

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB90)

Received: **02/23/2004**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Leon Young (608) 266-3786**

By/Representing: **Greg**

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

Drafter: **mdsida**

May Contact:

Addl. Drafters: **phurley**

Subject: **Criminal Law - law enforcement
Transportation - traffic laws
Transportation - motor vehicles**

Extra Copies: **arg, pjh**

Submit via email: **YES**

Requester's email: **Rep.Youngl@legis.state.wi.us**

Carbon copy (CC:) to: **michael.dsida@legis.state.wi.us
greg.stewart@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Safety belt enforcement; racial profiling

Instructions:

See Attached

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>
/?	mdsida 02/23/2004	jdye 02/24/2004		_____			
/1			jfrantze 02/24/2004	_____	sbasford 02/24/2004	sbasford 02/24/2004	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	mdsida 03/02/2004	kgilfoy 03/05/2004	chaugen 03/05/2004	_____	sbasford 03/09/2004	sbasford 03/09/2004	
		kgilfoy 03/09/2004	chaugen 03/09/2004	_____			

FE Sent For:

<END>

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see attached

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/1			jfrantze 02/24/2004	_____	sbasford 02/24/2004	sbasford 02/24/2004	

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/2	mdsida 03/02/2004	kgilfoy 03/05/2004 kgilfoy 03/09/2004	chaugen 03/05/2004 chaugen 03/09/2004	_____	_____	lrb_pa	

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Transportation - motor vehicles

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Topic:

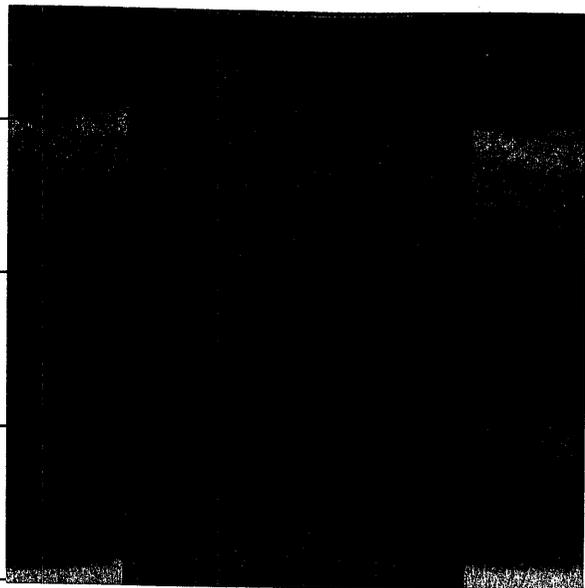
Racial profiling ; Safety belt enforcement ;

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	mdsida 02/23/2004	jdye 02/24/2004					
/1		123/9/04 jls	jfrantze 02/24/2004		sbasford 02/24/2004	sbasford 02/24/2004	



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Transportation - traffic laws**

Extra Copies: **arg, pjh**

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Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Racial profiling

Instructions:

See Attached

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1?	mdsida	1 2/24 jld	2/24	3/4			

FE Sent For:

<END>

50382/1
LRB-0426/2
MGD:jldjff
KEEP

2003 BILL

Soon

Regen

- 1 AN ACT *to create* 165.842 and 165.85 (4) (b) 1d. f. of the statutes; relating to:
- 2 collection of data concerning motor vehicle stops, law enforcement training
- 3 standards, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Collection of information concerning motor vehicle stops

Currently, a law enforcement agency must collect information concerning each person that the law enforcement agency arrests or takes into custody, if the person has committed certain offenses or is a fugitive from justice. The information that the law enforcement agency must collect includes the person's fingerprints, photographs of the person's face and profile, and other available identifying data. The information collected must be forwarded to the Department of Justice (DOJ), which maintains the information for various law enforcement and reporting purposes.

✓
substitute
amendment

This bill requires a law enforcement agency to collect the following information concerning motor vehicle stops made on or after January 1, 2005: 1) the name, address, gender, and race of the operator of the motor vehicle (with the officer subjectively determining the person's race as being Caucasian, African American, Hispanic, American Indian or Alaska Native, or Asian or Pacific Islander); 2) the reason for the motor vehicle stop; 3) the make and year of the motor vehicle; 4) the date, time, and location of the motor vehicle stop; 5) whether or not a law enforcement officer conducted a search of the motor vehicle, the operator, or any passenger and, if so, whether the search was with consent or by other means; 6) the name, address, gender, and race of any person searched; and 7) the name and badge number of the officer making the motor vehicle stop.

