

2013 DRAFTING REQUEST

Bill

Received: **11/28/2012** Received By: **agary**
 Wanted: **As time permits** Same as LRB:
 For: **Timothy Cullen (608) 266-2253** By/Representing: **Kelley Flury**
 May Contact: Drafter: **agary**
 Subject: **Education - state superintendent** Addl. Drafters: **tkuczens**
Transportation - motor vehicles
Transportation - traffic laws Extra Copies: **EVM, FFK, PG**

Submit via email: **YES**
 Requester's email: **Sen.Cullen@legis.wisconsin.gov**
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**
tracy.kuczenski@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Safety belts on school buses

Instructions:

See attached

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/P2	agary	csicilia	jfrantze	_____	mbarman		State

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Gary, Aaron

From: Flury, Kelley
Sent: Tuesday, December 04, 2012 4:52 PM
To: Gary, Aaron
Subject: RE: Sen. Cullen drafting request

Hi, Aaron,

Answer to #1 is yes, that is a good idea. Thank you for thinking of it.

Answers to #2 are ... let's allow officers to cite the driver if passengers are not buckled as well as passengers 16 and older who are not buckled to be consistent with current law.

Yes, penalties will be the same as a seatbelt violation in an automobile. It's hard to figure out the penalties without doing a lot of cross-referencing. I wonder if the DOT website has an easier-to-understand chart of penalties for seatbelt violations.

Thank you for giving me the e-mail from the DOT. It's good to no up front that they oppose this. We'll see if it gets support from legislators.

Kelley

From: Gary, Aaron
Sent: Tuesday, December 04, 2012 3:55 PM
To: Flury, Kelley
Subject: RE: Sen. Cullen drafting request

Hi Kelley,

I started working on this request and have a few follow up questions / comments. They mostly relate to enforcement issues.

1. Basing the application of this law on when a contract is entered into will present practical problems for traffic officers (unless we require a copy of the contract to be kept with the school bus) - that is, the officer that stops the bus will not know when the contract for purchase of the bus was signed. I recommend basing the applicability of the requirement on the date of manufacture of the school bus - I think that date can be determined from the bus and/or registration kept in the bus. In other words, the seat belt requirement would apply to buses manufactured after 6 mos. from eff. date and operated in Wisconsin. Is that OK with you?
2. Under current law, we put most of the responsibility for using a seat belt on the vehicle driver. The primary provision prohibits a person from operating a vehicle while the driver or passengers are not buckled in their seat belts. In this bill, that would mean in the bus driver (and perhaps any adult bus attendant) would be responsible if kids are not wearing their seat belts. The bill could also allow officers to issue citations directly to children for not wearing their seat belts. You could also allow the officer to give the citation to just the driver, just the child, or both the driver and child (and/or to a bus attendant). Who do you want to make responsible when seat belts are not worn? And do you want the penalty to be the same as a seat belt violation in an automobile? (As we discussed, current law provisions relating to seat belts and car seats are found in s. 347.48, and they distinguish in part between children under 8 and other passengers; the penalties are in s. 347.50 (2m) to (4) and children under 16 are not required to pay a forfeiture for a violation.)

Finally, the issue of seat belts in school buses comes up periodically. Because federal law imposes certain limitations on states with respect to vehicle equipment requirements, I asked DOT a couple of years ago whether federal law prevents this state from requiring seat belts on school buses. DOT's answer was no, it doesn't. DOT also expressed its position opposing such a requirement. Just for your reference, in case it is helpful to you, I am forwarding that email from DOT from 2010 (luckily, I never seem to get around to deleting my old emails!).

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Flury, Kelley
Sent: Tuesday, November 27, 2012 3:13 PM
To: Gary, Aaron
Subject: Sen. Cullen drafting request

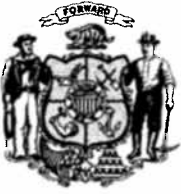
Hi, Aaron,

We would like to draft a bill as follows:

Beginning six months after the enactment of this bill, every new contract that is signed for the purchase of a school bus must require safety belts in the specifications. During travel, the seatbelts must be used by every passenger and driver. The department shall promulgate rules.

Thanks.

Kelley Flury
Office of Sen. Tim Cullen
266-2253



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12/12



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soon

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

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1 **AN ACT** ... relating to: the installation and use of safety belts on certain school
2 buses, providing an exemption from emergency rule procedures, granting
3 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, if a motor vehicle is required by federal law to be equipped with seat belts, the motor vehicle cannot be bought, sold, or leased in Wisconsin unless the vehicle is so equipped. With limited exceptions, the vehicle cannot be operated in Wisconsin unless the vehicle operator and all passengers are properly restrained in a seat belt or, if the passenger is less than eight years old, in a child safety seat or booster seat. The penalty for a seat belt violation is a forfeiture of \$10, but no forfeiture may be imposed against a person who is less than 16 years old. A person convicted of a seat belt violation is not subject to fees or surcharges in addition to the forfeiture and is not assessed demerit points against the person's motor vehicle operating record.

Federal law does not require school buses weighing more than 10,000 pounds to be equipped with seat belts for passengers.

