



## 2005 SENATE BILL 528

January 27, 2006 – Introduced by Senators ZIEN, REYNOLDS, LAZICH, BROWN, S. FITZGERALD, SCHULTZ and BRESKE, cosponsored by Representatives PRIDEMORE, HONADEL, SCHNEIDER, HAHN, KRAWCZYK, MCCORMICK, TURNER, KLEEFISCH, OTT, BIES, PETTIS, HUNDERTMARK, HINES, STRACHOTA, GUNDERSON, MUSSEY, F. LASEE, KREIBICH, ALBERS, SHERMAN, WOOD, PETROWSKI, SUDER and FRISKE. Referred to Committee on Judiciary, Corrections and Privacy.

1     **AN ACT to amend** 84.06 (1m), 343.07 (4) (a), 343.16 (1) (a), 343.16 (2) (cm), 345.60  
2           (1) and 346.22 (1) (a); and **to create** 38.04 (4) (e) 3., 115.28 (11) (c), 343.30 (1j),  
3           343.61 (6) (c), 345.60 (4), 346.22 (1) (c), 346.22 (1) (d), 346.22 (1) (e), 346.22 (1)  
4           (f) and 346.37 (1) (c) 4. of the statutes; **relating to:** authorization to operate  
5           motorcycles, stops required of vehicles at traffic control signals, vehicle  
6           failure-to-yield violations, driver education instruction, highway project  
7           planning by the Department of Transportation, and providing a penalty.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, a vehicle facing a green traffic control signal may proceed through the intersection, a vehicle facing a yellow signal must stop before entering the intersection unless the vehicle is so close to it that a stop may not be made in safety, and a vehicle facing a red signal must stop before entering the intersection and must generally remain stopped until the signal turns green. However, if a traffic control signal is flashing red, vehicles may proceed through the intersection after stopping, as if the signal were a stop sign.

Under this bill, a motorcycle facing a red traffic control signal at an intersection may, after stopping for not less than 30 seconds, proceed cautiously through the intersection before the signal turns green if no other vehicles are present at the intersection to actuate the signal and the operator of the motorcycle reasonably

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believes the signal is vehicle actuated. The operator of a motorcycle proceeding through a red signal must yield the right-of-way to any vehicle, bicyclist, or pedestrian proceeding through a green signal at the intersection or lawfully within a crosswalk or using the intersection.

Under current law, the operator of a vehicle must yield the right-of-way to another vehicle under certain circumstances, including: when turning left across traffic; at an intersection posted with a yield sign; when entering a through highway or a highway from an alley or driveway or from a parked or standing position; or when entering a highway from another highway that ends at a "T" intersection. A person who fails to yield the right-of-way as required is subject to a forfeiture of not less than \$20 nor more than \$50 for a first offense and not less than \$50 nor more than \$100 for any subsequent offense within a year, except that the forfeiture is doubled if the person fails to yield at a yield sign in a highway maintenance or construction area or in a utility work area.

Under this bill, if a person's failure to yield the right-of-way results in bodily harm to another, the person will be guilty of a Class C misdemeanor, and his or her operating privilege will be suspended for 30 days. A Class C misdemeanor is punishable by a fine not to exceed \$500, imprisonment not to exceed 30 days, or both. If the violation results in great bodily harm to another, the person will be guilty of a Class B misdemeanor, and his or her operating privilege will be suspended for 90 days. A Class B misdemeanor is punishable by a fine not to exceed \$1,000, imprisonment not to exceed 90 days, or both. If the violation results in the death of another, the person will be guilty of a Class A misdemeanor, and his or her operating privilege will be suspended for nine months. A Class A misdemeanor is punishable by a fine not to exceed \$10,000, imprisonment not to exceed nine months, or both. Also, in addition to any penalty provided under current law for a failure-to-yield violation, the court must order a person who commits a failure-to-yield violation to attend a traffic safety school, which must acquaint the person with vehicle right-of-way rules and provide instruction on motorcycle, pedestrian, and bicycle awareness.