BILLSubstitute
amendment

The information that is collected under the **bill** concerning motor vehicle stops is not subject to inspection or copying as a public record. The information, however, must be forwarded to DOJ, which must then compile and analyze it, along with any other relevant information, to determine, both for the state as a whole and for each law enforcement agency, whether the number of stops and searches involving motor vehicles operated or occupied by members of a racial minority are disproportionate compared to the number of stops and searches involving motor vehicles operated or occupied solely by persons who are not members of a racial minority. The determination of whether the number of stops and searches involving racial minorities is disproportionate must be based on an estimate of the population and characteristics of all persons traveling on state highways, on an estimate of the populations and characteristics of persons traveling on state highways who are violating a law or ordinance, or on some other relevant population estimate. If DOJ finds that the number of stops and searches involving racial minorities is disproportionate compared to the number of stops and searches involving nonminorities, DOJ must then determine whether that disproportion is the result of racial profiling, racial stereotyping, or other race-based discrimination or selective enforcement.

DOJ must prepare an annual report that summarizes the information submitted to it by law enforcement agencies and that describes the methods and conclusions of its analysis of the information. DOJ must also promulgate rules to implement the information collection requirement created in the **bill**, including rules prescribing a form for use in obtaining the information and establishing a schedule for forwarding the information obtained to DOJ.

Law enforcement training standards

Under current law, no person may be appointed as a law enforcement officer unless the person has been certified by the Law Enforcement Standards Board (LESB) after completing a training program approved by LESB. Currently, LESB must establish minimum educational and training standards for law enforcement officers and minimum curriculum requirements for law enforcement officer training programs. Current law also contains specific requirements for law enforcement training programs, including the requirements that the programs provide training to enable officers to deal effectively with domestic abuse incidents and training on police pursuit standards.

This **bill** requires law enforcement training programs to provide training concerning cultural diversity, including sensitivity toward racial and ethnic differences. The training must be designed to prevent the use of race, racial profiling, racial stereotyping, or other race-based discrimination or selection as a basis for detaining, searching, or arresting a person or for otherwise treating a person differently from persons of other races and must emphasize the fact that the primary purposes of enforcement of traffic regulations are safety and equal and uniform enforcement under the law.

BILL

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. 165.842^X of the statutes is created to read:

2 **165.842 Motor vehicle stops; collection and analysis of information;**

3 **annual report. (1) DEFINITIONS. In this section:**

4 (a) "Department" means the department of justice.

5 (b) "Law enforcement agency" has the meaning given in s. 165.77 (1) (b).

6 (c) "Law enforcement officer" means a person who is employed by a law
7 enforcement agency for the purpose of detecting and preventing crime and enforcing
8 laws or ordinances and who is authorized to make arrests for violations of the laws
9 or ordinances that the person is employed to enforce, whether that enforcement
10 authority extends to all laws or ordinances or is limited to specific laws or ordinances.

11 (d) "Motor vehicle stop" means the stop or detention of a motor vehicle that is
12 traveling in any public or private place, or the detention of an occupied motor vehicle
13 that is already stopped in any public or private place, for the purpose of investigating
14 any alleged or suspected violation of a state or federal law or city, village, town, or
15 county ordinance.

16 (2) INFORMATION COLLECTION REQUIRED. All persons in charge of law
17 enforcement agencies shall obtain, or cause to be obtained, all of the following
18 information with respect to each motor vehicle stop made on or after January 1, 2005,
19 by a law enforcement officer employed by the law enforcement agency:

20 (a) The name, address, gender, and race of the operator of the motor vehicle.
21 The officer shall subjectively select the operator's race from the following list:

BILL

- 1 1. Caucasian.
- 2 2. African American.
- 3 3. Hispanic.
- 4 4. American Indian or Alaska Native.
- 5 5. Asian or Pacific Islander.
- 6 (b) The reason that the officer stopped or detained the motor vehicle.
- 7 (c) The make and year of the motor vehicle.
- 8 (d) The date, time, and location of the motor vehicle stop.
- 9 (e) Whether or not a law enforcement officer conducted a search of the motor
- 10 vehicle, the operator, or any passenger and, if so, whether the search was with
- 11 consent or by other means.
- 12 (f) The name, address, gender, and race of any person searched, with the officer
- 13 subjectively selecting the person's race from the list under par. (a).
- 14 (g) The name and badge number of the officer making the motor vehicle stop.
- 15 (3) SUBMISSION OF INFORMATION COLLECTED. The person in charge of a law
- 16 enforcement agency shall forward the information obtained under sub. (2) to the
- 17 department using the form prescribed by the rules promulgated under sub. (5) and
- 18 in accordance with the reporting schedule established under the rules promulgated
- 19 under sub. (5).
- 20 (4) ANALYSIS AND REPORT BY DEPARTMENT. (a) The department shall compile the
- 21 information submitted to it by law enforcement agencies under sub. (3) and shall
- 22 analyze the information, along with any other relevant information, to determine,
- 23 both for the state as a whole and for each law enforcement agency, all of the following:
- 24 1. Whether the number of motor vehicle stops and searches involving motor
- 25 vehicles operated or occupied by members of a racial minority compared to the

BILL

1 number of motor vehicle stops and searches involving motor vehicles operated or
2 occupied solely by persons who are not members of a racial minority is
3 disproportionate based on an estimate of the population and characteristics of all
4 persons traveling on state highways, on an estimate of the populations and
5 characteristics of persons traveling on state highways who are violating a law or
6 ordinance, or on some other relevant population estimate.

