

SENATE BILL 141 (LRB -0986)

An Act to amend 48.657 (1) (a), 48.657 (1) (b), 48.657 (2g), 48.715 (2) (c), 48.715 (2) (d), 48.715 (2) (f), 48.715 (3) (intro.), 48.715 (4) (a), 48.715 (4) (b) and 48.715 (4) (d); and to create 48.658 of the statutes; relating to: requiring certain vehicles that transport children to and from a child care provider to have child safety alarms installed, granting rule-making authority, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and providing a penalty. (FE)

2009

03-31.	S.	Introduced by Senators Coggs, Carpenter, Taylor, Plale, Erpenbach, Risser and Hansen ; cosponsored by Representatives Grigsby, Pasch, Richards, A. Williams, Berceau, Danou, Young, Turner, Fields, Cullen, Colon, Zepnick, Kessler, Sinicki, Toles and Parisi.	
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04-22.	S.	Executive action taken.	
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04-23.	S.	Report adoption of Senate Amendment 3 recommended by committee on Children and Families and Workforce Development, Ayes 5, Noes 0	135
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SB

2009

ENROLLED BILL

09en SB-141 ✓

ADOPTED DOCUMENTS:

Orig Engr SubAmdt

09 -0986/1 ✓

Amendments to above (if none, write "NONE"): SA1 - a0217/1 ✓

SA2 - a0220/1 ✓

SA3 - a0230/1 ✓

Corrections - show date (if none, write "NONE"): None

Topic Rel

4-29-09

Date

[Signature]

Enrolling Drafter



2009 SENATE BILL 141

March 31, 2009 - Introduced by Senators COGGS, CARPENTER, TAYLOR, PLALE, ERPENBACH, RISSER and HANSEN, cosponsored by Representatives GRIGSBY, PASCH, RICHARDS, A. WILLIAMS, BERCEAU, DANOU, YOUNG, TURNER, FIELDS, CULLEN, COLON, ZEPNICK, KESSLER, SINICKI, TOLES and PARISI. Referred to Committee on Children and Families and Workforce Development.

1 **AN ACT** *to amend* 48.657 (1) (a), 48.657 (1) (b), 48.657 (2g), 48.715 (2) (c), 48.715
2 (2) (d), 48.715 (2) (f), 48.715 (3) (intro.), 48.715 (4) (a), 48.715 (4) (b) and 48.715
3 (4) (d); and *to create* 48.658 of the statutes; **relating to:** requiring certain
4 vehicles that transport children to and from a child care provider to have child
5 safety alarms installed, granting rule-making authority, extending the time
6 limit for emergency rule procedures, providing an exemption from emergency
7 rule procedures, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current Department of Children and Families (DCF) administrative rules, a child may not be left unattended in a vehicle that transports children to or from a day care center that is licensed by DCF, a day care provider that is certified according to standards adopted by DCF, or a day care program that is established or contracted for by a school board (child care provider).

Under this bill, a child care provider or contractor of a child care provider that owns or leases a child care vehicle must install a child safety alarm, which has been approved by DCF, before the child care vehicle is placed in service. Under the bill, "child care vehicle" means "a vehicle that has a seating capacity of six or more passengers in addition to the driver, that is owned or leased by a child care provider or a contractor of a child care provider, and that is used to transport children to and

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from the child care provider.” Under the bill, “child safety alarm” means “an alarm system that prompts the driver of a child care vehicle to inspect the child care vehicle for children before exiting the child care vehicle.” The bill, however, grants to a child care provider or contractor of a child care provider that owns or leases a child care vehicle that is in use before the effective date of the bill a grace period of three months after the effective date of the bill to install a child safety alarm. Under the bill, any person who knowingly transports a child to or from a child care provider in a child care vehicle in which a child safety alarm has not been installed, is not properly maintained, or is not in good working order may be fined not more than \$1,000 or imprisoned for not more than one year in the county jail or both. The same penalty applies to any child care provider or contractor of a child care provider that knowingly permits a child to be transported in a child care vehicle it owns or leases and in which a child safety alarm has not been installed, is not properly maintained, or is not in good working order.