This bill prohibits the operation on highways of school buses that weigh more than 10,000 pounds and that are manufactured on or after a date approximately six months after the bill's effective date unless the school bus is equipped with seat belts for passengers and, with limited exceptions, all passengers are properly restrained in these seat belts. The bill requires the Department of Transportation to, by rule, establish specifications and requirements for approved types and installations of seat belts for passenger seats on these school buses. With limited exceptions, the bill

also prohibits a person from being a passenger in a school bus unless the person is seated at a designated seating position and properly restrained in a seat belt. The penalty for an operator or passenger who commits a seat belt violation in a school bus is a forfeiture of \$10, but no forfeiture may be imposed against a person who is less than 16 years old. A person convicted of a seat belt violation in a school bus is not subject to fees or surcharges in addition to the forfeiture and is not assessed demerit points against the person's motor vehicle operating record.

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.** 165.755 (1) (b) of the statutes is amended to read:

2 165.755 (1) (b) A court may not impose the crime laboratories and drug law
3 enforcement surcharge under par. (a) for a violation of s. 101.123 (2) or (2m), for a
4 financial responsibility violation under s. 344.62 (2), or for a violation of a state law
5 or municipal or county ordinance involving a nonmoving traffic violation, a violation
6 under s. 343.51 (1m) (b), or a safety belt use violation under s. 347.48 (2m) or 347.482. ✓

7 History: 1997 a. 27; 1999 a. 9, 72; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 30, 33, 139, 268, 326, 327; 2005 a. 25, 455; 2009 a. 12, 28, 100, 276; 2011 a. 260.

7 **SECTION 2.** 302.46 (1) (a) of the statutes is amended to read:

8 302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law
9 or for a violation of a municipal or county ordinance except for a violation of s. 101.123
10 (2) or (2m), for a financial responsibility violation under s. 344.62 (2), or for a violation
11 of state laws or municipal or county ordinances involving nonmoving traffic
12 violations, violations under s. 343.51 (1m) (b), or safety belt use violations under s.
13 347.48 (2m) or 347.482, the court, in addition, shall impose a jail surcharge under ch. ✓
14 814 in an amount of 1 percent of the fine or forfeiture imposed or \$10, whichever is
15 greater. If multiple offenses are involved, the court shall determine the jail
16 surcharge on the basis of each fine or forfeiture. If a fine or forfeiture is suspended

1 in whole or in part, the court shall reduce the jail surcharge in proportion to the
2 suspension.

History: 1987 a. 27; 1989 a. 22; 1989 a. 31 s. 1670c, 1670g; Stats. 1989 s. 302.46; 1989 a. 97, 359; 1991 a. 26, 32, 130, 189; 1993 a. 313; 1995 a. 201; 1999 a. 72; 2001 a. 16; 2003 a. 30, 139, 268, 326, 327; 2005 a. 455; 2009 a. 12, 28, 100, 256; 2011 a. 260.

3 **SECTION 3.** 343.32 (2) (bt) of the statutes is amended to read:

4 343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit
5 points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) (am) or 347.482.

History: 1971 c. 42, 278, 281; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1979 c. 221; 1981 c. 31, 216, 327; 1987 a. 24, 132; 1989 a. 22, 75, 105, 175, 359; 1991 a. 26, 32, 39, 189; 1993 a. 16, 314, 480; 1995 a. 113, 269, 338, 420, 448; 1997 a. 84, 135; 1999 a. 9, 185; 2005 a. 106, 317; 2009 a. 8, 103, 311; 2011 a. 256.

6 **SECTION 4.** 347.482 of the statutes is created to read:

7 **347.482 Safety belts on school buses. (1)** In this section:

8 (a) “Properly restrained” means wearing a safety belt approved by the
9 department under sub. (5) (a) and fastened in a manner prescribed by the
10 manufacturer of the safety belt that permits the safety belt to act as a body restraint.

11 (b) “School bus” means a school bus, as defined in s. 340.01 (56) (a), that has
12 a gross vehicle weight rating of more than 10,000 pounds and that is manufactured
13 on or after the effective date of this ^{or paragraph} subsection [LRB inserts date].

14 (2) No person may operate a school bus on a highway in this state unless the
15 school bus is equipped, in each designated seating position for passengers of the
16 school bus, with safety belts of a type, and installed in a manner, approved by the
17 department.

18 (3) (a) No person may operate a school bus on a highway in this state unless
19 each passenger who is seated at a designated seating position for which a safety belt
20 is required under sub. (2) is properly restrained.

21 (b) No person may be a passenger in a school bus operated on a highway in this
22 state unless the person is seated at a designated seating position for which a safety
23 belt is required under sub. (2) and is properly restrained.

SECTION 4

1 (c) This subsection does not apply to any passenger who is a school bus
2 attendant, who is at least 18 years of age, and who is attending to the safety or other
3 needs of any other passenger. ✓

4 (d) This subsection does not apply to any passenger who, because of a physical
5 or medical condition, cannot be properly restrained. ✓

6 (4) A law enforcement officer may not take a person into physical custody solely
7 for a violation of this section or a local ordinance in conformity with this section. ✓

8 (5) The department shall promulgate rules under this section that include all
9 of the following:

10 (a) Specifications and requirements for approved types of safety belts and
11 safety belt attachments, and for approved installations of safety belts, for passenger
12 seating positions on school buses. The department shall accept, as approved, all
13 types of safety belts and installations meeting the society of automotive engineers'
14 specifications.