7 2. A determination as to whether any disproportion found under subd. 1. is the
8 result of racial profiling, racial stereotyping, or other race-based discrimination or
9 selective enforcement.

10 (b) For each year, the department shall prepare an annual report that
11 summarizes the information submitted to it by law enforcement agencies concerning
12 motor vehicle stops made during the year and that describes the methods and
13 conclusions of its analysis of the information. On or before March 31, 2006, and on
14 or before each March 31 thereafter, the department shall submit the annual report
15 required under this paragraph to the legislature under s. 13.172 (2), to the governor,
16 and to the director of state courts.

17 (5) RULES. The department shall promulgate rules to implement the
18 requirements of this section, including rules prescribing a form for use in obtaining
19 information under sub. (2) and establishing a schedule for forwarding the
20 information obtained to the department. The department shall make the form
21 prescribed by its rules available to law enforcement agencies. The department may,
22 by rule, require the collection of information in addition to that specified in sub. (2)
23 (a) to (g) if the department determines that the information will help to make the
24 determinations required under sub. (4) (a).

Northrop, Lori

From: Northrop, Lori
Sent: Wednesday, February 25, 2004 3:56 PM
To: Rep.Young
Subject: LRB 03s0382 attached as requested



03s0382/1

Northrop, Lori

From: Northrop, Lori
Sent: Wednesday, February 25, 2004 4:10 PM
To: Rep.Young
Subject: LRB 03s0382/1 attached as requested



03s0382/1

Barman, Mike

From: Barman, Mike
Sent: Wednesday, February 25, 2004 4:27 PM
To: Stewart, Greg; Rep.Young
Subject: LRB 03s0382/1 (attached - requested by Greg)



03s0382/1

Mike Barman

Mike Barman - Senior Program Asst. (PH. 608-266-3561)
(E-Mail: mike.barman@legis.state.wi.us) (FAX: 608-264-6948)

State of Wisconsin
Legislative Reference Bureau - Legal Section - Front Office
1 East Main, Suite 200 Madison, WI 53703



NOW

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2003 ASSEMBLY BILL 90

INSA ✓

Regen

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INS B ✓

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~~primary purposes of enforcement of traffic regulations are safety and equal and uniform enforcement under the law.~~

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1 **SECTION 1.** 165.842 of the statutes is created to read:

2 **165.842 Motor vehicle stops; collection and analysis of information;**

3 **annual report.** (1) DEFINITIONS. In this section:

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9 or ordinances that the person is employed to enforce, whether that enforcement
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20 (a) The name, address, gender, and race of the operator of the motor vehicle.

21 The officer shall subjectively select the operator’s race from the following list:

1 1. Caucasian.

2 2. African American.

3 3. Hispanic.

4 4. American Indian or Alaska Native.

5 5. Asian or Pacific Islander.

6 (b) The reason that the officer stopped or detained the motor vehicle.

7 (c) The make and year of the motor vehicle.

8 (d) The date, time, and location of the motor vehicle stop.

9 (e) Whether or not a law enforcement officer conducted a search of the motor
10 vehicle, the operator, or any passenger and, if so, whether the search was with
11 consent or by other means.

12 (f) The name, address, gender, and race of any person searched, with the officer
13 subjectively selecting the person's race from the list under par. (a).

14 (g) The name and badge number of the officer making the motor vehicle stop.

15 **(3) SUBMISSION OF INFORMATION COLLECTED.** The person in charge of a law
16 enforcement agency shall forward the information obtained under sub. (2) to the
17 department using the form prescribed by the rules promulgated under sub. (5) and
18 in accordance with the reporting schedule established under the rules promulgated
19 under sub. (5).

20 **(4) ANALYSIS AND REPORT BY DEPARTMENT.** (a) The department shall compile the
21 information submitted to it by law enforcement agencies under sub. (3) and shall
22 analyze the information, along with any other relevant information, to determine,
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18 requirements of this section, including rules prescribing a form for use in obtaining
19 information under sub. (2) and establishing a schedule for forwarding the
20 information obtained to the department. The department shall make the form
21 prescribed by its rules available to law enforcement agencies. The department may,
22 by rule, require the collection of information in addition to that specified in sub. (2)
23 (a) to (g) if the department determines that the information will help to make the
24 determinations required under sub. (4) (a).