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.

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

1 **SECTION 1.** 48.657 (1) (a) of the statutes is amended to read:

2 48.657 (1) (a) Violations of statutes, rules promulgated by the department
3 under s. 48.658 (4) (a) or 48.67, or provisions of licensure under s. 48.70 (1) by the day
4 care center. In providing information under this paragraph, the department may not
5 disclose the identity of any employee of the day care center.

6 **SECTION 2.** 48.657 (1) (b) of the statutes is amended to read:

7 48.657 (1) (b) A telephone number at the department that a person may call
8 to complain of any alleged violation of a statute, rule promulgated by the department
9 under s. 48.658 (4) (a) or 48.67, or provision of licensure under s. 48.70 (1) by the day
10 care center.

11 **SECTION 3.** 48.657 (2g) of the statutes is amended to read:

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1 48.657 (2g) If the report under sub. (1) indicates that the day care center is in
2 violation of a statute, a rule promulgated by the department under s. 48.658 (4) (a)
3 or 48.67, or a provision of licensure under s. 48.70 (1), the day care center shall post
4 with the report any notices received from the department relating to that violation.

5 **SECTION 4.** 48.658 of the statutes is created to read:

6 **48.658 Child safety alarms in child care vehicles. (1) DEFINITIONS.** In this
7 section:

8 (a) "Child care provider" means a day care center that is licensed under s. 48.65
9 (1), a day care provider that is certified under s. 48.651, or a day care program that
10 is established or contracted for under s. 120.13 (14).

11 (b) "Child care vehicle" means a vehicle that has a seating capacity of 6 or more
12 passengers in addition to the driver, that is owned or leased by a child care provider
13 or a contractor of a child care provider, and that is used to transport children to and
14 from the child care provider.

15 (c) "Child safety alarm" means an alarm system that prompts the driver of a
16 child care vehicle to inspect the child care vehicle for children before exiting the child
17 care vehicle.

18 **(2) CHILD SAFETY ALARMS REQUIRED.** Before a child care vehicle is placed in
19 service, the child care provider or contractor of a child care provider that is the owner
20 or lessee of the child care vehicle shall have a child safety alarm that is approved by SAI ✓
21 the department under sub. (4) (b) SAI installed in the child care vehicle. A person who ✓
22 is required under this subsection to have an approved child safety alarm installed INSERT SAI-3 ✓
23 in a child care vehicle shall ensure that the child safety alarm is properly maintained
24 and in good working order each time the child care vehicle is used for transporting
25 children to or from a child care provider.

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SECTION 4

INS. SA2-1 ✓

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~~(3) VIOLATION~~ (a) No person may knowingly transport a child, and no child care provider or contractor of a child care provider that is the owner or lessee of a child care vehicle may knowingly permit a child to be transported, to or from a child care provider in a child care vehicle in which a child safety alarm has not been installed, is not properly maintained, or is not in good working order.

INS. SA2-2 ✓

~~(b) In addition to the sanctions and penalties specified in s. 48.715, any person who violates par. (a) may be fined not more than \$1,000 or imprisoned for not more than one year in the county jail or both.~~

INSERT SA2-3 ✓

INSERT SA1-4

(4) RULES; APPROVAL OF CHILD SAFETY ALARMS. (a) The department shall promulgate rules to implement this section.

INSERT SA3-1 ✓

~~(b) The department shall maintain a list of child safety alarms that are approved by the department for use in a child care vehicle. Notwithstanding s. 227.10 (1), that list need not be promulgated as rules under ch. 227.~~

INSERT SA1-5 ✓

SECTION 5. 48.715 (2) (c) of the statutes is amended to read:

48.715 (2) (c) That a licensee stop violating any provision of licensure under s. 48.70 (1) or ~~rules~~ rule promulgated by the department under s. ~~48.658 (4) (a)~~ 48.67.

SECTION 6. 48.715 (2) (d) of the statutes is amended to read:

48.715 (2) (d) That a licensee submit a plan of correction for violation of any provision of licensure under s. 48.70 (1) or rule promulgated by the department under s. ~~48.658 (4) (a)~~ 48.67.

