

1987 Wisconsin Act 132

AN ACT to amend 343.32 (2) (bt), 347.48 (1), 347.48 (3) and 347.50 (1); and to create 343.32 (2) (bu), 345.225, 347.48 (2m), 347.48 (3m), 347.50 (1m) and 347.50 (2m) of the statutes, relating to requiring motor vehicle operators and passengers to wear safety belts, granting rule-making authority, providing for studies and providing a penalty.

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

SECTION 1. Legislative intent. It is the intent of the legislature to promote the safety of the traveling public and reduce the number of deaths and injuries resulting from traffic accidents by requiring the use of safety belts. This requirement is not intended to be a disincentive to requiring the installation of automatic occupant restraints under federal regulations. This requirement, therefore, is not intended to be counted by the U.S. secretary of transportation as a mandatory safety belt use law under 49 CFR 571.208 S4.1.5 whose adoption would affect the applicability of federal automatic occupant restraint requirements.

SECTION 1m. 343.32 (2) (bt) of the statutes is amended to read:

343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit points for a violation of s. 347.48 (2m) (b), (c) or (d) or (4) (a). This paragraph does not apply after June 30, 1989; or the first day of the first month commencing after the secretary of transportation certifies to the governor and the revisor of statutes that state mandatory safety belt usage laws meeting the criteria under 49 CFR 571.208 S4.1.5 have been enacted which would, with the inclusion of 1987 Wisconsin Act (this act), be applicable to not less than two-thirds of the population of the United States, based on the 1980 federal census of population; whichever is earlier.

SECTION 2. 343.32 (2) (bu) of the statutes is created to read:

343.32 (2) (bu) The scale adopted by the secretary may not assess any demerit points for a violation of s. 347.48 (4) (a). This paragraph applies after June 30, 1989; or the first day of the first month commencing after the secretary of transportation certifies to the governor and the revisor of statutes that state mandatory safety belt usage laws meeting the criteria under 49 CFR 571.208 S4.1.5 have been enacted which would, with the inclusion of 1987 Wisconsin Act (this act), be applicable to not less than two-thirds of the population of the United States, based on the 1980 federal census of population; whichever is earlier.

SECTION 2m. 345.225 of the statutes is created to read:

345.225 Authority to arrest for safety belt violations limited. Notwithstanding s. 345.22, a person may not be arrested solely for violating a traffic regulation under s. 347.48 (1), (2) or (2m). This section does not apply after June 30, 1989.

SECTION 3. 347.48 (1) of the statutes is amended to read:

347.48 (1) **SAFETY BELTS REQUIRED.** It is unlawful for any person to buy, sell, lease, trade or transfer a motor vehicle at retail from or to Wisconsin residents ~~at retail an automobile, which is manufactured or assembled commencing with the 1962 models,~~ unless such vehicle is equipped with safety belts installed for use ~~in the left front and right front seats thereof as~~ required under 49 CFR 571, and no such vehicle shall be operated in this state unless such belts remain installed.

SECTION 4. 347.48 (2m) of the statutes is created to read:

347.48 (2m) **REQUIRED USE.** (a) In this subsection, "properly restrained" means wearing a safety belt approved by the department under sub. (2) and fastened in a manner prescribed by the manufacturer of the safety belt which permits the safety belt to act as a body restraint.

(b) If a motor vehicle is required to be equipped with safety belts in this state, no person may operate that motor vehicle unless the person is properly restrained in a safety belt.

(c) If a motor vehicle is required to be equipped with safety belts in this state, no person may operate that motor vehicle unless he or she reasonably believes that each passenger who is at least 4 years old and not more than 15 years old and who is seated at a designated seating position required under 49 CFR 571 to have a safety belt installed is properly restrained.

(d) If a motor vehicle is required to be equipped with safety belts in this state, no person who is at least 4 years old and who is seated at a designated seating position required under 49 CFR 571 to have a safety belt installed may be a passenger in that motor vehicle unless the person is properly restrained.

(dm) Paragraphs (b) and (c) do not apply to the operation of an authorized emergency vehicle by a law enforcement officer under circumstances in which

compliance could endanger the safety of the operator or another.