2003 ASSEMBLY BILL 90

February 20, 2003 - Introduced by Representatives AINSWORTH, HEBL, BIES, FREESE, HINES, MCCORMICK, POPE-ROBERTS, STONE and TOWNSEND, cosponsored by Senators BROWN, FISSER and GEORGE. Referred to Committee on Transportation.

1
2

AN ACT to amend 347.48 (2m) (gm) and 347.50 (2m) (a) of the statutes; relating to enforcement of motor vehicle safety belt violations and providing a penalty.

INS
B

INS
A

Analysis by the Legislative Reference Bureau

This state requires the use of safety belts in certain motor vehicles. Under current law, with specific exceptions, no person may drive a motor vehicle unless he or she is properly restrained by a safety belt and unless he or she reasonably believes that each passenger between the ages of four and fifteen years old is properly restrained by a safety belt. No person who is at least four years old may be a passenger in the front seat of a motor vehicle unless that person is properly restrained by a safety belt. Current law prohibits a law enforcement officer from stopping or inspecting a motor vehicle solely to determine compliance with safety belt use requirements. The officer may, however, issue a citation for a violation observed in the course of a stop or inspection made for other purposes. A law enforcement officer may not take a person into physical custody solely for a violation of safety belt use requirements.

This bill authorizes a law enforcement officer to stop or inspect a vehicle solely to determine compliance with safety belt use requirements, if the officer has probable cause to believe that a violation has occurred. The bill also increases the penalty for violating this state's laws requiring the use of safety belts from \$10 to \$25 for a first offense and to not less than \$50 nor more than \$75 for the second and each later offense committed within three years. As under current law, violators pay no additional costs, fees, or assessments.

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

~~ASSEMBLY AMENDMENT 1,
TO 2003 ASSEMBLY BILL 90~~

April 24, 2003 - Offered by COMMITTEE ON TRANSPORTATION.

INS
6/10 X

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 1: before that line insert:

3 ~~SECTION 1A~~ [#] 347.48 (2m) (e) of the statutes is amended to read:

4 347.48 (2m) (e) Paragraph (b) does not apply to a person who qualifies for
5 registration plates of a special design under s. 341.14 (1), (1a), (1m), or (1q) or for a
6 special identification card under s. 343.51. The department shall, by rule, exempt
7 from the requirements under pars. ~~(b) to (c)~~ and (d) persons who, because of a
8 physical or medical condition, cannot be properly restrained in a safety belt. *de*

9 2. Page 2, line 1: delete "SECTION 1" and substitute "SECTION 1m".

10 (END)

(end ins)

ASSEMBLY BILL 90

INS
6/10 Y

report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

X

1 SECTION 1. 347.48 (2m) (gm) of the statutes is amended to read:

2 347.48 (2m) (gm) ~~Notwithstanding s. 349.02, a law enforcement officer may not~~
3 ~~stop or inspect a vehicle solely to determine compliance with this subsection or sub.~~
4 ~~(1) or (2) or a local ordinance in conformity with this subsection, sub. (1) or (2) or rules~~
5 ~~of the department. This paragraph does not limit the authority of a law enforcement~~
6 ~~officer to issue a citation for a violation of this subsection or sub. (1) or (2) or a local~~
7 ~~ordinance in conformity with this subsection, sub. (1) or (2) or rules of the department~~
8 ~~observed in the course of a stop or inspection made for other purposes, except that~~
9 ~~a~~ A law enforcement officer may not take a person into physical custody solely for
10 a violation of this subsection or sub. (1) or (2) or a local ordinance in conformity with
11 this subsection, sub. (1) or (2) or rules of the department.

X

12 SECTION 2. 347.50 (2m) (a) of the statutes is amended to read:

13 347.50 (2m) (a) Any person who violates s. 347.48 (2m) (b) or (c) and any person
14 16 years of age or older who violates s. 347.48 (2m) (d) may be required to forfeit \$10
15 \$25 for the first offense and not less than \$50 nor more than \$75 for the 2nd or any
16 later offense committed within 3 years.

17 SECTION 3. Initial applicability.

18 (1) The treatment of section 347.50 (2m) (a) of the statutes first applies to
19 violations committed on the effective date of this subsection, but does not preclude
20 the counting of other violations as prior violations for sentencing a person.

21 SECTION 4. Effective date

Auto Ref A

auto ref B

Fix component

5
↓

This act takes effect on the day after publication, except as follows:

INS 6/104

ASSEMBLY BILL 90

1
2
3

(1) This ~~act~~ takes effect on the first day of the 7th month beginning after publication.

(END)

(end ins 6/104)

