" has the meaning given in s. 939.22 (14).

4           (b) Except as provided in pars. (c) to (f), any person violating s. 346.89 (3) (b)  
5           may be required to forfeit not less than \$100 nor more than \$400 for the first offense  
6           and not less than \$200 nor more than \$800 for the 2nd or subsequent conviction.

7           (c) Any person who, in the course of a violation of s. 346.89 (3) (b), causes bodily  
8           harm to another person shall be fined not less than \$300 nor more than \$2,000 or be  
9           imprisoned for not more than 30 days in the county jail, or both.

10          (d) Any person who, in the course of a violation of s. 346.89 (3) (b), causes great  
11          bodily harm to another person shall be fined not less than \$300 nor more than \$2,000  
12          or be imprisoned for not less than 30 days nor more than one year in the county jail,  
13          or both.

14          (e) Any person who, in the course of a violation of s. 346.89 (3) (b), causes the  
15          death of another person shall be guilty of a Class G felony.

16          (f) Any person who, in the course of a violation of s. 346.89 (3) (b), causes the  
17          death of an unborn child shall be guilty of a Class G felony.

18                **SECTION 3. Effective date.**

19           (1) This act takes effect on the first day of the 7th month beginning after  
20           publication.

21

(END)