

2015 DRAFTING REQUEST

Bill

Received: 4/15/2015 Received By: agary
For: Janet Bewley (608) 266-3510 Same as LRB:
May Contact: By/Representing: Geoff Gaston
Subject: Transportation - traffic laws Drafter: agary
Addl. Drafters: swalkenh

Extra Copies:

Submit via email: YES
Requester's email: Sen.Bewley@legis.wi.gov
Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov
sarah.walkenhorstbarber@legis.wisconsin.gov
eric.mueller@legis.wisconsin.gov
zachary.wyatt@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Prohibit smoking in vehicles while children are present; surcharge funding smoking cessation program

Instructions:

Wants redraft of 2013 AB 877 (smoking in vehicles), but wants it to apply only if passenger includes children required to be in car seat or booster seat (i.e. under age 8, 80 lbs., or 57 in)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 4/20/2015	kfollett 4/24/2015	_____			
/P1	agary	kfollett	_____	lparisi		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	11/19/2015	11/19/2015	_____	4/24/2015		S&L
			_____	lparisi	sbasford	State
			_____	11/19/2015	11/19/2015	S&L

FE Sent For:

*atintio
12/29/15*

<END>

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2215/P1dn

ARG: 

Date

Please review the attached draft carefully to ensure that it is consistent with your intent. This is a redraft of 2013 Assembly Bill 877, with two modifications. First, as instructed, the bill only applies to children required to be in a car seat or booster seat. Under s. 347.48 (4) (as) 1., 2., and 3., this means children under eight years of age who are not more than 80 pounds in weight and 57 inches in height. If a child meets any of these criteria (eight years, more than 80 pounds, or more than 57 inches tall), the child is not required to be restrained in a car seat or booster seat and the provisions of this bill do not apply. Second, I made a slight change to the effective date provision. Because the biennial budget act repeals and recreates the appropriation schedule in s. 20.005 (3), stats., if this bill becomes law before the enactment of the budget act, the budget act might eliminate the funding mechanism under this bill. Therefore, I have included an effective date provision to prevent inadvertent repeal of the appropriation created in this bill. I also note that s. 16.47 (2), stats., restricts the legislature in passing an appropriation bill, other than an emergency appropriation bill, before the legislature passes the executive budget bill.

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**

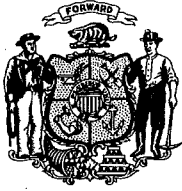
LRB-2215/P1dn
ARG:kjf:kf

April 24, 2015

Please review the attached draft carefully to ensure that it is consistent with your intent. This is a redraft of 2013 Assembly Bill 877, with two modifications. First, as instructed, the bill only applies to children required to be in a car seat or booster seat. Under s. 347.48 (4) (as) 1., 2., and 3., this means children under eight years of age who are not more than 80 pounds in weight and 57 inches in height. If a child meets any of these criteria (eight years, more than 80 pounds, or more than 57 inches tall), the child is not required to be restrained in a car seat or booster seat and the provisions of this bill do not apply. Second, I made a slight change to the effective date provision. Because the biennial budget act repeals and recreates the appropriation schedule in s. 20.005 (3), stats., if this bill becomes law before the enactment of the budget act, the budget act might eliminate the funding mechanism under this bill. Therefore, I have included an effective date provision to prevent inadvertent repeal of the appropriation created in this bill. I also note that s. 16.47 (2), stats., restricts the legislature in passing an appropriation bill, other than an emergency appropriation bill, before the legislature passes the executive budget bill.

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



State of Wisconsin
2015 - 2016 LEGISLATURE

in
11/19

LRB-2215/11/19
ARG&SWB:eev&kjf:kf

Now

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

only change - p. 4

Reger

1 **AN ACT to amend** 255.15 (3) (b) (intro.); and **to create** 20.435 (1) (gc), 346.94 (24),
2 346.947, 346.95 (13), 814.75 (28) and 814.79 (11) of the statutes; **relating to:**
3 smoking in motor vehicles while a child is present, making an appropriation,
4 and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits, with exceptions, a person from smoking in specified enclosed or outdoor locations, including in a "public conveyance," which is a mass transit vehicle, school bus, or other device by which persons are transported for hire except in interstate commerce. A person who violates this prohibition is subject to a forfeiture of not less than \$100 nor more than \$250 for each violation.

Also under current law, the Department of Health Services administers a tobacco use control program to award grants for specified purposes, including to reduce tobacco use and promote tobacco use cessation and prevention.

This bill prohibits a person from smoking in a motor vehicle while a child under the age of eight years, weighing not more than 80 pounds, and of a height not more than 57 inches is present in the motor vehicle, regardless of whether the motor vehicle is on a highway. However, the bill does not apply to smoking in a public conveyance. A person who violates this prohibition must forfeit \$25 for the first offense and \$50 for each subsequent offense and must also pay a surcharge in the same amount. The surcharge proceeds provide additional funding for the tobacco use control program. A law enforcement officer may not stop or inspect a vehicle solely to determine compliance with this smoking prohibition but may issue a citation for a violation observed in the course of a stop or inspection made for other purposes.

