



2005 SENATE BILL 305

August 24, 2005 - Introduced by Senators ROESSLER, ROBSON, RISSER, BROWN, A. LASEE, LASSA, OLSEN and WIRCH, cosponsored by Representatives PETROWSKI, SUDER, WASSERMAN, AINSWORTH, BIES, JENSEN, KREIBICH, LEHMAN, MCCORMICK, MOLEPSKE, MUSSER, NASS, OTT, POPE-ROBERTS, SHILLING, SINICKI, STONE and VAN ROY. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1 **AN ACT** *to renumber and amend* 347.48 (4) (a) 1., 347.48 (4) (a) 2. and 347.48
2 (4) (a) 3.; *to amend* 343.32 (2) (bt), 347.48 (2m) (c), 347.48 (2m) (d), 347.48 (4)
3 (b), 347.48 (4) (d), 347.50 (1), 347.50 (3) (a), 347.50 (3) (b) and 347.50 (4); and
4 **to create** 347.48 (4) (ag), 347.48 (4) (as) and 347.50 (3) (b) 3. of the statutes;
5 **relating to:** child safety restraint systems, safety belt use requirements in
6 motor vehicles, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, no child under the age of four years may be transported in a motor vehicle unless that child is properly restrained in a child safety restraint system (child safety seat), and no child between the ages of four and eight years may be transported in a motor vehicle unless that child is properly restrained in a child safety seat or by a safety belt (seat belt). A person who fails to comply with the child safety seat requirement, applicable to violations involving children under age four, is subject to a forfeiture of not less than \$30 nor more than \$75, but no forfeiture may be assessed if the vehicle was not equipped with a child safety seat at the time of the violation and the person provides proof that, within 30 days after the violation, a child safety seat was purchased or leased and properly installed in the vehicle. A person who fails to comply with the seat belt requirement, applicable to violations involving children between the ages of four and eight, is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or,

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for a second or subsequent violation within three years, a forfeiture of not less than \$25 nor more than \$200. A person who fails to comply with the child safety seat requirement will also incur additional fees, costs, and surcharges, but a person who fails to comply with the seat belt requirement will not.

This bill creates a tiered structure, according to age and size, of restraint requirements for transporting children under the age of eight in a motor vehicle. Under this bill, a child who is:

1. Less than one year old or who weighs less than 20 pounds must be properly restrained in a rear-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

2. At least one year old and weighs at least 20 pounds but is less than four years old or weighs less than 40 pounds must be properly restrained in a forward-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

3. At least four years old but less than eight years old, weighs between 40 and 80 pounds, and is no more than four feet nine inches tall must be properly restrained in a child booster seat positioned according to the child seating requirements described below.

4. Under the age of eight and exceeds the weight or height limits specified in Item 3., above, must be properly restrained by a seat belt (as under current law).

If a child, because of age, weight, or height, falls into more than one of these categories, the child must be transported according to the requirements of the more protective category.

This bill prohibits a person from transporting a child under the age of eight in a motor vehicle unless the child is properly restrained as described above and the restraint system meets the standards established by the Department of Transportation (DOT) and is appropriate to the child's age and size. Certain exceptions that apply under current law continue to apply to these requirements.

Under the bill, the same penalty as under current law applies with respect to violations involving, respectively, children under age four and children between the ages of four and eight. However, with respect to violations involving children under age four, the bill imposes an additional requirement for avoiding imposition of a forfeiture that the person has not been issued a uniform traffic citation for violation of the child safety restraint system requirements within the immediately preceding three years. For the first six months after enactment of the bill, law enforcement officers may issue only written warnings, not citations, for child safety seat and seat belt violations if the violator has not previously received a warning or citation within this period.

Under current law, with specific exceptions, no person may drive a motor vehicle unless he or she reasonably believes that each passenger between the ages of four and 15 years is properly restrained by a seat belt. No person who is at least four years old may be a passenger in the front seat of a motor vehicle, or in a seat other than the front seat for which a shoulder harness has been installed, unless that person is properly restrained. This bill extends this seat belt requirement to

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passengers up to the age of 16 years and applies the requirement to passengers in seats other than the front seat for which safety belts are required to be installed.