SECTION 7. 48.715 (2) (f) of the statutes is amended to read:

48.715 (2) (f) That a licensee close the intake of any new children until all violations of the provisions of licensure under s. 48.70 (1) and the rules promulgated by the department under s. ~~48.658 (4) (a)~~ 48.67 are corrected.

SECTION 8. 48.715 (3) (intro.) of the statutes is amended to read:

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1 48.715 (3) (intro.) If the department provides written notice of the grounds for
2 a penalty, an explanation of the types of penalties that may be imposed under this
3 subsection, and an explanation of the process for appealing a penalty imposed under
4 this subsection, the department may impose any of the following penalties against
5 a licensee or any other person who violates a provision of licensure under s. 48.70 (1)
6 or rule promulgated by the department under s. 48.658 (4) (a) or 48.67 or who fails
7 to comply with an order issued under sub. (2) by the time specified in the order:

8 **SECTION 9.** 48.715 (4) (a) of the statutes is amended to read:

9 48.715 (4) (a) The department has imposed a penalty on the licensee under sub.
10 (3) and the licensee or a person under the supervision of the licensee either continues
11 to violate or resumes violation of a rule promulgated under s. 48.658 (4) (a) or 48.67,
12 a provision of licensure under s. 48.70 (1), or an order under this section forming any
13 part of the basis for the penalty.

14 **SECTION 10.** 48.715 (4) (b) of the statutes is amended to read:

15 48.715 (4) (b) The licensee or a person under the supervision of the licensee has
16 committed a substantial violation, as determined by the department, of a rule
17 promulgated under s. 48.658 (4) (a) or 48.67, a provision of licensure under s. 48.70
18 (1), or an order under this section.

19 **SECTION 11.** 48.715 (4) (d) of the statutes is amended to read:

20 48.715 (4) (d) The licensee or a person under the supervision of the licensee has
21 violated, as determined by the department, a rule promulgated under s. 48.658 (4)
22 (a) or 48.67, a provision of licensure under s. 48.70 (1), or an order under this section
23 that is the same as or similar to a rule promulgated under s. 48.658 (4) (a) or 48.67,
24 a provision of licensure under s. 48.70 (1), or an order under this section that the
25 licensee or a person under the supervision of the licensee has violated previously.

SENATE BILL 141**1 SECTION 12. Nonstatutory provisions.**

2 (1) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES; RULES.

3 (a) *Proposed rules.* The department of children and families shall submit in
4 proposed form the rules required under section 48.658 (4) (a) of the statutes, as
5 created by this act, to the legislative council staff under section 227.15 (1) of the
6 statutes no later than the first day of the 6th month beginning after the effective date
7 of this paragraph.

8 (b) *Emergency rules.* Using the procedure under section 227.24 of the statutes,
9 the department of children and families may promulgate as emergency rules the
10 rules required under section 48.658 (4) (a) of the statutes, as created by this act, for
11 the period before the effective date of the rules submitted under paragraph (a).
12 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules
13 promulgated under this paragraph remain in effect until the date on which the rules
14 submitted under paragraph (a) take effect. Notwithstanding section 227.24 (1) (a)
15 and (3) of the statutes, the department of children and families is not required to
16 provide evidence that promulgating a rule under this paragraph as an emergency
17 rule is necessary for the preservation of public peace, health, safety, or welfare and
18 is not required to provide a finding of emergency for a rule promulgated under this
19 paragraph.

20 (2) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES; GRACE PERIOD.
21 Notwithstanding section 48.658 (2) of the statutes, as created by this act, a child care
22 provider, as defined in section 48.658 (1) (a) of the statutes, as created by this act, or
23 a contractor of a child care provider that is the owner or lessee of a child care vehicle,
24 as defined in section 48.658 (1) (b) of the statutes, as created by this act, that is used
25 to transport children to and from a child care provider on the day before the effective

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1 date of this subsection shall have a child safety alarm, as defined in section 48.658

2 (1) (c) of the statutes, as created by this act, that is approved by the department of
3 children and families under section 48.658 (4) (b) of the statutes, as created by this

4 act, installed in the child care vehicle by a qualified technician or mechanic by the
5 first day of the 3rd month beginning after the effective date of this subsection.