15 (b) Criteria for establishing passenger eligibility for the exemption under sub.
16 (4) ^d ~~(f)~~. ✓

17 SECTION 5. 347.50 (1) of the statutes is amended to read:

18 347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.385 (5), s.
19 347.413 (1) or s. 347.415 (1m), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475 or s.
20 347.48 (2m) or (4) or s. 347.482 or s. 347.489, may be required to forfeit not less than
21 \$10 nor more than \$200. ✓

History: 1971 c. 278; 1975 c. 121; 1981 c. 327; 1983 a. 243; 1985 a. 309; 1987 a. 132; 1989 a. 22; 1991 a. 26, 277; 2001 a. 28; 2003 a. 166; 2005 a. 106, 193; 2007 a. 97; 2009 a. 28, 100.

22 SECTION 6. 347.50 (6) of the statutes is created to read: ✓

23 347.50 (6) (a) Any person who violates s. 347.482 (2) or (3) (a) and any person
24 16 years of age or older who violates s. 347.48²(3) (b) shall be required to forfeit \$10.

1 (b) No forfeiture may be assessed for a violation of s. 347.482 (3) (b) if the
2 violator is less than 16 years of age when the offense occurs.

3 **SECTION 7.** 757.05 (1) (a) of the statutes is amended to read:

4 757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of
5 state law or for a violation of a municipal or county ordinance except for a violation
6 of s. 101.123 (2) or (2m), for a financial responsibility violation under s. 344.62 (2),
7 or for a violation of state laws or municipal or county ordinances involving
8 nonmoving traffic violations, violations under s. 343.51 (1m) (b), or safety belt use
9 violations under s. 347.48 (2m) or 347.482, there shall be imposed in addition a
10 penalty surcharge under ch. 814 in an amount of 26 percent of the fine or forfeiture
11 imposed. If multiple offenses are involved, the penalty surcharge shall be based upon
12 the total fine or forfeiture for all offenses. When a fine or forfeiture is suspended in
13 whole or in part, the penalty surcharge shall be reduced in proportion to the
14 suspension.

History: 1999 a. 9 ss. 2292m, 2298, 3050m to 3050o; 1999 a. 72 s. 6; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 30, 33, 139, 268, 326, 327; 2005 a. 25, 60; 455; 2007 a. 96;
2009 a. 12, 28, 276; 2011 a. 258.

15 **SECTION 8.** 814.63 (1) (c) of the statutes is amended to read:

16 814.63 (1) (c) This subsection does not apply to an action for a violation of s.
17 101.123 (2) or (2m), for a financial responsibility violation under s. 344.62 (2), for a
18 violation under s. 343.51 (1m) (b), or for a safety belt use violation under s. 347.48
19 (2m) or 347.482.

History: 1981 c. 317; 1985 a. 36; 1987 a. 27, 399; 1989 a. 22, 31, 64, 97, 107, 359; 1991 a. 26, 39, 130; 1993 a. 16, 167, 313; 1995 a. 27, 227, 349; 1997 a. 27, 248; 1999
a. 9, 72; 2001 a. 16; 2003 a. 30, 33, 139, 268, 327; 2005 a. 455; 2009 a. 12, 28, 100; 2011 a. 32, 258, 260.

20 **SECTION 9.** 814.63 (2) of the statutes is amended to read:

21 814.63 (2) Upon the disposition of a forfeiture action in circuit court for
22 violation of a county, town, city, village, town sanitary district, or public inland lake
23 protection and rehabilitation district ordinance, except for an action for a financial

SECTION 9

1 responsibility violation under s. 344.62 (2) or for a violation under s. 343.51 (1m) (b)
 2 or a safety belt use violation under s. 347.48 (2m) or 347.482, the county, town, city,
 3 village, town sanitary district, or public inland lake protection and rehabilitation
 4 district shall pay a nonrefundable fee of \$5 to the clerk of circuit court.

History: 1981 c. 317; 1985 a. 36; 1987 a. 27, 399; 1989 a. 22, 31, 64, 97, 107, 359; 1991 a. 26, 39, 130; 1993 a. 16, 167, 313; 1995 a. 27, 227, 349; 1997 a. 27, 248; 1999 a. 9, 72; 2001 a. 16; 2003 a. 30, 33, 139, 268, 327; 2005 a. 455; 2009 a. 12, 28, 100; 2011 a. 32, 258, 260.

5 **SECTION 10.** 814.65 (1) of the statutes is amended to read:

6 814.65 (1) COURT COSTS. In a municipal court action, except for a financial
 7 responsibility violation under s. 344.62 (2) or for a violation of an ordinance in
 8 conformity with s. 343.51 (1m) (b) or 347.48 (2m) ^{le} ~~,~~ ^{le} or 347.482, the municipal judge
 9 shall collect a fee of not less than \$15 nor more than ^{↑ struck comma stays} \$28 on each separate matter,
 10 whether it is on default of appearance, a plea of guilty or no contest, on issuance of
 11 a warrant or summons, or the action is tried as a contested matter. Of each fee
 12 received by the judge under this subsection, the municipal treasurer shall pay
 13 monthly \$5 to the secretary of administration for deposit in the general fund and
 14 shall retain the balance for the use of the municipality.

NOTE: NOTE: The comma shown in brackets was deleted by 2009 Wis. Act 121 without being stricken. No change was intended. Corrective legislation is pending.**NOTE:**

History: 1981 c. 317; 1983 a. 107; 1987 a. 181, 389, 399, 403; 1989 a. 22; 1991 a. 26; 1997 a. 27; 2003 a. 30, 33, 320; 2005 a. 54, 455; 2007 a. 96; 2009 a. 28, 100, 121; 2011 a. 32.