(dr) Paragraph (b) does not apply to the operator of a vehicle while on a route which requires the operator to make more than 10 stops per mile involving an exit from the vehicle in the scope of his or her employment. Paragraph (d) does not apply to a passenger while on a route which requires the passenger to make more than 10 stops per mile involving an exit from the vehicle in the scope of his or her employment.

(e) The department shall, by rule, exempt from the requirements under pars. (b) to (d) persons who, because of a physical or medical condition, cannot be properly restrained in a safety belt.

(f) 1. This subsection does not apply if the motor vehicle is a taxicab or is not required to be equipped with safety belts under sub. (1) or 49 CFR 571.

2. This subsection does not apply to a privately owned motor vehicle while being operated by a rural letter carrier for the delivery of mail or while being operated by a delivery person for the delivery of newspapers or periodicals.

3. This subsection does not apply to a motor vehicle while being operated by a land surveying crew while conducting a land survey along or upon the highway.

7. This subsection does not apply to a farm truck or dual purpose farm truck while being used in conjunction with the planting or harvesting of crops and not being operated upon the highway.

(g) Evidence of compliance or failure to comply with par. (b), (c) or (d) is admissible in any civil action for personal injuries or property damage resulting from the use or operation of a motor vehicle. Notwithstanding s. 895.045, with respect to injuries or damages determined to have been caused by a failure to comply with par. (b), (c) or (d), such a failure shall not reduce the recovery for those injuries or damages by more than 15%. This paragraph does not affect the determination of causal negligence in the action.

(gm) Notwithstanding s. 349.02, a law enforcement officer may not stop or inspect a vehicle solely to determine compliance with this subsection or sub. (1) or (2). This paragraph does not limit the authority of a law enforcement officer to issue a citation for a violation of this subsection or sub. (1) or (2) observed in the course of a stop or inspection made for other purposes.

(h) This subsection does not apply after June 30, 1989; or the first day of the first month commencing after the secretary of transportation certifies to the governor and the revisor of statutes that state mandatory safety belt usage laws meeting the criteria under 49 CFR 571.208 S4.1.5 have been enacted which would, with the inclusion of 1987 Wisconsin Act (this act), be applicable to not less than two-thirds of the population of the United States, based on the 1980 federal census of population; whichever is earlier.

SECTION 5. 347.48 (3) of the statutes is amended to read:

347.48 (3) MANDATORY USE BY RULE; PROHIBITED. Except as provided under sub. (4) (a) 2, the department may not, by rule, require directly or indirectly the wearing of safety belts or shoulder harnesses. This subsection applies after June 30, 1989; or the first day of the first month commencing after the secretary of transportation certifies to the governor and the revisor of statutes that state mandatory safety belt usage laws meeting the criteria under 49 CFR 571.208 S4.1.5 have been enacted which would, with the inclusion of 1987 Wisconsin Act (this act), be applicable to not less than two-thirds of the population of the United States, based on the 1980 federal census of population; whichever is earlier.

SECTION 6. 347.48 (3m) of the statutes is created to read:

347.48 (3m) SAFETY BELT INFORMATION PROGRAM. The department shall develop and administer a public information program to promote safety belt awareness and use.

SECTION 7. 347.50 (1) of the statutes is amended to read:

347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.415 (1), (2) and (3) to (5) or s. 347.48 (2m) or (4) (a) or s. 347.489, may be required to forfeit not less than \$10 nor more than \$200. This subsection does not apply after June 30, 1989; or the first day of the first month commencing after the secretary of transportation certifies to the governor and the revisor of statutes that state mandatory safety belt usage laws meeting the criteria under 49 CFR 571.208 S4.1.5 have been enacted which would, with the inclusion of 1987 Wisconsin Act (this act), be applicable to not less than two-thirds of the population of the United States, based on the 1980 federal census of population; whichever is earlier.

