



2005 SENATE BILL 32

January 27, 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 repeal* 347.50 (4); *to renumber and amend* 347.48 (4) (a) 1., 347.48
2 (4) (a) 2. and 347.48 (4) (a) 3.; *to amend* 165.755 (1) (b), 302.46 (1) (a), 343.32
3 (2) (bt), 347.48 (2m) (c), 347.48 (2m) (d), 347.48 (4) (b), 347.48 (4) (d), 347.50 (1),
4 347.50 (3) (a), 347.50 (3) (b), 757.05 (1) (a), 814.63 (1) (c), 814.63 (2), 814.65 (1),
5 814.85 (1) (a) and 814.86 (1); and *to create* 20.395 (5) (gq), 25.40 (1) (in), 85.56,
6 347.48 (4) (ag), 347.48 (4) (as), 347.482, 347.50 (3) (b) 3., 814.75 (20m), 814.79
7 (8m) and 814.81 (10) of the statutes; **relating to:** child safety restraint systems,
8 safety belt use requirements in motor vehicles, creating a Child Safety
9 Restraint System Program, creating a safety restraint enforcement surcharge,
10 granting rule-making authority, making an appropriation, and providing a
11 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

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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 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 is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or, 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 applies regardless of which specific requirement is violated. A person who fails to comply with any of these requirements is subject to a forfeiture of not less than \$50 nor more than \$75 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$75 nor more than \$200. However, no forfeiture may be assessed if the vehicle was not equipped with an applicable child safety restraint system at the time of the violation, the person provides proof that, within 30 days after the violation, a child safety restraint system was purchased, leased, or received under the DOT program described later in this analysis and properly installed in the vehicle, and the person has not been issued a uniform traffic citation for violation of the child safety restraint

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system requirements within the immediately preceding three years. The bill also eliminates the imposition of additional fees, costs, and surcharges for child safety seat violations. 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 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.

The bill also requires DOT to develop and administer a program to provide child safety restraint systems to low-income families in this state. To administer the program, DOT must enter into an agreement with Children's Hospital and Health System (CHHS) to provide funds to CHHS to purchase and distribute, through Safe Kids Wisconsin, child safety restraint systems to low-income families in accordance with standards and criteria established by rule by DOT. CHHS must annually submit an audited financial statement of its use of the funds and may not receive funding if it dissolves or loses its tax-exempt status under federal law.

Current law imposes various surcharges against persons who violate certain laws; these surcharges must be paid in addition to any fine or forfeiture imposed and in addition to any other surcharge imposed. For example, current law imposes a railroad crossing improvement surcharge on persons convicted of violating certain traffic laws relating to railroad crossings, a truck driver education surcharge on persons convicted of violating certain traffic laws while operating a commercial motor vehicle, and a driver improvement surcharge on persons convicted of violating certain laws relating to driving while intoxicated. With limited exceptions, including those described above, a person convicted of a state or local traffic law violation must also pay other surcharges of general applicability.

This bill creates a new safety restraint enforcement surcharge, in an amount of \$25, that must be imposed on any person convicted of a child safety restraint system violation. The money collected from the surcharge is deposited in the transportation fund to be used exclusively for the Child Safety Restraint System Program.

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. 20.395 (5) (gq) of the statutes is created to read:

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1 20.395 (5) (gq) *Child Safety Restraint System Program, state funds.* All moneys
2 received from safety restraint enforcement surcharges under s. 347.482, for the
3 purposes specified in s. 85.56.

4 **SECTION 2.** 25.40 (1) (in) of the statutes is created to read:

5 25.40 (1) (in) All moneys forwarded by treasurers from safety restraint
6 enforcement surcharges imposed under s. 347.482, as provided in ss. 59.25 (3) (f) 2.
7 and 66.0114 (1) (bm).

8 **SECTION 3.** 85.56 of the statutes is created to read:

9 **85.56 Child Safety Restraint System Program. (1)** The department shall
10 develop and administer a program to provide to low-income families in this state
11 child safety restraint systems, including infant and toddler car seats and child
12 booster seats, for the purpose of promoting compliance with the requirements of s.
13 347.48 (4). The department shall adopt rules to implement and administer this
14 section, including standards and criteria for providing low-income families with
15 child safety restraint systems.