Current law requires all driver education courses offered by school districts, county children with disabilities education boards, technical college districts, and driver schools to acquaint each student with the hazards posed by farm machinery and animals on highways and by railroad grade crossings and to provide instruction in safely dealing with such hazards. Driver education courses must also include at least 30 minutes of instruction relating to organ and tissue donation and organ and tissue donation procedures.

This bill requires driver education courses to also include information on motorcycle, pedestrian, and bicycle awareness that is approved by a recognized motorcycle, pedestrian, or bicycle safety and awareness organization.

Under current law, an applicant for an operator's license, other than an instruction permit, authorizing operation of a motorcycle must take and pass both a knowledge test and a driving skills test, except that the Department of Transportation (DOT) must waive the driving skills test if the applicant holds an instruction permit and has successfully completed a basic rider course approved by

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DOT (basic rider course). Also, DOT generally may not issue a license to any person under the age of 18 authorizing the operation of a motorcycle unless the person has successfully completed a basic rider course. DOT may also issue an instruction permit for the operation of a motorcycle to a person who meets certain qualifications for issuance of an operator's license.

Under this bill, DOT may issue an operator's license authorizing operation of a motorcycle to a person without requiring the person to take a driving skills test if the person has successfully completed a basic rider course, regardless of whether the person holds an instruction permit. In addition, DOT may not require a person applying for authorization to operate a motorcycle who has successfully completed a basic rider course to hold an instruction permit prior to DOT's issuance of a license. DOT also may not require a person applying for authorization to operate a motorcycle who holds an instruction permit to hold it for a minimum period of time before administering a driving skills test.

Under current law, DOT may plan and undertake preliminary engineering work for any highway improvement within its jurisdiction, including highway construction, reconstruction, rehabilitation, and other projects.

This bill requires DOT, in planning any highway improvement, to consider the safety of motorcycles operated on the highway.

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

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:***

1           **SECTION 1.** 38.04 (4) (e) 3. of the statutes is created to read:  
2           38.04 (4) (e) 3. Includes information on motorcycle awareness, as approved by  
3           a recognized motorcycle safety and awareness organization, and pedestrian and  
4           bicycle awareness, as approved by a recognized pedestrian and bicycle safety and  
5           awareness organization. This subdivision does not apply unless the materials that  
6           provide information on motorcycle, pedestrian, and bicycle awareness are donated  
7           to the department of transportation by one or more recognized safety and awareness  
8           organizations.

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1           **SECTION 2.** 84.06 (1m) of the statutes is amended to read:

2           84.06 **(1m)** PLANS. The department may prepare plans, estimates and  
3 specifications and undertake and perform all surveys, investigations and  
4 engineering work for any highway improvement within its jurisdiction. When  
5 provision has been made for the necessary funds for any such highway improvement  
6 and, if federal aid is to be utilized, when the project has been approved by the proper  
7 federal authorities, the department may proceed as provided in this section, with due  
8 regard to any applicable federal requirement or regulation. In planning any  
9 highway improvement, the department shall consider the safety of motorcycles  
10 operated on the highway.

11           **SECTION 3.** 115.28 (11) (c) of the statutes is created to read:

12           115.28 **(11)** (c) Provide information on motorcycle awareness, as approved by  
13 a recognized motorcycle safety and awareness organization, and pedestrian and  
14 bicycle awareness, as approved by a recognized pedestrian and bicycle safety and  
15 awareness organization. This paragraph does not apply unless the materials that  
16 provide information on motorcycle, pedestrian, and bicycle awareness are donated  
17 to the department of transportation by one or more recognized safety and awareness  
18 organizations.

19           **SECTION 4.** 343.07 (4) (a) of the statutes is amended to read:

20           343.07 **(4)** (a) ~~Upon~~ Subject to s. 343.16 (1) (a), upon application by a person  
21 who qualifies for issuance of a license under s. 343.06 (1) (c) and who wishes to qualify  
22 for the operation of a Type 1 motorcycle, the department may issue an instruction  
23 permit for the operation of "Class M" vehicles.