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.** 20.435 (1) (gc) of the statutes is created to read:

2 20.435 (1) (gc) *Tobacco use control, surcharge proceeds.* All moneys received
3 from vehicle smoking surcharges under s. 346.947 for grants and programs under s.
4 255.15 (3).

5 **SECTION 2.** 255.15 (3) (b) (intro.) of the statutes is amended to read:

6 255.15 (3) (b) (intro.) From the appropriation account accounts under s. 20.435
7 (1) (fm) and (gc), the department may award grants for any of the following:

8 **SECTION 3.** 346.94 (24) of the statutes is created to read:

9 346.94 (24) SMOKING IN MOTOR VEHICLES WHILE A CHILD IS PRESENT. (a) In this
10 subsection:

11 1. “Child” means a person who is under the age of 8 years, weighs not more than
12 80 pounds, and is not more than 57 inches in height.

13 2. “Public conveyance” has the meaning given in s. 101.123 (1) (e).

14 3. “Smoke” means to burn or hold, or inhale or exhale smoke from, any item
15 described in s. 101.123 (1) (h) 1. to 4. containing tobacco.

16 (b) No person may smoke in a motor vehicle while any child is present in the
17 motor vehicle, regardless of whether the motor vehicle is on a highway.

18 (c) This subsection does not apply if the motor vehicle is a public conveyance.

19 (d) Notwithstanding s. 349.02, a law enforcement officer may not stop or
20 inspect a vehicle solely to determine compliance with this subsection or a local
21 ordinance in conformity with this subsection. This paragraph does not limit the

1 authority of a law enforcement officer to issue a citation for a violation of this
2 subsection or a local ordinance in conformity with this subsection observed in the
3 course of a stop or inspection made for other purposes, except that a law enforcement
4 officer may not take a person into physical custody solely for a violation of this
5 subsection or a local ordinance in conformity with this subsection.

6 **SECTION 4.** 346.947 of the statutes is created to read:

7 **346.947 Smoking in vehicle surcharge.** (1) Whenever a court imposes a
8 forfeiture under s. 346.95 (13) for a violation of s. 346.94 (24), the court shall also
9 impose a vehicle smoking surcharge under ch. 814 in an amount equal to the amount
10 of the forfeiture imposed.

11 (2) If a forfeiture is suspended in whole or in part, the surcharge under sub.
12 (1) shall be reduced in proportion to the suspension.

13 (3) If any deposit is made for an offense to which this section applies, the person
14 making the deposit shall also deposit a sufficient amount to include the surcharge
15 under this section. If the deposit is forfeited, the amount of the surcharge shall be
16 transmitted to the secretary of administration under sub. (4). If the deposit is
17 returned, the amount of the surcharge shall also be returned.

18 (4) The clerk of the circuit court shall collect and transmit to the county
19 treasurer the vehicle smoking surcharge as required under s. 59.40 (2) (m). The
20 county treasurer shall then pay the secretary of administration as provided in s.
21 59.25 (3) (f) 2. The secretary of administration shall deposit all amounts received
22 under this subsection in the general fund to be appropriated under s. 20.435 (1) (gc).

23 **SECTION 5.** 346.95 (13) of the statutes is created to read:

24 **346.95 (13)** Any person violating s. 346.94 (24) shall be required to forfeit \$25
25 for the first offense and \$50 for each subsequent offense.

SECTION 6

1 **SECTION 6.** 814.75 (28) of the statutes is created to read:

2 814.75 (28) The vehicle smoking surcharge under s. 346.947.

3 **SECTION 7.** 814.79 (11) of the statutes is created to read:

4 814.79 (11) The vehicle smoking surcharge under s. 346.947.

5 **SECTION 8. Effective date.**

6 (1) This act takes effect on the first day of the 4th month beginning after

7 publication or on the 2nd day after publication of the 2015-17 biennial budget act,

8 whichever is later.

9

(END)

Rose, Stefanie

From: Rose, Stefanie
Sent: Thursday, November 19, 2015 10:32 AM
To: Gary, Aaron
Subject: 15-2215

Aaron,

Geoff from Sen. Bewley's office needs -2215 made a /1 (no changes) ASAP so they can get it out for co-sponsorship today.

Thanks.

Stefanie

Stefanie Rose
Executive Assistant
State of Wisconsin – Legislative Reference Bureau
1 East Main Street, Suite 200, Madison, Wisconsin 53703
(608) 266-3600 Stefanie.Rose@legis.wisconsin.gov

Parisi, Lori

From: Gaston, Geoff
Sent: Thursday, November 19, 2015 12:31 PM
To: LRB.Legal
Subject: Draft Review: LRB -2215/1

Senate per Geoff

Please Jacket LRB -2215/1 for the ~~ASSEMBLY~~