15 **SECTION 11.** 814.85 (1) (a) of the statutes is amended to read:

16 814.85 (1) (a) Except for an action for a financial responsibility violation under
 17 s. 344.62 (2), or for a violation under s. 343.51 (1m) (b) or a safety belt use violation
 18 under s. 347.48 (2m) or 347.482, the clerk of circuit court shall charge and collect a
 19 \$68 court support services surcharge from any person, including any governmental
 20 unit as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am)
 21 or 814.63 (1).

History: 1993 a. 16; 1995 a. 27, 201, 417; 2001 a. 109; 2003 a. 30, 33; 2003 a. 139 ss. 197 to 200; Stats. 2003 s. 814.85; 2003 a. 326 ss. 123 to 125; 2005 a. 455; 2009 a. 28, 100.

22 **SECTION 12.** 814.86 (1) of the statutes is amended to read:

1 814.86 (1) Except for an action for a financial responsibility violation under s.
 2 344.62 (2), or for a violation under s. 343.51 (1m) (b) or a safety belt use violation
 3 under s. 347.48 (2m) or 347.482, the clerk of circuit court shall charge and collect a
 4 \$21.50 justice information system surcharge from any person, including any
 5 governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a),
 6 (3), or (8) (am), 814.62 (1), (2), or (3) (a) or (b), or 814.63 (1). The justice information
 7 system surcharge is in addition to the surcharge listed in sub. (1m).

History: 1987 a. 27; 1989 a. 22; 1991 a. 26, 39; 1993 a. 16; 1995 a. 27, 201; 1997 a. 27; 1999 a. 9; 2003 a. 30, 33; 2003 a. 139 s. 201; Stats. 2003 s. 814.86; 2003 a. 326; 2005 a. 25, 455; 2009 a. 28, 100.

8 **SECTION 13. Nonstatutory provisions.**

as created by this act

9 (1) PROPOSED PERMANENT RULES. The department of transportation shall submit
 10 in proposed form the rules required under section 347.482 (5) of the statutes to the
 11 legislative council staff under section 227.15 (1) of the statutes no later than the first
 12 day of the 7th month beginning after the effective date of this subsection.

insert 7-13

~~13 (2) EXCEPTION TO ECONOMIC IMPACT REPORT FOR RULES. Notwithstanding section
 14 227.137 (2) of the statutes, the department of transportation is not required to
 15 prepare an economic impact analysis for the rules required under section 347.482 (5)
 16 of the statutes.~~

17 (3) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
 18 the department of transportation shall promulgate the rules required under section
 19 347.482 (5) of the statutes, for the period before the effective date of the permanent
 20 rules promulgated under section 347.482 (5) of the statutes, but not to exceed the
 21 period authorized under section 227.24 (1) (c) of the statutes, subject to extension
 22 under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2)
 23 (b), and (3) of the statutes, the department is not required to provide evidence that
 24 promulgating a rule under this subsection as an emergency rule is necessary for the

as created by this act

1 preservation of public peace, health, safety, or welfare and is not required to provide
2 a finding of an emergency for a rule promulgated under this subsection.

3 Notwithstanding section 227.24 (1) (e) 1d. and 1g. of the statutes, the department is ✓ ✓

4 not required to obtain approval of a statement of scope as provided in section 227.135

5 (2) or (4) of the statutes, or submit the proposed emergency rule in final draft form

6 to the governor for approval and obtain such approval, for a rule promulgated under

7 this subsection.

8 **SECTION 14. Effective dates.** This act takes effect on the first day of the 7th
9 month beginning after publication, except as follows:

10 (1) SECTION 13 of this act takes effect on the day after publication.

11 (END)

↑
check
a.r.

D-Note

insert
8-4

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0645/P1ins
ARG:.....

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INSERT 7-13:

~~#~~ (2) RULEMAKING EXCEPTIONS FOR PERMANENT RULES. ~~#~~ (a) Notwithstanding section

227.135 (2) of the statutes, the department of transportation is not required to present the statement of the scope of the rules required under section 347.482 (5) of the statutes, as created by this act, to the governor for approval. ✓

~~#~~ (b) Notwithstanding section 227.185 of the statutes, the department of transportation is not required to present the rules required under section 347.482 (5) of the statutes, as created by this act, in final draft form to the governor for approval. ✓

~~#~~ (c) Notwithstanding section 227.137 (2) of the statutes, the department of transportation is not required to prepare an economic impact report for the rules required under section 347.482 (5) of the statutes, as created by this act. ✓

~~#~~ (d) Notwithstanding sections 227.14 (2g) and 227.19 (3) (e) of the statutes, the department of transportation is not required to submit the proposed rules required under section 347.482 (5) of the statutes, as created by this act, to the small business regulatory review board and is not required to prepare a final regulatory flexibility analysis for those rules. ✓

INSERT 8-4:

(no #) prepare a statement of the scope of the rules promulgated under this subsection or present the rules to the governor for approval.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0645/P1dn

ARG:/.....

g's

- date -

ATTN: Kelley Flury

Please review the attached draft carefully to ensure that it is consistent with your intent.

To my understanding, federal law requires seat belts for school bus operators and for passengers in school buses weighing 10,000 pounds or less. Because Wisconsin law is derived from the federal requirements, Wisconsin law would also require seat belts in these circumstances. I have therefore prepared this draft to apply only to passengers in school buses weighing more than 10,000 pounds.