24           **SECTION 5.** 343.16 (1) (a) of the statutes is amended to read:

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1           343.16 (1) (a) *General.* The department shall examine every applicant for an  
2 operator's license, including applicants for license renewal as provided in sub. (3),  
3 and every applicant for authorization to operate a vehicle class or type for which the  
4 applicant does not hold currently valid authorization, other than an instruction  
5 permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants  
6 for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or  
7 "Class M" vehicles shall include both a knowledge test and an actual demonstration  
8 in the form of a driving skills test of the applicant's ability to exercise ordinary and  
9 reasonable control in the operation of a representative vehicle. The department shall  
10 not administer a driving skills test to a person applying for authorization to operate  
11 "Class M" vehicles who has failed 2 previous such skills tests unless the person has  
12 successfully completed a rider course approved by the department. The department  
13 may, by rule, exempt certain persons from the rider course requirement of this  
14 paragraph. The department may not require a person applying for authorization to  
15 operate "Class M" vehicles who has successfully completed a basic rider course  
16 approved by the department to hold an instruction permit under s. 343.07 (4) prior  
17 to the department's issuance of a license authorizing the operation of "Class M"  
18 vehicles. The department may not require a person applying for authorization to  
19 operate "Class M" vehicles who holds an instruction permit under s. 343.07 (4) to  
20 hold it for a minimum period of time before administering a driving skills test. The  
21 driving skills of applicants for endorsements authorizing the operation of  
22 commercial motor vehicles equipped with air brakes, the transportation of  
23 passengers in commercial motor vehicles or the operation of school buses, as provided  
24 in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration of driving  
25 skills. The department may endorse an applicant's commercial driver license for

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1 transporting hazardous materials requiring placarding or any quantity of a material  
2 listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125, or for the  
3 operation of tank vehicles or vehicles towing double or triple trailers, as described  
4 in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge test. In  
5 administering the knowledge test, the department shall attempt to accommodate  
6 any special needs of the applicant. Except as may be required by the department for  
7 an “H” or “S” endorsement, the knowledge test is not intended to be a test for literacy  
8 or English language proficiency. This paragraph does not prohibit the department  
9 from requiring an applicant to correctly read and understand highway signs.

10 **SECTION 6.** 343.16 (2) (cm) of the statutes is amended to read:

11 343.16 (2) (cm) *Motorcycle waiver.* The department shall waive the driving  
12 skills test of a person applying for authorization to operate “Class M” vehicles if the  
13 applicant ~~holds an instruction permit under s. 343.07 (4) and~~ has successfully  
14 completed a basic rider course approved by the department.

15 **SECTION 7.** 343.30 (1j) of the statutes is created to read:

16 343.30 (1j) Upon conviction of a person for violating s. 346.18, the court shall  
17 suspend the violator’s operating privilege as follows:

18 (a) For a period of 30 days, if the offense resulted in bodily harm to another but  
19 did not result in great bodily harm or the death of another.

20 (b) For a period of 90 days, if the offense resulted in great bodily harm to  
21 another but did not result in the death of another.

22 (c) For a period of 9 months, if the offense resulted in the death of another.

23 **SECTION 8.** 343.61 (6) (c) of the statutes is created to read:

24 343.61 (6) (c) Includes information on motorcycle awareness, as approved by  
25 a recognized motorcycle safety and awareness organization, and pedestrian and

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1 bicycle awareness, as approved by a recognized pedestrian and bicycle safety and  
2 awareness organization. This subdivision does not apply unless the materials that  
3 provide information on motorcycle, pedestrian, and bicycle awareness are donated  
4 to the department of transportation by one or more recognized safety and awareness  
5 organizations.

6 **SECTION 9.** 345.60 (1) of the statutes is amended to read:

7 345.60 (1) Except as provided in ~~sub. (3)~~ subs. (3) and (4), in addition to or in  
8 lieu of other penalties provided by law for violation of chs. 346 to 348, the trial court  
9 may in its judgment of conviction order the convicted person to attend, for a certain  
10 number of school days, a traffic safety school whose course and mode of instruction  
11 is approved by the secretary, subject to sub. (4), and which is conducted by the police  
12 department of the municipality, by the sheriff's office of the county, or by any  
13 regularly established safety organization.

