

## 2001 ASSEMBLY BILL 72

February 1, 2001 - Introduced by Representatives SCHNEIDER, MUSSER, AINSWORTH and BOYLE. Referred to Committee on Natural Resources.

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

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### *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.

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*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, unless the forfeiture was imposed for violating an ordinance unrelated to  
19 the juvenile's operation of a motor vehicle, may suspend the juvenile's operating  
20 privilege, as defined in s. 340.01 (40), for not less than ~~30 days~~ nor more than 5  
21 years. If a court suspends a license or privilege under this section, the court shall  
22 immediately take possession of the applicable license and forward it to the  
23 department that issued the license, together with the notice of suspension clearly  
24 stating that the suspension is for failure to pay a forfeiture imposed by the court. If

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1 the forfeiture is paid during the period of suspension, the court shall immediately  
2 notify the department, which shall thereupon return the license to the person.

3 **SECTION 5.** 938.343 (2) of the statutes is amended to read:

4 938.343 (2) Impose Except as provided in sub. (5m), impose a forfeiture not to  
5 exceed the maximum forfeiture that may be imposed on an adult for committing that  
6 violation or, if the violation is only applicable to a person under 18 years of age, \$50.  
7 Any such order shall include a finding that the juvenile alone is financially able to  
8 pay and shall allow up to 12 months for the payment. If a juvenile fails to pay the  
9 forfeiture, the court may suspend any license issued under ch. 29 for not less than  
10 30 days nor more than 5 years or, unless the forfeiture was imposed for violating an  
11 ordinance unrelated to the juvenile's operation of a motor vehicle, may suspend the  
12 juvenile's operating privilege, as defined in s. 340.01 (40), for not less more than 2  
13 years. The court shall immediately take possession of the suspended license and  
14 forward it to the department which issued the license, together with the notice of  
15 suspension clearly stating that the suspension is for failure to pay a forfeiture  
16 imposed by the court. If the forfeiture is paid during the period of suspension, the  
17 court shall immediately notify the department, which will thereupon return the  
18 license to the person. Any recovery under this subsection shall be reduced by the  
19 amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

20 **SECTION 6.** 938.343 (5m) of the statutes is created to read:

21 938.343 (5m) (a) If the violation is a violation of s. 30.62 (3) (c) 1. or of an  
22 ordinance enacted in conformity with s. 30.62 (3) (c) 1. concerning the wearing of a  
23 personal flotation device and if s. 30.80 (5m) (b) or an ordinance enacted in  
24 conformity with s. 30.80 (5m) (b) applies, impose a forfeiture not to exceed \$50.

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

5 (c) If a juvenile fails to pay a forfeiture imposed under par. (a) or (b), the court  
6 may suspend any license issued under ch. 29 for not less than 30 days nor more than  
7 5 years. The court shall immediately take possession of the suspended license and  
8 forward it to the department that issued the license, together with the notice of  
9 suspension, clearly stating that the suspension is for failure to pay a forfeiture  
10 imposed by the court. If the forfeiture is paid during the period of suspension, the  
11 court shall immediately notify the department, which shall thereupon return the  
12 license to the person.

13 (d) Any recovery under par. (a) or (b) shall be reduced by the amount recovered  
14 as a forfeiture for the same act under s. 938.45 (1r) (b).

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

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