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

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

4 **SECTION 2.** 347.48 (2m) (c) of the statutes is amended to read:

5 347.48 (2m) (c) If a motor vehicle is required to be equipped with safety belts
6 in this state, no person may operate that motor vehicle unless he or she reasonably
7 believes that each passenger who is at least ~~4~~ 8 years old and not more than ~~15~~ 16
8 years old and who is seated at a designated seating position in the front seat required
9 under 49 CFR 571 to have a safety belt installed or at a designated seating position
10 in the seats, other than the front seats, for which a ~~shoulder harness has been~~ safety
11 belt is required to be installed is properly restrained.

12 **SECTION 3.** 347.48 (2m) (d) of the statutes is amended to read:

13 347.48 (2m) (d) If a motor vehicle is required to be equipped with safety belts
14 in this state, no person who is at least ~~4~~ 8 years old and who is seated at a designated
15 seating position in the front seat required under 49 CFR 571 to have a safety belt
16 installed or at a designated seating position in the seats, other than the front seats,
17 for which a ~~shoulder harness has been~~ safety belt is required to be installed may be
18 a passenger in that motor vehicle unless the person is properly restrained.

19 **SECTION 4.** 347.48 (4) (a) 1. of the statutes is renumbered 347.48 (4) (am) and
20 amended to read:

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1 347.48 (4) (am) ~~No Subject to par. (au), no person may transport a child under~~
2 the age of 4 ~~8~~ in a motor vehicle unless the child is ~~properly restrained in compliance~~
3 ~~with par. (as) in a child safety restraint system approved that is appropriate to the~~
4 ~~child's age and size and that meets the standards established by the department.~~ In
5 this subdivision, "properly restrained" means fastened in a manner prescribed by the
6 manufacturer of the system which permits the system to act as a body restraint but
7 does not include a system in which the only body restraint is a safety belt of the type
8 required under sub. (1) under this paragraph. The department shall, by rule,
9 establish standards in compliance with applicable federal standards, including
10 standards under 49 CFR 571.213, for approved types of child safety restraint
11 systems for those child restraint systems purchased after November 1, 1982.

12 **SECTION 5.** 347.48 (4) (a) 2. of the statutes is renumbered 347.48 (4) (as) 4. and
13 amended to read:

14 347.48 (4) (as) 4. ~~No person may transport a~~ Subject to subds. 1. to 3., if the
15 child who is at least 4 years old but is less than 8 years old in a motor vehicle unless,
16 the child is shall be properly restrained in a ~~child safety restraint system approved~~
17 ~~by the department under subd. 1. or in a~~ safety belt approved by the department
18 under sub. (2). In this subdivision, "properly restrained" means fastened in a
19 manner prescribed by the manufacturer of the system which permits the system to
20 act as a body restraint.

21 **SECTION 6.** 347.48 (4) (a) 3. of the statutes is renumbered 347.48 (4) (au), and
22 347.48 (4) (au) (intro.), as renumbered, is amended to read:

23 347.48 (4) (au) (intro.) Notwithstanding subds. 1. and 2. pars. (am) and (as),
24 a person other than the operator of a motor vehicle transporting a child required to
25 be properly restrained under subd. 1. or 2. pars. (am) and (as) may temporarily

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1 remove a child from a safety restraint system to attend to the personal needs of the
2 child under all of the following conditions:

3 **SECTION 7.** 347.48 (4) (ag) of the statutes is created to read:

4 347.48 (4) (ag) In this subsection:

5 1. "Child booster seat" means a child passenger restraint system that meets the
6 applicable federal standards under 49 CFR 571.213 and is designed to elevate a child
7 from a vehicle seat to allow the vehicle's safety belt to be properly positioned over the
8 child's body.

9 2. "Designated seating position" has the meaning given in 49 CFR 571.3.

10 3. "Properly restrained" means any of the following:

11 a. With respect to par. (as) 1. and 2., fastened in a manner prescribed by the
12 manufacturer of the child safety restraint system which permits the system to act
13 as a body restraint but does not include a system in which the only body restraint is
14 a safety belt of the type required under sub. (1).

15 b. With respect to par. (as) 3., wearing a safety belt consisting of a combination
16 lap belt and shoulder harness approved by the department under sub. (2) and
17 fastened in a manner prescribed by the manufacturer of the safety belt so that the
18 safety belt properly fits across the child's lap and the center of the child's chest in a
19 manner appropriate to the child's height, weight, and age that permits the safety belt
20 to act as a body restraint.

21 c. With respect to par. (as) 4., fastened in a manner prescribed by the
22 manufacturer of the system which permits the system to act as a body restraint.