16 **(2) (a)** For purposes of administering the program under sub. (1), the
17 department shall enter into an agreement with Children's Hospital and Health
18 System, a nonprofit corporation and an organization described in section 501 (c) (3)
19 of the Internal Revenue Code and exempt from federal income tax under section 501
20 (a) of the Internal Revenue Code, to make payments from the appropriation under
21 s. 20.395 (5) (gq) to Children's Hospital and Health System for the purchase and
22 distribution by Safe Kids Wisconsin, led by Children's Hospital and Health System,
23 of child safety restraint systems to low-income families under the standards and
24 criteria established by the department by rule.

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1 (b) The agreement under this subsection shall require that Children's Hospital
2 and Health System annually submit to the presiding officer of each house of the
3 legislature an audited financial statement of its use of the payments under this
4 section, prepared in accordance with generally accepted accounting principles.

5 (c) Payments to Children's Hospital and Health System under this section shall
6 be discontinued by the department if either Children's Hospital and Health System
7 or Safe Kids Wisconsin dissolves or is no longer exempt from taxation under section
8 501 (a) of the Internal Revenue Code, and the department shall designate a new
9 recipient for payments under this section, which must be a nonprofit organization
10 with a purpose of promoting child safety and which must comply with any
11 requirement specified in this section for Children's Hospital and Health System or
12 Safe Kids Wisconsin.

13 **SECTION 4.** 165.755 (1) (b) of the statutes is amended to read:

14 165.755 (1) (b) A court may not impose the crime laboratories and drug law
15 enforcement surcharge under par. (a) for a violation of s. 101.123 (2) (a), (am) 1., (ar),
16 (bm), (br), or (bv) or (5) (b), for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1.,
17 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood
18 alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation,
19 or for a violation of a state law or municipal or county ordinance involving a
20 nonmoving traffic violation or a safety belt or restraint use violation under s. 347.48
21 (2m) or (4).

22 **SECTION 5.** 302.46 (1) (a) of the statutes is amended to read:

23 302.46 (1) (a) ~~On or after October 1, 1987, if~~ If a court imposes a fine or
24 forfeiture for a violation of state law or for a violation of a municipal or county
25 ordinance except for a violation of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv)

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1 or (5), or for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or
2 350.101 (1) (b), if the person who committed the violation had a blood alcohol
3 concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a
4 violation of state laws or municipal or county ordinances involving nonmoving traffic
5 violations or safety belt or restraint use violations under s. 347.48 (2m) or (4), the
6 court, in addition, shall impose a jail surcharge under ch. 814 in an amount of ~~1%~~ 1
7 percent of the fine or forfeiture imposed or \$10, whichever is greater. If multiple
8 offenses are involved, the court shall determine the jail surcharge on the basis of each
9 fine or forfeiture. If a fine or forfeiture is suspended in whole or in part, the court
10 shall reduce the jail surcharge in proportion to the suspension.

11 **SECTION 6.** 343.32 (2) (bt) of the statutes is amended to read:

12 343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit
13 points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) ~~(a)~~ (am).

14 **SECTION 7.** 347.48 (2m) (c) of the statutes is amended to read:

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

22 **SECTION 8.** 347.48 (2m) (d) of the statutes is amended to read:

23 347.48 (2m) (d) If a motor vehicle is required to be equipped with safety belts
24 in this state, no person who is at least ~~4~~ 8 years old and who is seated at a designated
25 seating position in the front seat required under 49 CFR 571 to have a safety belt

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1 installed or at a designated seating position in the seats, other than the front seats,
2 for which a ~~shoulder harness has been~~ safety belt is required to be installed may be
3 a passenger in that motor vehicle unless the person is properly restrained.

4 **SECTION 9.** 347.48 (4) (a) 1. of the statutes is renumbered 347.48 (4) (am) and
5 amended to read:

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

17 **SECTION 10.** 347.48 (4) (a) 2. of the statutes is renumbered 347.48 (4) (as) 4. and
18 amended to read:

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

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1 **SECTION 11.** 347.48 (4) (a) 3. of the statutes is renumbered 347.48 (4) (au), and
2 347.48 (4) (au) (intro.), as renumbered, is amended to read:

3 347.48 (4) (au) (intro.) Notwithstanding ~~subds. 1. and 2. pars. (am) and (as),~~
4 a person other than the operator of a motor vehicle transporting a child required to
5 be properly restrained under ~~subd. 1. or 2. pars. (am) and (as)~~ may temporarily
6 remove a child from a safety restraint system to attend to the personal needs of the
7 child under all of the following conditions:

8 **SECTION 12.** 347.48 (4) (ag) of the statutes is created to read:

9 347.48 (4) (ag) In this subsection:

10 1. “Child booster seat” means a child passenger restraint system that meets the
11 applicable federal standards under 49 CFR 571.213 and is designed to elevate a child
12 from a vehicle seat to allow the vehicle’s safety belt to be properly positioned over the
13 child’s body.

