

1999 DRAFTING REQUEST

Bill

Received: **09/25/98**

Received By: **gibsom**

Wanted: **As time permits**

Identical to LRB:

For: **Marlin Schneider (608) 266-0215**

By/Representing: **Judy**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact:

Alt. Drafters: **malaigm**

Subject: **Nat. Res. - boats snomos ATVs**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Wearing personal flotation devices on boats

Instructions:

Same as LRB 1001 with any amendments

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gibsom 10/13/98	chanaman 12/2/98		_____			S&L
	malaigm 11/5/98	chanaman 02/15/99		_____			
/1			lpaasch 02/15/99	_____	gretskl 02/15/99	lrb_docadmin 02/17/99	

FE Sent For:

03-12-99

<END>

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1?	gibsom	1-2-11-99 King	2-15 LP.	2-15 LP [Signature]			

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<END>



State of Wisconsin
1999 - 2000 LEGISLATURE

Handwritten: GMM

LRB-03447

MGG.....

FMR

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~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

1 AN ACT ^{refer} relating to: requiring ⁹¹ certain underage persons to wear personal
2 flotation devices while on certain boats and providing a penalty.

Handwritten: underage her

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 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 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:

Handwritten: Insert 1-83

SECTION 1. 30.80 (5m) of the statutes is created to read:

3
4 30.80 (5m) (a) For a violation of s. 30.62 (3) (c) 1, if a warning notice has not
5 been previously issued to the underage person or to the underage person's parent or
6 legal guardian, the law enforcement officer shall issue a warning notice to the

1 underage person or ^{to} his or her parent or legal guardian and may not issue a citation.

2 The warning notice shall inform the recipient of the notice of the action he or she is
3 required to take to ^{comply} ~~be in compliance~~ with s. 30.62 (3) (c) 1.

4 (b) ^{AB} If a warning notice under par. (a) has been previously issued to an underage
5 person or to the underage person's parent or legal guardian, and the recipient of the
6 warning notice ~~either fails to comply with the notice or~~ ^{subsequently} violates s. 30.62
7 ~~(3) (c) 1., the recipient shall forfeit not more than \$50 upon conviction.~~ ^{add a right parenthesis} ~~stat.~~

8 SECTION 2. 895.035 (6) of the statutes is amended to read:

9 895.035 (6) Any recovery of restitution under this section shall be reduced by
10 the amount recovered as restitution for the same act under s. 938.245, 938.32, 938.34
11 (5), 938.343 (4) or 938.45 (1r) (a). Any recovery of a forfeiture under this section shall
12 be reduced by the amount recovered as a forfeiture for the same act under s. 938.34
13 (8), 938.343 (2) ^{or} (5m) or 938.45 (1r) (b). Any recovery of a surcharge under this
14 section shall be reduced by the amount recovered as a surcharge under s. 938.34 (8d).

15 History: 1985 a. 311; 1987 a. 27; 1993 a. 71; 1995 a. ~~24~~ 77, 262, 352; 1997 a. 27, 35, 205, 239, 252; s 13.93 (2) (c).

15 SECTION 3. 938.17 (2) (d) of the statutes is amended to read:

16 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
17 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
18 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2)
19 or 961.575 (2), the court shall enter any of the dispositional orders permitted under
20 s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture
21 imposed by the municipal court, the court may not impose a jail sentence but may
22 suspend any license issued under ch. 29 for not less than 30 days nor more than 5
23 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for
24 not less than ~~30 days nor~~ more than 5 2 years. If a court suspends a license or

Insert
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proof w/ statute

proof w/ statute

✓

proof of statute

1 privilege under this section, the court shall immediately take possession of the
2 applicable license and forward it to the department that issued the license, together
3 with the notice of suspension clearly stating that the suspension is for failure to pay
4 a forfeiture imposed by the court. If the forfeiture is paid during the period of
5 suspension, the court shall immediately notify the department, which shall
6 thereupon return the license to the person.

History: 1995 a. 77, 352, 448; 1997 a. 205, 239, 258.

7 **SECTION 4. 938.343 (5m)** of the statutes is created to read:

8 938.343 (5m) (a) If the violation is a violation of s. 30.62 (3) (c) 1. or of an
9 ordinance enacted in conformity with s. 30.62 (3) (c) 1. concerning the wearing of a
10 personal flotation device and if s. 30.80 (5m) (b) or an ordinance enacted in
11 conformity with s. 30.80 (5m) (b) applies, impose a forfeiture not to exceed \$50.