14 **SECTION 10.** 345.60 (4) of the statutes is created to read:

15 345.60 (4) If a person is convicted of violating s. 346.18 or a local ordinance in  
16 conformity with s. 346.18, in addition to any other penalty provided by law, a court  
17 shall order the person to attend a school under sub. (1), which shall acquaint the  
18 person with vehicle right-of-way rules and provide instruction on motorcycle,  
19 pedestrian, and bicycle awareness.

20 **SECTION 11.** 346.22 (1) (a) of the statutes is amended to read:

21 346.22 (1) (a) Except as provided in par. (b), (c), (d), or (e), any person violating  
22 s. 346.18 or 346.20 (1) may be required to forfeit not less than \$20 nor more than \$50  
23 for the first offense and not less than \$50 nor more than \$100 for the 2nd or  
24 subsequent conviction within a year.

25 **SECTION 12.** 346.22 (1) (c) of the statutes is created to read:

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1           346.22 (1) (c) If a person violates s. 346.18 and the violation results in bodily  
2 harm, as defined in s. 939.22 (4), to another, the person is guilty of a Class C  
3 misdemeanor and shall have his or her operating privilege suspended as provided  
4 in s. 343.30 (1j).

5           **SECTION 13.** 346.22 (1) (d) of the statutes is created to read:

6           346.22 (1) (d) If a person violates s. 346.18 and the violation results in great  
7 bodily harm, as defined in s. 939.22 (14), to another, the person is guilty of a Class  
8 B misdemeanor and shall have his or her operating privilege suspended as provided  
9 in s. 343.30 (1j).

10          **SECTION 14.** 346.22 (1) (e) of the statutes is created to read:

11          346.22 (1) (e) If a person violates s. 346.18 and the violation results in death  
12 to another, the person is guilty of a Class A misdemeanor and shall have his or her  
13 operating privilege suspended as provided in s. 343.30 (1j).

14          **SECTION 15.** 346.22 (1) (f) of the statutes is created to read:

15          346.22 (1) (f) If a court finds that a person violated s. 346.18, the court shall,  
16 in addition to any other penalty provided by law, order the person to attend a traffic  
17 safety school as provided under s. 345.60 (4).

18          **SECTION 16.** 346.37 (1) (c) 4. of the statutes is created to read:

19          346.37 (1) (c) 4. Notwithstanding subd. 1., a motorcycle facing a red signal at  
20 an intersection may, after stopping as required under subd. 1. for not less than 30  
21 seconds, proceed cautiously through the intersection before the signal turns green  
22 if no other vehicles are present at the intersection to actuate the signal and the  
23 operator of the motorcycle reasonably believes the signal is vehicle actuated. The  
24 operator of a motorcycle proceeding through a red signal under this subdivision shall  
25 yield the right-of-way to any vehicular traffic, pedestrian, bicyclist, or rider of an

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1 electric personal assistive mobility device proceeding through a green signal at the  
2 intersection or lawfully within a crosswalk or using the intersection.

3 **SECTION 17. Initial applicability.**

4 (1) The treatment of section 84.06 (1m) of the statutes first applies to highway  
5 improvements for which planning is begun on the effective date of this subsection.

6 (2) The treatment of sections 38.04 (4) (e) 3., 115.28 (11) (c), and 343.61 (6) (c)  
7 of the statutes first applies to driver education courses that are begun on the effective  
8 date of this subsection.

9 (3) The treatment of sections 343.30 (1j), 345.60 (1) and (4), 346.22 (1) (a), (c),  
10 (d), (e), and (f), and 346.37 (1) (c) 4. of the statutes first applies to violations occurring  
11 on the effective date of this subsection, but does not preclude the counting of other  
12 violations as prior violations for purposes of sentencing a person.

13 (4) The treatment of sections 343.07 (4) (a) and 343.16 (1) (a) and (2) (cm) of the  
14 statutes first applies to applications for an operator's license submitted to the  
15 department of transportation on the effective date of this subsection.

16 **SECTION 18. Effective date.**

17 (1) This act takes effect on the first day of the 4th month beginning after  
18 publication.

19 (END)