SECTION 8. 347.50 (1m) of the statutes is created to read:

347.50 (1m) Any person violating ss. 347.35 to 347.49, except s. 347.415 (1), (2) and (3) to (5) or s. 347.48 (4) (a) or s. 347.489, may be required to forfeit not less than \$10 nor more than \$200. This subsection applies after June 30, 1989; or the first day of the first month commencing after the secretary of transportation certifies to the governor and the revisor of statutes that state mandatory safety belt usage laws meeting the criteria under 49 CFR 571.208 S4.1.5 have been enacted which would, with the inclusion of 1987 Wisconsin Act (this act), be applicable to not less than two-thirds of the population of the United States, based on the 1980 federal census of population; whichever is earlier.

SECTION 9. 347.50 (2m) of the statutes is created to read:

347.50 (2m) (a) Any person who violates s. 347.48 (2m) (b) or (c) and any person 16 years of age or older who violates s. 347.48 (2m) (d) may be required to forfeit \$10.

(b) No forfeiture may be assessed for a violation of s. 347.48 (2m) (d) if the violator is less than 16 years of age when the offense occurs.

(c) This subsection does not apply after June 30, 1989; or the first day of the first month commencing after the secretary of transportation certifies to the governor and the revisor of statutes that state mandatory safety belt usage laws meeting the criteria under 49 CFR 571.208 S4.1.5 have been enacted which would, with the inclusion of 1987 Wisconsin Act (this act), be applicable to not less than two-thirds of the population of the United States, based on the 1980 federal census of population; whichever is earlier.

SECTION 9r. Nonstatutory provisions; studies by the office of the commissioner of insurance. (1) The office of the commissioner of insurance shall study and make recommendations regarding the feasibility of requiring insurers to offer motor vehicle insurance policies that require all passengers in the insured motor vehicle to wear safety belts as a condition of coverage under the policy, and the feasibility of requiring insurers to offer a discount in the premiums charged under motor vehicle insurance policies for safety belt users. The officer of the commissioner of insurance shall submit the study and recommendations to the chief clerk of each house of the legislature by January 1, 1989, for distribution to the appropriate standing committees.

(2) The office of the commissioner of insurance shall study the impact of required safety belt usage under section 347.48 (2m) of the statutes on claims for loss or damages because of bodily injury or death resulting from accidents caused by motor vehicles and shall report the results of its study to the legislature by July 1, 1989.

SECTION 10. Nonstatutory provisions; legislative council study. The legislative council is requested to conduct a study of all of the following and to report the results of its study to the legislature by January 1, 1989:

(1) The impact of required safety belt usage under section 347.48 (2m) of the statutes on the number of traffic fatalities and the number and severity of other traffic injuries in this state.

(2) The number of prosecutions undertaken and the amount of forfeitures received as a result of the

enforcement of the safety belt use requirements under section 347.48 (2m) of the statutes.

(3) The number of vehicles with automatic occupant restraints in use in this state and the impact of these automatic occupant restraints on the number of traffic fatalities and other traffic injuries in this state.

SECTION 10g. Nonstatutory provisions; public instruction; pupil passenger safety standards study. The department of public instruction shall study the effectiveness of pupil passenger safety standards on school buses. The study shall include an analysis of the use of safety belts on school buses having a gross weight of more than 10,000 pounds under any voluntary pilot program providing for installation of safety belts on those school buses. The study shall also include an analysis of existing safety belt use in small school buses and vans, liability issues related to pupil passenger safety and any other factors which are of concern to the Wisconsin association of pupil transportation directors. The department of public instruction shall report the findings of the study to the presiding officers of each house of the legislature for referral to the appropriate standing committees of each house of the legislature by July 1, 1988.

SECTION 10m. Nonstatutory provisions; transportation. The secretary of transportation shall, until April 2, 1989, monitor the enactment of safety belt usage laws meeting the criteria under 49 CFR 571.208 S4.1.5. Immediately upon determining that such laws would, with the inclusion of this act, be applicable to not less than two-thirds of the population of the United States, based on the 1980 federal census of population, the secretary shall so certify to the governor and the revisor of statutes.

SECTION 11. Terminology changes. (1) **TRANSPORTATION.** (a) *Safety belts.* Wherever the term "“Properly restrained”" appears in the following section of the statutes, the term "In this subdivision, “properly restrained”" is substituted: 347.48 (4) (a) 1 and 2.

SECTION 12. Effective date. This act takes effect on the first day of the first month commencing after publication.