14 2. “Designated seating position” has the meaning given in 49 CFR 571.3.

15 3. “Properly restrained” means any of the following:

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

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

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

3 **SECTION 13.** 347.48 (4) (as) of the statutes is created to read:

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

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

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

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

18 **SECTION 14.** 347.48 (4) (b) of the statutes is amended to read:

19 347.48 (4) (b) The department may, by rule, exempt from the requirements
20 under ~~par. (a)~~ pars. (am) and (as) any child who because of a physical or medical
21 condition or body size cannot be placed in a child safety restraint system, child
22 booster seat, or safety belt.

23 **SECTION 15.** 347.48 (4) (d) of the statutes is amended to read:

24 347.48 (4) (d) Evidence of compliance or failure to comply with ~~par. (a)~~ pars.
25 (am) and (as) is admissible in any civil action for personal injuries or property

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1 damage resulting from the use or operation of a motor vehicle but failure to comply
2 with ~~par. (a)~~ pars. (am) and (as) does not by itself constitute negligence.

3 **SECTION 16.** 347.482 of the statutes is created to read:

4 **347.482 Safety restraint enforcement surcharge. (1)** If a court imposes
5 a forfeiture for a violation of s. 347.48 (2m) or (4) or a local ordinance in conformity
6 with s. 347.48 (2m) or (4), the court shall also impose under ch. 814 a safety restraint
7 enforcement surcharge of \$25. If multiple offenses are involved, the court shall
8 impose a safety restraint enforcement surcharge upon each forfeiture imposed.

9 **(2) (a)** Except as provided in par. (b), the clerk of the circuit court shall collect
10 and transmit the amount of the safety restraint enforcement surcharge under sub.
11 (1) to the county treasurer as provided in s. 59.40 (2) (m). The county treasurer shall
12 then pay this amount to the secretary of administration as provided in s. 59.25 (3)
13 (f) 2.

14 **(b)** If a forfeiture is imposed by a municipal court, the court shall transmit the
15 amount of the safety restraint enforcement surcharge under sub. (1) to the treasurer
16 of the city or village as provided in s. 66.0114 (1) (bm) and the treasurer shall then
17 pay this amount to the secretary of administration as provided in s. 66.0114 (1) (bm).

18 **(c)** The secretary of administration shall deposit all amounts received under
19 this subsection in the transportation fund to be credited to the appropriation account
20 under s. 20.395 (5) (gq).

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

22 347.50 **(1)** Any person violating ss. 347.35 to 347.49, except s. 347.413 (1) or s.
23 347.415 (1m), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475 or s. 347.48 (2m) or (4)
24 ~~(a)~~ or s. 347.489, may be required to forfeit not less than \$10 nor more than \$200.

25 **SECTION 18.** 347.50 (3) (a) of the statutes is amended to read:

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1 347.50 (3) (a) Any person violating s. 347.48 (4) ~~(a) 1.~~ (am) may be required to
2 forfeit not less than \$30 ~~\$50~~ nor more than \$75. For a 2nd or subsequent conviction
3 within 3 years, a person may be required to forfeit not less than \$75 nor more than
4 \$200.

5 **SECTION 19.** 347.50 (3) (b) of the statutes is amended to read:

6 347.50 (3) (b) No forfeiture may be assessed under par. (a) if all of the following
7 apply:

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

11 2. The person provides proof that, within 30 days after the uniform traffic
12 citation was issued, a child safety restraint system meeting the requirements under
13 s. 347.48 (4) ~~(a) 1.~~ (am) was purchased or leased, or received by the person under the
14 Child Safety Restraint System Program under s. 85.56, and properly installed in the
15 motor vehicle.

16 **SECTION 20.** 347.50 (3) (b) 3. of the statutes is created to read:

17 347.50 (3) (b) 3. The person has not, within the immediately preceding 3 years,
18 been issued a uniform traffic citation for a violation of s. 347.48 (4) (am).

19 **SECTION 21.** 347.50 (4) of the statutes is repealed.