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

16 (c) If a juvenile fails to pay a forfeiture imposed under par. (a) or (b), the court
17 may suspend any license issued under ch. 29 or suspend the juvenile's operating
18 privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years. ✓

19 The court shall immediately take possession of the suspended license and forward
20 it to the department ^{that} which issued the license, together with the notice of suspension,
21 clearly stating that the suspension is for failure to pay a forfeiture imposed by the
22 court. If the forfeiture is paid during the period of suspension, the court shall
23 immediately notify the department, which ~~will~~ thereupon return the license to the
24 person.

shall

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

3 938.343 (5m) (c) If a juvenile fails to pay a forfeiture imposed under par. (a) or
 4 (b), the court may suspend any license issued under ch. 29 or suspend the juvenile's
 5 operating privilege, as defined in s. 340.01 (40), for not less than 30 days nor more
 6 than 5 2 years. The court shall immediately take possession of the suspended license
 7 and forward it to the department which issued the license, together with the notice
 8 of suspension, clearly stating that the suspension is for failure to pay a forfeiture
 9 imposed by the court. If the forfeiture is paid during the period of suspension, the
 10 court shall immediately notify the department, which ~~will~~ thereupon return the
 11 license to the person. *shall*

12 SECTION 6. 938.45 (1r) (b) of the statutes is amended to read:

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

History: 1995 a. 77; 1997 a. 35, 205.

23 SECTION 7. Effective dates. This act takes effect on the first day of the 4th
 24 month beginning after publication, except as follows:

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

(END)

**ASSEMBLY AMENDMENT 1,
TO 1997 ASSEMBLY BILL 129**

May 20, 1997 - Offered by Representative SCHNEIDER.

At the locations indicated, amend the bill as follows:

- 1. Page 1, line 2: before the period insert "and providing a penalty".
- 2. Page 1, line 3: delete lines 3 to 8 and substitute:

SECTION ~~18~~ 30.62 (3) (c) of the statutes is created to read:

INS
1-3

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

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

3. A violation of subd. 1. done with the knowledge of a parent or guardian shall be considered a violation ^{committed} by the parent or guardian to which s. 30.80 ~~(1) and~~ (5m) ^{applies} apply.

(END OF INSERT)

SECTION 1m. 30.80 (5m) of the statutes is created to read:

30.80 (5m) (a) For a violation under s. 30.62 (3) (c) 1., if the person has not previously received a warning notice for a violation under s. 30.62 (3) (c) 1., the law enforcement officer shall issue the person a warning notice and may not issue a citation.

(b) The warning notice under par. (a) shall inform the person of the action the person is required to take to be in compliance with s. 30.62 (3) (c) 1.

(c) If a person has previously received a warning notice under par. (a) and either fails to comply with the warning notice or subsequently violates s. 30.62 (3) (c) 1., the person shall forfeit not more than \$50 upon conviction.

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

(d) ^g The department shall record the issuances of warning notices for purposes of this ^{subsection} paragraph. *END OF INSERT*

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SECTION 1r. 938.343 (2) of the statutes is amended to read:

938.343 (2) Impose a forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing that violation or, if the violation is only applicable to a person under 18 years of age, \$50, except for a violation of s. 30.62 (3) (c) 1., to which s. 30.80 (1) and (5m) apply. Any such order shall include a finding that the juvenile alone is financially able to pay and shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture, the court may suspend any license issued under ch. 29 or suspend the juvenile's operating privilege as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years. The court shall

1 immediately take possession of the suspended license and forward it to the
2 department which issued the license, together with the notice of suspension clearly
3 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
4 the forfeiture is paid during the period of suspension, the court shall immediately
5 notify the department, which will thereupon return the license to the person.”.

6

~~(END)~~

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 2/15/99

To: Representative Schneider

Relating to LRB drafting number: LRB-0344

Topic

Wearing personal flotation devices on boats

Subject(s)

Nat. Res. - boats snomos ATVs

1. **JACKET** the draft for introduction _____ *MS*

in the **Senate** ____ or the **Assembly** ____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Mary Gibson-Glass, Senior Legislative Attorney
Telephone: (608) 267-3215