



2003 ASSEMBLY BILL 199

March 25, 2003 - Introduced by Representatives J. LEHMAN, ALBERS, BERCEAU, BIES, GIELOW, HINES, KERKMAN, LADWIG, MILLER, MONTGOMERY, OTT, POPE-ROBERTS, STONE, WASSERMAN, J. WOOD and ZEPNICK, cosponsored by Senators HANSEN and ROESSLER. Referred to Committee on Highway Safety.

1 **AN ACT to renumber and amend** 346.65 (2) (f) and 346.65 (2j) (d); and **to create**
2 346.65 (2) (f) 1. and 346.65 (2j) (d) 1. of the statutes; **relating to:** intoxicated
3 operation of a motor vehicle with a minor passenger in the vehicle and providing
4 a penalty.

Analysis by the Legislative Reference Bureau

Under current law, no person may operate a motor vehicle while under the influence of an intoxicant, a controlled substance, or a controlled substance analog, or any combination of an intoxicant, a controlled substance, or a controlled substance analog, or while having a prohibited alcohol concentration (OWI). The penalty for a first OWI offense is a forfeiture of not less than \$150 nor more than \$300, with no period of imprisonment for a first offense (a civil penalty). If a person had a minor passenger in his or her motor vehicle when he or she committed the OWI, the applicable forfeiture is doubled.

This bill changes the penalty for a first OWI offense if the person had a minor passenger under 16 years of age in his or her vehicle when he or she committed the offense to a criminal penalty of a fine of not less than \$300 nor more than \$600 and imprisonment for not less than five days nor more than six months.

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.

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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.** 346.65 (2) (f) of the statutes is renumbered 346.65 (2) (f) 2. and
2 amended to read:

3 346.65 (2) (f) 2. If there was a minor passenger under 16 years of age in the
4 motor vehicle at the time of the violation that gave rise to the conviction under s.
5 346.63 (1), the applicable minimum and maximum ~~forfeitures, fines or~~ and
6 imprisonment under par. ~~(a),~~ (b), (c), (d), or (e) for the conviction are doubled. An
7 offense under s. 346.63 (1) that subjects a person to a penalty under par. (c), (d), or
8 (e) when there is a minor passenger under 16 years of age in the motor vehicle is a
9 felony and the place of imprisonment shall be determined under s. 973.02.

10 **SECTION 2.** 346.65 (2) (f) 1. of the statutes is created to read:

11 346.65 (2) (f) 1. If there was a minor passenger under 16 years of age in the
12 motor vehicle at the time of the violation that gave rise to the conviction under s.
13 346.63 (1), the person shall be fined not less than \$300 nor more than \$600 and
14 imprisoned for not less than 5 days nor more than 6 months, except as provided in
15 subd. 2.

16 **SECTION 3.** 346.65 (2j) (d) of the statutes is renumbered 346.65 (2j) (d) 2. and
17 amended to read:

18 346.65 (2j) (d) 2. If there was a minor passenger under 16 years of age in the
19 commercial motor vehicle at the time of the violation that gave rise to the conviction
20 under s. 346.63 (5), the applicable minimum and maximum ~~forfeitures, fines or~~ and
21 imprisonment under par. ~~(a),~~ (b) or (c) for the conviction are doubled. An offense

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1 under s. 346.63 (5) that subjects a person to a penalty under par. (c) when there is
2 a minor passenger under 16 years of age in the commercial motor vehicle is a felony
3 and the place of imprisonment shall be determined under s. 973.02.

4 **SECTION 4.** 346.65 (2j) (d) 1. of the statutes is created to read:

5 346.65 (2j) (d) 1. If there was a minor passenger under 16 years of age in the
6 commercial motor vehicle at the time of the violation that gave rise to the conviction
7 under s. 346.63 (5), the person shall be fined not less than \$300 nor more than \$600
8 and imprisoned for not less than 5 days nor more than 6 months, except as provided
9 in subd. 2.

10 **SECTION 5. Initial applicability.**

11 (1) This act first applies to violations committed on the effective date of this
12 subsection, but does not preclude the counting of other convictions, suspensions, or
13 revocations as prior convictions, suspensions, or revocations for purposes of
14 administrative action by the department of transportation or sentencing by a court.

15 (END)