20 **SECTION 22.** 757.05 (1) (a) of the statutes is amended to read:

21 757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of
22 state law or for a violation of a municipal or county ordinance except for a violation
23 of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), or for a first violation of s.
24 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who
25 committed the violation had a blood alcohol concentration of 0.08 or more but less

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1 than 0.1 at the time of the violation, or for a violation of state laws or municipal or
2 county ordinances involving nonmoving traffic violations or safety belt or restraint
3 use violations under s. 347.48 (2m) or (4), there shall be imposed in addition a penalty
4 surcharge under ch. 814 in an amount of ~~24%~~ 24 percent of the fine or forfeiture
5 imposed. If multiple offenses are involved, the penalty surcharge shall be based upon
6 the total fine or forfeiture for all offenses. When a fine or forfeiture is suspended in
7 whole or in part, the penalty surcharge shall be reduced in proportion to the
8 suspension.

9 **SECTION 23.** 814.63 (1) (c) of the statutes is amended to read:

10 814.63 (1) (c) This subsection does not apply to an action for a violation of s.
11 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), for a first violation of s. 23.33
12 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who
13 committed the violation had a blood alcohol concentration of 0.08 or more but less
14 than 0.1 at the time of the violation, or ~~for a violation of a safety belt or restraint use~~
15 violation under s. 347.48 (2m) or (4).

16 **SECTION 24.** 814.63 (2) of the statutes is amended to read:

17 814.63 (2) Upon the disposition of a forfeiture action in circuit court for
18 violation of a county, town, city, village, town sanitary district or public inland lake
19 protection and rehabilitation district ordinance, except for an action for a first
20 violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the
21 person who committed the violation had a blood alcohol concentration of 0.08 or more
22 but less than 0.1 at the time of the violation, or for a safety belt or restraint use
23 violation under s. 347.48 (2m) or (4), the county, town, city, village, town sanitary
24 district or public inland lake protection and rehabilitation district shall pay a
25 nonrefundable fee of \$5 to the clerk of circuit court.

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1 **SECTION 25.** 814.65 (1) of the statutes is amended to read:

2 814.65 (1) COURT COSTS. In a municipal court action, except for an action for
3 a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1)
4 (b), if the person who committed the violation had a blood alcohol concentration of
5 0.08 or more but less than 0.1 at the time of the violation, or for a violation of an
6 ordinance in conformity with s. 347.48 (2m) or (4), the municipal judge shall collect
7 a fee of not less than \$15 nor more than \$23 on each separate matter, whether it is
8 on default of appearance, a plea of guilty or no contest, on issuance of a warrant or
9 summons, or the action is tried as a contested matter. Of each fee received by the
10 judge under this subsection, the municipal treasurer shall pay monthly \$5 to the
11 secretary of administration for deposit in the general fund and shall retain the
12 balance for the use of the municipality.

13 **SECTION 26.** 814.75 (20m) of the statutes is created to read:

14 814.75 (20m) The safety restraint enforcement surcharge under s. 347.482.

15 **SECTION 27.** 814.79 (8m) of the statutes is created to read:

16 814.79 (8m) The safety restraint enforcement surcharge under s. 347.482.

17 **SECTION 28.** 814.81 (10) of the statutes is created to read:

18 814.81 (10) The safety restraint enforcement surcharge under s. 347.482.

19 **SECTION 29.** 814.85 (1) (a) of the statutes is amended to read:

20 814.85 (1) (a) Except for an action for a first violation of s. 23.33 (4c) (a) 2.,
21 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the
22 violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the
23 time of the violation, or for a safety belt or restraint use violation under s. 347.48 (2m)
24 or (4), the clerk of circuit court shall charge and collect a \$68 court support services

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1 surcharge from any person, including any governmental unit as defined in s. 108.02
2 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am) or 814.63 (1).

3 **SECTION 30.** 814.86 (1) of the statutes is amended to read:

4 814.86 (1) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681
5 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation
6 had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the
7 violation, or for a safety belt or restraint use violation under s. 347.48 (2m) or (4), the
8 clerk of circuit court shall charge and collect a \$9 justice information system
9 surcharge from any person, including any governmental unit, as defined in s. 108.02
10 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62 (1), (2), or (3) (a) or
11 (b), or 814.63 (1). The justice information system surcharge is in addition to the
12 surcharge listed in sub. (1m).

13 **SECTION 31. Nonstatutory provisions.**

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

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1 the statutes until the last day of the 6th month beginning after the effective date of
2 this subsection.

3 **SECTION 32. Initial applicability.**

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

7 **SECTION 33. Effective date.**

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

10 (END)