



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 496**

January 6, 2010 – Offered by Representative BARCA.

1 **AN ACT** *to create* 346.89 (3) and 346.95 (11) of the statutes; **relating to:**
2 prohibiting electronic text messaging and electronic mail messaging while
3 driving and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits inattentive driving of a motor vehicle, which means that a driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle. Any person convicted of inattentive driving may be required to forfeit not less than \$20 nor more than \$400.

This substitute amendment prohibits a person from driving while composing or sending an electronic text message or an electronic mail message. The prohibition does not apply to operators of authorized emergency vehicles, to the use of any device whose primary function is transmitting and receiving emergency alert messages and messages related to the operation of the vehicle or an accessory that is integrated into the electrical system of a vehicle, including a global positioning system device, or to certain amateur radio operators using dedicated two-way radio communication equipment. Persons who violate this prohibition may be required to forfeit not less

than \$100 nor more than \$400 for a first offense, and not less than \$200 nor more than \$800 for a second or subsequent conviction.

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

1 **SECTION 1.** 346.89 (3) of the statutes is created to read:

2 346.89 (3) (a) No person may drive, as defined in s. 343.305 (1) (b), any motor
3 vehicle while composing or sending an electronic text message or an electronic mail
4 message.

5 (b) This subsection does not apply to any of the following:

6 1. The operator of an authorized emergency vehicle.

7 2. The use of any device whose primary function is transmitting and receiving
8 emergency alert messages and messages related to the operation of the vehicle or an
9 accessory that is integrated into the electrical system of a vehicle, including a global
10 positioning system device.

11 3. An amateur radio operator who holds a valid amateur radio operator's
12 license issued by the federal communications commission when he or she is using
13 dedicated amateur radio 2-way radio communication equipment and observing
14 proper amateur radio operating procedures.

15 **SECTION 2.** 346.95 (11) of the statutes is created to read:

16 346.95 (11) Any person violating s. 346.89 (3) (a) may be required to forfeit not
17 less than \$100 nor more than \$400 for the first offense and not less than \$200 nor
18 more than \$800 for the 2nd or subsequent conviction.

19 **SECTION 3. Effective date.**