23 **SECTION 8.** 347.48 (4) (as) of the statutes is created to read:

24 347.48 (4) (as) A child under the age of 8 years who is being transported in a
25 motor vehicle shall be restrained as follows:

SENATE BILL 305**SECTION 8**

1 1. If the child is less than one year old or weighs less than 20 pounds, the child
2 shall be properly restrained in a rear-facing child safety restraint system, positioned
3 at a designated seating position in a back passenger seat of the vehicle if the vehicle
4 is equipped with a back passenger seat.

5 2. Subject to subd. 1., if the child is at least one year old and weighs at least 20
6 pounds but is less than 4 years old or weighs less than 40 pounds, the child shall be
7 properly restrained in a forward-facing child safety restraint system, positioned at
8 a designated seating position in a back passenger seat of the vehicle if the vehicle is
9 equipped with a back passenger seat.

10 3. Subject to subds. 1. and 2., if the child is at least 4 years old but less than 8
11 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more
12 than 57 inches in height, the child shall be properly restrained in a child booster seat.

13 **SECTION 9.** 347.48 (4) (b) of the statutes is amended to read:

14 347.48 (4) (b) The department may, by rule, exempt from the requirements
15 under ~~par. (a)~~ pars. (am) and (as) any child who because of a physical or medical
16 condition or body size cannot be placed in a child safety restraint system, child
17 booster seat, or safety belt.

18 **SECTION 10.** 347.48 (4) (d) of the statutes is amended to read:

19 347.48 (4) (d) Evidence of compliance or failure to comply with ~~par. (a)~~ pars.
20 (am) and (as) is admissible in any civil action for personal injuries or property
21 damage resulting from the use or operation of a motor vehicle but failure to comply
22 with ~~par. (a)~~ pars. (am) and (as) does not by itself constitute negligence.

23 **SECTION 11.** 347.50 (1) of the statutes is amended to read:

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

4 **SECTION 12.** 347.50 (3) (a) of the statutes is amended to read:

5 347.50 (3) (a) Any person violating s. 347.48 (4) ~~(a) 1.~~ (am) may be required to
6 forfeit not less than \$30 nor more than \$75 if the child is less than 4 years old.

7 **SECTION 13.** 347.50 (3) (b) of the statutes is amended to read:

8 347.50 (3) (b) No forfeiture may be assessed under par. (a) if all of the following
9 apply:

10 1. The motor vehicle was not equipped with a child safety restraint system
11 meeting the requirements under s. 347.48 (4) ~~(a) 1.~~ (am) at the time the uniform
12 traffic citation was issued; ~~and,~~

13 2. The person provides proof that, within 30 days after the uniform traffic
14 citation was issued, a child safety restraint system meeting the requirements under
15 s. 347.48 (4) ~~(a) 1.~~ (am) was purchased or leased and properly installed in the motor
16 vehicle.

17 **SECTION 14.** 347.50 (3) (b) 3. of the statutes is created to read:

18 347.50 (3) (b) 3. The person has not, within the immediately preceding 3 years,
19 been issued a uniform traffic citation for a violation of s. 347.48 (4) (am).

20 **SECTION 15.** 347.50 (4) of the statutes is amended to read:

21 347.50 (4) Any person violating s. 347.48 (4) ~~(a) 2.~~ (am) may be required to
22 forfeit not less than \$10 nor more than \$25 for the first offense if the child is at least
23 4 years old and less than 8 years old. For a 2nd or subsequent conviction within 3
24 years involving a child who is at least 4 years old and less than 8 years old, a person
25 may be required to forfeit not less than \$25 nor more than \$200.

SENATE BILL 305**SECTION 16****SECTION 16. Nonstatutory provisions.**

(1) Notwithstanding section 347.50 (1), (3) (a), and (4) of the statutes, as affected by this act, during the period beginning on the effective date of this subsection and ending on the last day of the 6th month beginning after the effective date of this subsection, if a law enforcement officer has probable cause to believe that a person has committed a violation of section 347.48 (2m) or (4) of the statutes, as affected by this act, the law enforcement officer shall issue to the person a written warning, but not a citation, for the violation if the person has not been found to have committed, or received a written warning for, a previous violation during this period. If a law enforcement officer issues a written warning under this subsection, the officer shall forward a copy of the warning to the department of transportation, which shall maintain a record of the warning in the person's file under section 343.23 (2) (a) of the statutes until the last day of the 6th month beginning after the effective date of this subsection.

SECTION 17. Initial applicability.

(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of sentencing a person.

SECTION 18. Effective date.

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

(END)