You indicated that you would like the penalty provisions in this draft to correspond to penalties for seat belt violations in passenger vehicles under current law. This draft therefore provides for a \$10 forfeiture for school bus seat belt violations. As with seat belt violations for passenger vehicles, this draft creates an exception to any additional surcharges or fees for the violation. This exception has a large economic impact on the violator. For example, child car seat and booster seat violations under s. 347.48 (4) do not have such an exception. The "ticket amount" for a \$10 seat belt violation under s. 347.48 (2m) is \$10. The "ticket amount" for a \$10 car seat violation under s. 347.48 (4) (am), with fees and surcharges, is \$150.

I did not include a provision in this bill relating to evidence of seat belt use in civil litigation. See, for example, s. 347.48 (2m) (g) (seat belts) and s. 347.48 (4) (d) (car seats and booster seats). Please advise if you would like me to include a similar provision in this bill.

I note that bills relating to seat belt requirements in school buses have previously been introduced as 2003 AB-590, 1999 AB-867, and 1995 SB-659. I am not aware of any introduced bill on the topic since the 2003 session.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0645/P1dn
ARG:cjs:rs

December 17, 2012

ATTN: Kelley Flury

Please review the attached draft carefully to ensure that it is consistent with your intent.

To my understanding, federal law requires seat belts for school bus operators and for passengers in school buses weighing 10,000 pounds or less. Because Wisconsin law is derived from the federal requirements, Wisconsin law would also require seat belts in these circumstances. I have therefore prepared this draft to apply only to passengers in school buses weighing more than 10,000 pounds.

You indicated that you would like the penalty provisions in this draft to correspond to penalties for seat belt violations in passenger vehicles under current law. This draft therefore provides for a \$10 forfeiture for school bus seat belt violations. As with seat belt violations for passenger vehicles, this draft creates an exception to any additional surcharges or fees for the violation. This exception has a large economic impact on the violator. For example, child car seat and booster seat violations under s. 347.48 (4) do not have such an exception. The "ticket amount" for a \$10 seat belt violation under s. 347.48 (2m) is \$10. The "ticket amount" for a \$10 car seat violation under s. 347.48 (4) (am), with fees and surcharges, is \$150.

I did not include a provision in this bill relating to evidence of seat belt use in civil litigation. See, for example, s. 347.48 (2m) (g) (seat belts) and s. 347.48 (4) (d) (car seats and booster seats). Please advise if you would like me to include a similar provision in this bill.

I note that bills relating to seat belt requirements in school buses have previously been introduced as 2003 AB-590, 1999 AB-867, and 1995 SB-659. I am not aware of any introduced bill on the topic since the 2003 session.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

1/14

Kelley - Sen. Cullen 0645 6-2253
 • DN : evidence of seat belt use in
 civil litigation
 • what do those sections do?

1/24 t/c w/ Kelley - Sen. Cullen
 6-2253

- want a whole new direction for the draft
- don't want citations for failure to wear a seat belt
- just want to require newly purchased school buses to have seat belts
- that is what Janesville school district does

Gary, Aaron

From: Flury, Kelley
Sent: Tuesday, January 15, 2013 12:11 PM
To: Gary, Aaron
Subject: RE: Oh wait there is one more thing ...

Yes.

From: Gary, Aaron
Sent: Tuesday, January 15, 2013 12:00 PM
To: Flury, Kelley
Subject: RE: Oh wait there is one more thing ...

Looking at the way the bill is drafted, the 3-point lap/shoulder belt requirement would be a requirement imposed by DOT rule (that is, the rules described on p. 4, lines 10-14 would have to include this). Is that OK with you?

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Flury, Kelley
Sent: Tuesday, January 15, 2013 11:40 AM
To: Gary, Aaron
Subject: Oh wait there is one more thing ...

Can you specify in the bill that the seatbelts must be the three-point lap/shoulder belt rather than the two-point lap belts?

From: Gary, Aaron
Sent: Tuesday, January 15, 2013 11:36 AM
To: Flury, Kelley
Subject: RE: Decision on seatbelt question

OK, thanks.

From: Flury, Kelley
Sent: Tuesday, January 15, 2013 11:24 AM

To: Gary, Aaron
Subject: RE: Decision on seatbelt question

No other changes, but will you please draft it as a /P2 so I can run it by Sen. Cullen before we do the real deal. Thanks.

From: Gary, Aaron
Sent: Tuesday, January 15, 2013 11:16 AM
To: Flury, Kelley
Subject: RE: Decision on seatbelt question

Hi Kelley,

Yes, you are correct. I will make this change. Do you expect other changes (i.e. do you want me to make this change now or hold off for other changes as well)? Also, if you want the change made now, do you want it redrafted as a /P2 or a /1?

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Flury, Kelley
Sent: Tuesday, January 15, 2013 10:17 AM
To: Gary, Aaron
Subject: Decision on seatbelt question

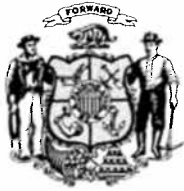
Hi, Aaron

When I was talking to you on the phone, I thought evidence of failure to wear a seatbelt was INadmissible in court. But upon further review, I realize I was mistaken.

So my understanding is: Evidence of compliance or failure to comply with the seatbelt law is admissible in court, but failure to wear a seatbelt can reduce the recovery by no more than 15 percent.

If that is correct, then yes, let's use that language for the school bus seatbelt law.

