

1999 ASSEMBLY BILL 195

March 12, 1999 – Introduced by Representatives SCHNEIDER, MUSSER, ALBERS and STASKUNAS. Referred to Committee on Natural Resources.

1 **AN ACT** *to amend* 895.035 (6), 938.17 (2) (d), 938.343 (5m) (c) and 938.45 (1r) (b);
2 and *to create* 30.62 (3) (c), 30.80 (5m) and 938.343 (5m) of the statutes;
3 **relating to:** requiring underage persons to wear personal flotation devices
4 while on certain boats and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, each boat must have on it a personal flotation device for each person riding in the boat. Under this bill, each person under the age of 17 (underage person) must wear such a device if the underage person is in a boat that is less than 26 feet in length. The bill also establishes a procedure under which a violator may not be cited but receives a warning notice for his or her first violation. Under the bill, a parent or guardian of such an underage person is considered to have committed a violation if he or she knew that the underage person was violating the law.

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:

5 **SECTION 1.** 30.62 (3) (c) of the statutes is created to read:

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1 30.62 (3) (c) 1. No person who is under the age of 17 years may ride in or on a
2 boat that is required to carry personal flotation devices under par. (a) unless the
3 person wears a personal flotation device that is prescribed by federal regulations
4 during the time that the boat is being operated.

5 2. Subdivision 1. does not apply to a person under the age of 17 years who is
6 riding in or on a boat that is 26 feet or more in length.

7 3. A violation of subd. 1. done with the knowledge of a parent or guardian shall
8 be considered a violation committed by the parent or guardian to which s. 30.80 (5m)
9 applies.

10 **SECTION 2.** 30.80 (5m) of the statutes is created to read:

11 30.80 (5m) (a) For a violation of s. 30.62 (3) (c) 1., if a warning notice has not
12 been previously issued to the underage person or to the underage person's parent or
13 legal guardian, the law enforcement officer shall issue a warning notice to the
14 underage person or to his or her parent or legal guardian and may not issue a
15 citation. The warning notice shall inform the recipient of the notice of the action that
16 he or she is required to take to comply with s. 30.62 (3) (c) 1.

17 (b) If a warning notice under par. (a) has been previously issued to an underage
18 person or to the underage person's parent or legal guardian, and the recipient of the
19 warning notice either fails to comply with the notice or subsequently violates s. 30.62
20 (3) (c) 1., the recipient shall forfeit not more than \$50 upon conviction.

21 (c) If a person violates s. 30.62 (3) (c) 1. and has had a previous violation of s.
22 30.62 (3) (c) 1. to which par. (b) applied, the person shall forfeit not more than \$100
23 upon conviction for a subsequent violation that occurs within one year of the
24 conviction to which par. (b) applies.

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1 (d) The department shall record the issuances of warning notices for purposes
2 of this subsection.

3 **SECTION 3.** 895.035 (6) of the statutes is amended to read:

4 895.035 (6) Any recovery of restitution under this section shall be reduced by
5 the amount recovered as restitution for the same act under s. 938.245, 938.32, 938.34
6 (5), 938.343 (4) or 938.45 (1r) (a). Any recovery of a forfeiture under this section shall
7 be reduced by the amount recovered as a forfeiture for the same act under s. 938.34
8 (8), 938.343 (2) or (5m) or 938.45 (1r) (b). Any recovery of a surcharge under this
9 section shall be reduced by the amount recovered as a surcharge under s. 938.34 (8d).

10 **SECTION 4.** 938.17 (2) (d) of the statutes is amended to read:

11 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
12 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
13 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2)
14 or 961.575 (2), the court shall enter any of the dispositional orders permitted under
15 s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture
16 imposed by the municipal court, the court may not impose a jail sentence but may
17 suspend any license issued under ch. 29 for not less than 30 days nor more than 5
18 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for
19 ~~not less than 30 days nor~~ more than 5 2 years. If a court suspends a license or
20 privilege under this section, the court shall immediately take possession of the
21 applicable license and forward it to the department that issued the license, together
22 with the notice of suspension clearly stating that the suspension is for failure to pay
23 a forfeiture imposed by the court. If the forfeiture is paid during the period of
24 suspension, the court shall immediately notify the department, which shall
25 thereupon return the license to the person.

