



2011 ASSEMBLY BILL 410

December 7, 2011 – Introduced by Representative ZEPNICK. Referred to Committee on Transportation.

1 **AN ACT** *to amend* 349.02 (2) (a); and *to create* 20.395 (5) (bx) and 110.095 of the
2 statutes; **relating to:** sobriety checkpoints and granting rule-making
3 authority.

Analysis by the Legislative Reference Bureau

Under current law, with few exceptions, a law enforcement officer may not stop a motor vehicle without reasonable cause to believe that the operator of the motor vehicle has violated a law or ordinance.

This bill establishes a pilot program that will allow up to three counties, designated by the Department of Transportation (DOT), to conduct a one-time sobriety checkpoint operation and requires DOT to establish rules for conducting a sobriety checkpoint. When a law enforcement agency conducts a sobriety checkpoint, drivers are briefly stopped without individualized suspicion that they may be intoxicated, and drivers who demonstrate some level of impairment or other signs of drug or alcohol use are detained for additional testing and possible arrest.

The bill requires the DOT rules to ensure that drivers are stopped in a neutral, nondiscretionary manner and that the initial stops are conducted in a way that minimizes the disruption of traffic flow and minimizes the amount of time the driver is stopped. The rules must also ensure that the sobriety checkpoint is located at least two miles from any bar or restaurant that serves alcohol, has fixed beginning and ending times, and is publicized before it is conducted. The rules must ensure that, at the sobriety checkpoint, approaching drivers are given adequate warning that a sobriety checkpoint is underway, and that officers clearly identify themselves and

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explain the purpose of the sobriety checkpoint to each driver they stop. Finally, the rules must establish criteria for determining which drivers may be detained beyond the initial stop to undergo testing for intoxication.

The bill requires each county that operates a sobriety checkpoint to submit a report to the legislature, the state patrol, and the governor that details the costs and results of the sobriety checkpoints. Under the bill, DOT must to seek federal funding to pay for the sobriety checkpoint pilot.

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) (bx) of the statutes is created to read:

2 20.395 (5) (bx) *Sobriety checkpoints; federal funds.* All moneys received from
3 the federal government for a sobriety checkpoint pilot program, for such purposes.
4 No moneys may be encumbered from the appropriation under this paragraph after
5 the first day of the 12th month beginning after the effective date of this paragraph
6 [LRB inserts date].

7 **SECTION 2.** 110.095 of the statutes is created to read:

8 **110.095 Sobriety checkpoints.** (1) The department shall designate up to 3
9 counties to participate in a voluntary sobriety checkpoint pilot program and shall
10 promulgate rules for administering the program that are consistent with sub. (2).
11 No county may conduct more than one sobriety checkpoint or conduct a sobriety
12 checkpoint that does not comply with the rules established under this section.

13 (2) A sobriety checkpoint program shall:

14 (a) Establish a nondiscretionary system for determining which motor vehicles
15 are stopped at the checkpoint.

16 (b) Minimize the length of time a motor vehicle is stopped.

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1 (c) Give public notice that a sobriety checkpoint program will be in effect at one
2 month, two weeks, one week, and every day after one week before the law
3 enforcement agency conducts the sobriety checkpoint.

4 (d) Give adequate warning to motor vehicle operators approaching the sobriety
5 checkpoint that a sobriety checkpoint is being conducted.

6 (e) Minimize the disruption of regular traffic flow while the sobriety checkpoint
7 is being conducted.

8 (f) Establish criteria for a motor vehicle operator to be detained beyond the
9 initial stop at the sobriety checkpoint for a test under s. 343.305.

10 (g) Establish a fixed period of time for each sobriety checkpoint to be conducted.

11 (h) Require law enforcement officers to do all of the following at a sobriety
12 checkpoint:

13 1. Wear an official uniform that clearly identifies him or her as a law
14 enforcement officer.

15 2. Identify himself or herself as a law enforcement officer to each motor vehicle
16 operator that is stopped at the sobriety checkpoint.

17 3. Explain the purpose of the sobriety checkpoint to each motor vehicle operator
18 that is stopped at the sobriety checkpoint.

19 (i) Conduct a sobriety checkpoint at least 2 miles away from any business
20 establishment where alcohol beverages are sold for consumption on the premises.

21 **(3)** The department shall seek and apply for federal funds to establish and
22 conduct a sobriety checkpoint pilot program.

23 **(4)** Each county that conducts a sobriety checkpoint under this section shall
24 submit a report to the governor, to the Wisconsin state patrol superintendent, and

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1 to the chief clerk of each house of the legislature for distribution to the legislature
2 under s. 13.172 (2) that provides information on all of the following:

3 (a) The number of vehicles stopped at each sobriety checkpoint.

4 (b) The number of arrests made and the reason for each arrest.

5 (c) The total cost to each county and to the department to conduct each sobriety
6 checkpoint.

7 (d) Any other information the department determines is relevant.

8 **(5)** This section does not apply after the first day of the 12th month beginning
9 after the effective date of this subsection [LRB inserts date].

10 **SECTION 3.** 349.02 (2) (a) of the statutes is amended to read:

11 349.02 **(2)** (a) Notwithstanding sub. (1), a police officer, sheriff, deputy sheriff,
12 traffic officer or motor vehicle inspector may not stop or inspect a vehicle solely to
13 determine compliance with a statute or ordinance specified under par. (b) unless the
14 police officer, sheriff, deputy sheriff, traffic officer, or motor vehicle inspector has
15 reasonable cause to believe that a violation of a statute or ordinance specified under
16 par. (b) has been committed. This paragraph does not limit the authority of a police
17 officer, sheriff, deputy sheriff, traffic officer, or motor vehicle inspector to make an
18 arrest or issue a citation for a violation of any statute or ordinance specified under
19 par. (b) observed in the course of a stop or inspection made for a lawful purpose. This
20 paragraph does not apply to a traffic officer or motor vehicle inspector in the
21 performance of duties under s. 110.075 (2) or to a police officer, sheriff, deputy sheriff,
22 or traffic officer in the performance of duties under s. 110.095.

23 **(END)**