Kelley



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0645/11 P2

ARG:cjs:rs

Stays

RMC

SOON

In
1/29

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SPW
1/29/14

Gen Cost

that are purchased or sold

1 AN ACT to amend 165.755 (1) (b), 302.46 (1) (a), 343.32 (2) (bt), 347.50 (1), 757.05
 2 (1) (a), 814.63 (1) (c), 814.63 (2), 814.65 (1), 814.85 (1) (a) and 814.86 (1); and to
 3 create 347.482 and 347.50 (6) of the statutes; relating to: the installation and
 4 use of safety belts on certain school buses, providing an exemption from
 5 emergency rule procedures, granting rule-making authority, and providing a
 6 penalty.

Analysis by the Legislative Reference Bureau

Under current law, if a motor vehicle is required by federal law to be equipped with seat belts, the motor vehicle cannot be bought, sold, or leased in Wisconsin unless the vehicle is so equipped. With limited exceptions, the vehicle cannot be operated in Wisconsin unless the vehicle operator and all passengers are properly restrained in a seat belt or, if the passenger is less than eight years old, in a child safety seat or booster seat. The penalty for a seat belt violation is a forfeiture of \$10, but no forfeiture may be imposed against a person who is less than 16 years old. A person convicted of a seat belt violation is not subject to fees or surcharges in addition to the forfeiture and is not assessed demerit points against the person's motor vehicle operating record.

(no 9) Federal law does not require school buses weighing more than 10,000 pounds to be equipped with seat belts for passengers.

This bill prohibits the operation on highways of school buses that weigh more than 10,000 pounds and that are manufactured on or after a date approximately six

SPW
1/29/14

months after the bill's effective date unless the school bus is equipped with seat belts for passengers and, with limited exceptions, all passengers are properly restrained in these seat belts. The bill requires the Department of Transportation to, by rule, establish specifications and requirements for approved types and installations of seat belts for passenger seats on these school buses. With limited exceptions, the bill also prohibits a person from being a passenger in a school bus unless the person is seated at a designated seating position and properly restrained in a seat belt. The penalty for an operator or passenger who commits a seat belt violation in a school bus is a forfeiture of \$10, but no forfeiture may be imposed against a person who is less than 16 years old. A person convicted of a seat belt violation in a school bus is not subject to fees or surcharges in addition to the forfeiture and is not assessed demerit points against the person's motor vehicle operating record.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

← KEEP

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

insert
2-1

SECTION 1. 165.755 (1) (b) of the statutes is amended to read:

165.755 (1) (b) A court may not impose the crime laboratories and drug law enforcement surcharge under par. (a) for a violation of s. 101.123 (2) or (2m), for a financial responsibility violation under s. 344.62 (2), or for a violation of a state law or municipal or county ordinance involving a nonmoving traffic violation, a violation under s. 343.51 (1m) (b), or a safety belt use violation under s. 347.48 (2m) or 347.482.

SECTION 2. 302.46 (1) (a) of the statutes is amended to read:

302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law or for a violation of a municipal or county ordinance except for a violation of s. 101.123 (2) or (2m), for a financial responsibility violation under s. 344.62 (2), or for a violation of state laws or municipal or county ordinances involving nonmoving traffic violations, violations under s. 343.51 (1m) (b), or safety belt use violations under s. 347.48 (2m) or 347.482, the court, in addition, shall impose a jail surcharge under ch. 814 in an amount of 1 percent of the fine or forfeiture imposed or \$10, whichever is

1 greater. If multiple offenses are involved, the court shall determine the jail
2 surcharge on the basis of each fine or forfeiture. If a fine or forfeiture is suspended
3 in whole or in part, the court shall reduce the jail surcharge in proportion to the
4 suspension.

5 **SECTION 3.** 343.32 (2) (bt) of the statutes is amended to read:

6 343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit
7 points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) (am) or 347.482.

8 **SECTION 4.** 347.482 of the statutes is created to read:

9 **347.482 Safety belts on school buses. (1)** In this section:

10 (a) "Properly restrained" means wearing a safety belt approved by the
11 department under sub. (5) (a) and fastened in a manner prescribed by the
12 manufacturer of the safety belt that permits the safety belt to act as a body restraint.

13 (b) "School bus" means a school bus, as defined in s. 340.01 (56) (a), that has
14 a gross vehicle weight rating of more than 10,000 pounds and that is manufactured
15 on or after the effective date of this paragraph [LRB inserts date].

16 (2) No person may operate a school bus on a highway in this state unless the
17 school bus is equipped, in each designated seating position for passengers of the
18 school bus, with safety belts of a type, and installed in a manner, approved by the
19 department.

20 (3) (a) No person may operate a school bus on a highway in this state unless
21 each passenger who is seated at a designated seating position for which a safety belt
22 is required under sub. (2) is properly restrained.

23 (b) No person may be a passenger in a school bus operated on a highway in this
24 state unless the person is seated at a designated seating position for which a safety
25 belt is required under sub. (2) and is properly restrained.

1 (c) This subsection does not apply to any passenger who is a school bus
2 attendant, who is at least 18 years of age, and who is attending to the safety or other
3 needs of any other passenger.

4 (d) This subsection does not apply to any passenger who, because of a physical
5 or medical condition, cannot be properly restrained.

6 (4) A law enforcement officer may not take a person into physical custody solely
7 for a violation of this section or a local ordinance in conformity with this section.

8 (5) The department shall promulgate rules under this section that include all
9 of the following:

10 (a) Specifications and requirements for approved types of safety belts and
11 safety belt attachments, and for approved installations of safety belts, for passenger
12 seating positions on school buses. The department shall accept, as approved, all
13 types of safety belts and installations meeting the society of automotive engineers'
14 specifications.