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1 **SECTION 5.** 938.343 (5m) of the statutes is created to read:

2 938.343 **(5m)** (a) If the violation is a violation of s. 30.62 (3) (c) 1. or of an
3 ordinance enacted in conformity with s. 30.62 (3) (c) 1. concerning the wearing of a
4 personal flotation device and if s. 30.80 (5m) (b) or an ordinance enacted in
5 conformity with s. 30.80 (5m) (b) applies, impose a forfeiture not to exceed \$50.

6 (b) If the violation is a violation of s. 30.62 (3) (c) 1. or of an ordinance enacted
7 in conformity with s. 30.62 (3) (c) 1. concerning the wearing of a personal flotation
8 device and if s. 30.80 (5m) (c) or an ordinance enacted in conformity with s. 30.80 (5m)
9 (c) applies, impose a forfeiture not to exceed \$100.

10 (c) If a juvenile fails to pay a forfeiture imposed under par. (a) or (b), the court
11 may suspend any license issued under ch. 29 or suspend the juvenile's operating
12 privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years.
13 The court shall immediately take possession of the suspended license and forward
14 it to the department that issued the license, together with the notice of suspension,
15 clearly stating that the suspension is for failure to pay a forfeiture imposed by the
16 court. If the forfeiture is paid during the period of suspension, the court shall
17 immediately notify the department, which shall thereupon return the license to the
18 person.

19 **SECTION 6.** 938.343 (5m) (c) of the statutes, as created by 1999 Wisconsin Act
20 (this act), is amended to read:

21 938.343 **(5m)** (c) If a juvenile fails to pay a forfeiture imposed under par. (a) or
22 (b), the court may suspend any license issued under ch. 29 or suspend the juvenile's
23 operating privilege, as defined in s. 340.01 (40), for not less than 30 days nor more
24 than 5 2 years. The court shall immediately take possession of the suspended license
25 and forward it to the department that issued the license, together with the notice of

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1 suspension, clearly stating that the suspension is for failure to pay a forfeiture
2 imposed by the court. If the forfeiture is paid during the period of suspension, the
3 court shall immediately notify the department, which shall thereupon return the
4 license to the person.

5 **SECTION 7.** 938.45 (1r) (b) of the statutes is amended to read:

6 938.45 **(1r)** (b) In a proceeding in which the court has determined under s.
7 938.34 (8) or 938.343 (2) or (5m) that the imposition of a forfeiture would be in the
8 best interest of the juvenile and in aid of rehabilitation, the court may order a parent
9 who has custody, as defined in s. 895.035 (1), of the juvenile to pay the forfeiture. The
10 amount of any forfeiture ordered under this paragraph may not exceed the amount
11 specified in s. 799.01 (1) (d). Any order under this paragraph shall include a finding
12 that the parent who has custody of the juvenile is financially able to pay the amount
13 ordered and shall allow up to 12 months after the date of the order for the payment.
14 Any recovery under this paragraph shall be reduced by the amount recovered as a
15 forfeiture for the same act under s. 938.34 (8) or 938.343 (2) or (5m).

16 **SECTION 8. Effective dates.** This act takes effect on the first day of the 4th
17 month beginning after publication, except as follows:

18 (1) The treatment of section 938.17 (2) (d) of the statutes and the amendment
19 of section 938.343 (5m) (c) of the statutes take effect on May 1, 2000, or on the date
20 stated in the notice published by the secretary of transportation in the Wisconsin
21 Administrative Register under section 85.515 of the statutes, whichever is earlier.

22 (END)