6 **SECTION 13. Initial applicability.**

7 (1) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES. Except as provided in
8 subsection (2), this act first applies to a child care vehicle, as defined in section 48.658

9 (1) (b) of the statutes, as created by this act, that is used to transport children to or
10 from a child care provider, as defined in section 48.658 (1) (a) of the statutes, as
11 created by this act, on the effective date of this subsection.

12 (2) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES; GRACE PERIOD. This act first
13 applies to a child care vehicle, as defined in section 48.658 (1) (b) of the statutes, as
14 created by this act, described in SECTION 12 (2) of this act that is used to transport
15 children to or from a child care provider, as defined in section 48.658 (1) (a) of the
16 statutes, as created by this act, on the first day of the 3rd month beginning after the
17 effective date of this subsection.

18 **SECTION 14. Effective dates.** This act takes effect on the first day of the 12th
19 month beginning after publication, except as follows:

20 (1) RULES. SECTION 12 (1) of this act takes effect on the day after publication.

21 (END)



**SENATE AMENDMENT 1,
TO 2009 SENATE BILL 141**

April 20, 2009 - Offered by Senator COGGS.

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

2 ✓ 1. Page 3, line 20: delete "that is approved by".

3 ✓ 2. Page 3, line 21: delete "the department under sub. (4) (b)".

4 ✓ 3. Page 3, line 22: delete "an approved" and substitute "a".

5 ✓ 4. Page 4, line 9: delete "APPROVAL OF" and substitute "INFORMATION ABOUT".

6 ✓ 5. Page 4, line 11: delete lines 11 to 13 and substitute:

7 "(bm) The department shall make information about child safety alarms
8 available to persons who are required under sub. (2) to have a child safety alarm
9 installed in a child care vehicle. The department may make that information
10 available by posting the information on the department's Internet site."

11 ✓ 6. Page 7, line 2: delete lines 2 and 3 and substitute "(1) (c) of the statutes, as
12 created by this".

13 (END)

SAI-3

SAI-4

SAI-5

SAI-6



**SENATE AMENDMENT 2,
TO 2009 SENATE BILL 141**

April 20, 2009 – Offered by Senator COGGS.

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

2 ✓1. Page 4, line 1: delete "VIOLATION." and substitute "VIOLATIONS."

3 ✓2. Page 4, line 5: delete lines 5 to 8 and substitute "is not properly maintained,
4 or is not in good working order. In addition to the sanctions and penalties specified
5 in s. 48.715, any person who violates this paragraph may be fined not more than
6 \$1,000 or imprisoned for not more than one year in the county jail or both."

7 ✓3. Page 4, line 8: after that line insert:

8 "(bm) No person may remove, disconnect, tamper with, or otherwise
9 circumvent the operation of a child safety alarm that is installed in a child care
10 vehicle, except for the purpose of testing, repairing, or maintaining the child safety
11 alarm or of replacing or disposing of a malfunctioning child safety alarm. No person
12 may shut off a child safety alarm that is installed in a child care vehicle unless the

SA2-1

SA2-2

SA2-3

SA2-3

1 person first inspects the vehicle to ensure that no child is left unattended in the
2 vehicle. Any person who violates this paragraph is guilty of a Class I felony?².

3

(END)



**SENATE AMENDMENT 3,
TO 2009 SENATE BILL 141**

April 21, 2009 - Offered by Senator COGGS.

SA3-1

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

2 ✓ 1. Page 4, line 10: after "section." insert "Those rules shall include a rule
3 requiring the department, whenever it inspects a child care provider that is licensed
4 under s. 48.65 (1) or established or contracted for under s. 120.13 (14), and a county
5 department, whenever it inspects a child care provider that is certified under s.
6 48.651, to inspect the child safety alarm of each child care vehicle that is used to
7 transport children to and from the child care provider to determine whether the child
8 safety alarm is in good working order."

9 (END)