15 (b) Criteria for passenger eligibility for the exemption under sub. (4) (d).

16 **SECTION 5.** 347.50 (1) of the statutes is amended to read:

17 347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.385 (5), s.
18 347.413 (1) or s. 347.415 (1m), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475 or s.
19 347.48 (2m) or (4) or s. 347.482 or s. 347.489, may be required to forfeit not less than
20 \$10 nor more than \$200.

21 **SECTION 6.** 347.50 (6) of the statutes is created to read:

22 347.50 (6) (a) Any person who violates s. 347.482 (2) or (3) (a) and any person
23 16 years of age or older who violates s. 347.482 (3) (b) shall be required to forfeit \$10.

24 (b) No forfeiture may be assessed for a violation of s. 347.482 (3) (b) if the
25 violator is less than 16 years of age when the offense occurs.

1 **SECTION 7.** 757.05 (1) (a) of the statutes is amended to read:

2 757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of
3 state law or for a violation of a municipal or county ordinance except for a violation
4 of s. 101.123 (2) or (2m), for a financial responsibility violation under s. 344.62 (2),
5 or for a violation of state laws or municipal or county ordinances involving
6 nonmoving traffic violations, violations under s. 343.51 (1m) (b), or safety belt use
7 violations under s. 347.48 (2m) or 347.482, there shall be imposed in addition a
8 penalty surcharge under ch. 814 in an amount of 26 percent of the fine or forfeiture
9 imposed. If multiple offenses are involved, the penalty surcharge shall be based upon
10 the total fine or forfeiture for all offenses. When a fine or forfeiture is suspended in
11 whole or in part, the penalty surcharge shall be reduced in proportion to the
12 suspension.

13 **SECTION 8.** 814.63 (1) (c) of the statutes is amended to read:

14 814.63 (1) (c) This subsection does not apply to an action for a violation of s.
15 101.123 (2) or (2m), for a financial responsibility violation under s. 344.62 (2), for a
16 violation under s. 343.51 (1m) (b), or for a safety belt use violation under s. 347.48
17 (2m) or 347.482.

18 **SECTION 9.** 814.63 (2) of the statutes is amended to read:

19 814.63 (2) Upon the disposition of a forfeiture action in circuit court for
20 violation of a county, town, city, village, town sanitary district, or public inland lake
21 protection and rehabilitation district ordinance, except for an action for a financial
22 responsibility violation under s. 344.62 (2) or for a violation under s. 343.51 (1m) (b)
23 or a safety belt use violation under s. 347.48 (2m) or 347.482, the county, town, city,
24 village, town sanitary district, or public inland lake protection and rehabilitation
25 district shall pay a nonrefundable fee of \$5 to the clerk of circuit court.

1 **SECTION 10.** 814.65 (1) of the statutes is amended to read:

2 814.65 (1) COURT COSTS. In a municipal court action, except for a financial
3 responsibility violation under s. 344.62 (2) or for a violation of an ordinance in
4 conformity with s. 343.51 (1m) (b) or 347.48 (2m), or 347.482, the municipal judge
5 shall collect a fee of not less than \$15 nor more than \$28 on each separate matter,
6 whether it is on default of appearance, a plea of guilty or no contest, on issuance of
7 a warrant or summons, or the action is tried as a contested matter. Of each fee
8 received by the judge under this subsection, the municipal treasurer shall pay
9 monthly \$5 to the secretary of administration for deposit in the general fund and
10 shall retain the balance for the use of the municipality.

11 **SECTION 11.** 814.85 (1) (a) of the statutes is amended to read:

12 814.85 (1) (a) Except for an action for a financial responsibility violation under
13 s. 344.62 (2), or for a violation under s. 343.51 (1m) (b) or a safety belt use violation
14 under s. 347.48 (2m) or 347.482, the clerk of circuit court shall charge and collect a
15 \$68 court support services surcharge from any person, including any governmental
16 unit as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am)
17 or 814.63 (1).

18 **SECTION 12.** 814.86 (1) of the statutes is amended to read:

19 814.86 (1) Except for an action for a financial responsibility violation under s.
20 344.62 (2), or for a violation under s. 343.51 (1m) (b) or a safety belt use violation
21 under s. 347.48 (2m) or 347.482, the clerk of circuit court shall charge and collect a
22 \$21.50 justice information system surcharge from any person, including any
23 governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a),
24 (3), or (8) (am), 814.62 (1), (2), or (3) (a) or (b), or 814.63 (1). The justice information
25 system surcharge is in addition to the surcharge listed in sub. (1m).

SECTION 13. Nonstatutory provisions.

(1) PROPOSED PERMANENT RULES. The department of transportation shall submit in proposed form the rules required under section 347.482 (5) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 7th month beginning after the effective date of this subsection.

(2) RULE-MAKING EXCEPTIONS FOR PERMANENT RULES.

(a) Notwithstanding section 227.135 (2) of the statutes, the department of transportation is not required to present the statement of the scope of the rules required under section 347.482 (5) of the statutes, as created by this act, to the governor for approval.

(b) Notwithstanding section 227.185 of the statutes, the department of transportation is not required to present the rules required under section 347.482 (5) of the statutes, as created by this act, in final draft form to the governor for approval.

(c) Notwithstanding section 227.137 (2) of the statutes, the department of transportation is not required to prepare an economic impact report for the rules required under section 347.482 (5) of the statutes, as created by this act.

(d) Notwithstanding sections 227.14 (2g) and 227.19 (3) (e) of the statutes, the department of transportation is not required to submit the proposed rules required under section 347.482 (5) of the statutes, as created by this act, to the small business regulatory review board and is not required to prepare a final regulatory flexibility analysis for those rules.

(3) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes, the department of transportation shall promulgate the rules required under section

1 347.482 (5) of the statutes, as created by this act, for the period before the effective
2 date of the permanent rules promulgated under section 347.482 (5) of the statutes,
3 as created by this act, but not to exceed the period authorized under section 227.24
4 (1) (c) of the statutes, subject to extension under section 227.24 (2) of the statutes.
5 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department
6 is not required to provide evidence that promulgating a rule under this subsection
7 as an emergency rule is necessary for the preservation of public peace, health, safety,
8 or welfare and is not required to provide a finding of an emergency for a rule
9 promulgated under this subsection. Notwithstanding section 227.24 (1) (e) 1d. and
10 1g. of the statutes, the department is not required to prepare a statement of the scope
11 of the rules promulgated under this subsection or present the rules to the governor
12 for approval.

13 **SECTION 14. Effective dates.** This act takes effect on the first day of the 7th
14 month beginning after publication, except as follows:

15 (1) SECTION 13 of this act takes effect on the day after publication.

16

(END)



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INSERT ANAL:

Also under current law, the Department of Transportation (DOT) must adopt and enforce rules, in the interests of safety, to cover the design, construction, inspection, and operation of school buses. Prior to the use of a motor vehicle as a school bus, the seller of the school bus must obtain a presale inspection of the school bus by DOT verifying compliance with DOT's rules relating to design and construction of school buses, and a copy of the presale inspection report must be provided to the purchaser. However, the purchaser and seller of the school bus may agree that the purchaser will obtain the presale inspection. Certain consequences follow if the presale inspection report shows that the school bus is not in compliance with DOT's rules relating to design and construction of school buses.

Also under current law, contracts for the transportation of pupils must, by reference, incorporate DOT's school bus rules.

Under this bill, a school bus that weighs more than 10,000 pounds cannot be bought, sold, or leased in Wisconsin unless the school bus is equipped with seat belts for passengers that include both pelvic and upper torso restraints. The penalty for a violation of this requirement is a forfeiture of not less than \$10 nor more than \$200. The bill also requires DOT's rules relating to design and construction of school buses to include this requirement, which results in inclusion of the requirement in DOT's school bus presale inspection reports and in contracts for the transportation of pupils. The bill does not prohibit operation of school buses that are not equipped with seat belts or require school bus passengers to be restrained in seat belts.

INSERT 2-1:

SECTION 1. 110.06 (2) of the statutes is amended to read:

110.06 (2) The secretary shall adopt and enforce such rules as he or she deems necessary in the interests of safety to cover the design, construction, inspection, and operation of school buses. ~~Such~~ These rules may, but need not, be uniform for each type of bus designated in s. 340.01 (56) (a) and (am). These rules shall include, as a requirement relating to design and construction of school buses, the requirement under s. 347.482.

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SECTION 2. 347.48 (5) of the statutes is created to read:

347.48 (5) CERTAIN SCHOOL BUSES EXCEPTED. This section does not apply to a school bus, as defined in s. 347.482 (1), except with respect to the operator of the school bus.

SECTION 3. 347.482 of the statutes is created to read:

347.482 Safety belts on school buses. (1) In this section, "school bus" means a school bus, as defined in s. 340.01 (56) (a), that has a gross vehicle weight rating of more than 10,000 pounds.

(2) No person may buy, sell, lease, trade, or transfer a school bus, on or after the effective date of this paragraph ... [LRB inserts date], from or to a resident of this state unless the school bus is equipped with safety belts for passengers that include both pelvic and upper torso restraints.

SECTION 4. Effective date.

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

^

X

✓

sub-section

paragraph

file w/
Kelly

- school

3/5

- 0645

• take out forfeiture →

• notwithstanding s. 939.61? →

• discussed - don't include provision
that 939.61 doesn't apply

• silent on penalty in bill

~~- app~~

• would need

• check re what if bus
doesn't pass inspect → ???
will it be registered ???

- new school buses only
• no retrofitting

• check on registration issue

Gary, Aaron

From: Flury, Kelley
Sent: Tuesday, March 05, 2013 3:58 PM
To: Gary, Aaron
Subject: RE: LRB-0645: school buses

Great. That is helpful. The other things we discussed were:

Change bill to stay silent on the default penalty for non-compliance.

Change the bill so that the seatbelt requirement applies only to school buses manufactured six months after publication of the bill.

From: Gary, Aaron
Sent: Tuesday, March 05, 2013 3:49 PM
To: Flury, Kelley
Subject: LRB-0645: school buses

Kelley,

I found an answer to my question. By DOT rule, a school bus that does not pass inspection cannot be used for pupil transportation, unless the non-compliant items are relatively minor. (This is a prohibition on using the school bus, not on its registration.) The applicable rule states:

Trans 300.13(3)

Any person purchasing a school bus may not use the vehicle for any pupil transportation unless the bus has been inspected by the department and approved for use as a school bus in Wisconsin. This may not preclude such use if items needing correction or alteration after the initial inspection are of a nature that would not affect safe transportation of students. The inspecting officer shall advise the owner if a new bus may be used while the items not in compliance are being corrected.

Let me know if this changes anything in terms of what you want in the redraft.

Thanks. Aaron

Aaron R. Gary
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