

State of Wisconsin



2009 Senate Bill 141

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2009 WISCONSIN ACT 19

AN ACT to amend 48.657 (1) (a), 48.657 (1) (b), 48.657 (2g), 48.715 (2) (c), 48.715 (2) (d), 48.715 (2) (f), 48.715 (3) (intro.), 48.715 (4) (a), 48.715 (4) (b) and 48.715 (4) (d); and to create 48.658 of the statutes; relating to: requiring certain vehicles that transport children to and from a child care provider to have child safety alarms installed, granting rule-making authority, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and providing a penalty.

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

SECTION 1. 48.657 (1) (a) of the statutes is amended to read:

48.657 (1) (a) Violations of statutes, rules promulgated by the department under s. 48.658 (4) (a) or 48.67, or provisions of licensure under s. 48.70 (1) by the day care center. In providing information under this paragraph, the department may not disclose the identity of any employee of the day care center.

SECTION 2. 48.657 (1) (b) of the statutes is amended to read:

48.657 (1) (b) A telephone number at the department that a person may call to complain of any alleged violation of a statute, rule promulgated by the department under s. 48.658 (4) (a) or 48.67, or provision of licensure under s. 48.70 (1) by the day care center.

SECTION 3. 48.657 (2g) of the statutes is amended to read:

48.657 (2g) If the report under sub. (1) indicates that the day care center is in violation of a statute, a rule promulgated by the department under s. 48.658 (4) (a) or 48.67, or a provision of licensure under s. 48.70 (1), the

day care center shall post with the report any notices received from the department relating to that violation.

SECTION 4. 48.658 of the statutes is created to read:
48.658 Child safety alarms in child care vehicles.

(1) DEFINITIONS. In this section:

(a) "Child care provider" means a day care center that is licensed under s. 48.65 (1), a day care provider that is certified under s. 48.651, or a day care program that is established or contracted for under s. 120.13 (14).

(b) "Child care vehicle" means a vehicle that has a seating capacity of 6 or more passengers in addition to the driver, that is owned or leased by a child care provider or a contractor of a child care provider, and that is used to transport children to and from the child care provider.

(c) "Child safety alarm" means an alarm system that prompts the driver of a child care vehicle to inspect the child care vehicle for children before exiting the child care vehicle.

(2) CHILD SAFETY ALARMS REQUIRED. Before a child care vehicle is placed in service, the child care provider or contractor of a child care provider that is the owner or lessee of the child care vehicle shall have a child safety alarm installed in the child care vehicle. A person who is required under this subsection to have a child safety

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

alarm installed in a child care vehicle shall ensure that the child safety alarm is properly maintained and in good working order each time the child care vehicle is used for transporting children to or from a child care provider.

(3) VIOLATIONS. (a) No person may knowingly transport a child, and no child care provider or contractor of a child care provider that is the owner or lessee of a child care vehicle may knowingly permit a child to be transported, to or from a child care provider in a child care vehicle in which a child safety alarm has not been installed, is not properly maintained, or is not in good working order. In addition to the sanctions and penalties specified in s. 48.715, any person who violates this paragraph may be fined not more than \$1,000 or imprisoned for not more than one year in the county jail or both.

(bm) No person may remove, disconnect, tamper with, or otherwise circumvent the operation of a child safety alarm that is installed in a child care vehicle, except for the purpose of testing, repairing, or maintaining the child safety alarm or of replacing or disposing of a malfunctioning child safety alarm. No person may shut off a child safety alarm that is installed in a child care vehicle unless the person first inspects the vehicle to ensure that no child is left unattended in the vehicle. Any person who violates this paragraph is guilty of a Class I felony.

(4) RULES; INFORMATION ABOUT CHILD SAFETY ALARMS. (a) The department shall promulgate rules to implement this section. Those rules shall include a rule requiring the department, whenever it inspects a child care provider that is licensed under s. 48.65 (1) or established or contracted for under s. 120.13 (14), and a county department, whenever it inspects a child care provider that is certified under s. 48.651, to inspect the child safety alarm of each child care vehicle that is used to transport children to and from the child care provider to determine whether the child safety alarm is in good working order.

(bm) The department shall make information about child safety alarms available to persons who are required under sub. (2) to have a child safety alarm installed in a child care vehicle. The department may make that information available by posting the information on the department's Internet site.

SECTION 5. 48.715 (2) (c) of the statutes is amended to read:

48.715 (2) (c) That a licensee stop violating any provision of licensure under s. 48.70 (1) or ~~rules~~ rule promulgated by the department under s. 48.658 (4) (a) or 48.67.

SECTION 6. 48.715 (2) (d) of the statutes is amended to read:

48.715 (2) (d) That a licensee submit a plan of correction for violation of any provision of licensure under s. 48.70 (1) or rule promulgated by the department under s. 48.658 (4) (a) or 48.67.

SECTION 7. 48.715 (2) (f) of the statutes is amended to read:

48.715 (2) (f) That a licensee close the intake of any new children until all violations of the provisions of licensure under s. 48.70 (1) and the rules promulgated by the department under s. 48.658 (4) (a) or 48.67 are corrected.

SECTION 8. 48.715 (3) (intro.) of the statutes is amended to read:

48.715 (3) (intro.) If the department provides written notice of the grounds for a penalty, an explanation of the types of penalties that may be imposed under this subsection, and an explanation of the process for appealing a penalty imposed under this subsection, the department may impose any of the following penalties against a licensee or any other person who violates a provision of licensure under s. 48.70 (1) or rule promulgated by the department under s. 48.658 (4) (a) or 48.67 or who fails to comply with an order issued under sub. (2) by the time specified in the order:

SECTION 9. 48.715 (4) (a) of the statutes is amended to read:

48.715 (4) (a) The department has imposed a penalty on the licensee under sub. (3) and the licensee or a person under the supervision of the licensee either continues to violate or resumes violation of a rule promulgated under s. 48.658 (4) (a) or 48.67, a provision of licensure under s. 48.70 (1), or an order under this section forming any part of the basis for the penalty.

SECTION 10. 48.715 (4) (b) of the statutes is amended to read:

48.715 (4) (b) The licensee or a person under the supervision of the licensee has committed a substantial violation, as determined by the department, of a rule promulgated under s. 48.658 (4) (a) or 48.67, a provision of licensure under s. 48.70 (1), or an order under this section.

SECTION 11. 48.715 (4) (d) of the statutes is amended to read:

48.715 (4) (d) The licensee or a person under the supervision of the licensee has violated, as determined by the department, a rule promulgated under s. 48.658 (4) (a) or 48.67, a provision of licensure under s. 48.70 (1), or an order under this section that is the same as or similar to a rule promulgated under s. 48.658 (4) (a) or 48.67, a provision of licensure under s. 48.70 (1), or an order under this section that the licensee or a person under the supervision of the licensee has violated previously.

SECTION 12. Nonstatutory provisions.

(1) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES; RULES.

(a) *Proposed rules.* The department of children and families shall submit in proposed form the rules required under section 48.658 (4) (a) 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

6th month beginning after the effective date of this paragraph.

(b) *Emergency rules.* Using the procedure under section 227.24 of the statutes, the department of children and families may promulgate as emergency rules the rules required under section 48.658 (4) (a) of the statutes, as created by this act, for the period before the effective date of the rules submitted under paragraph (a). Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this paragraph remain in effect until the date on which the rules submitted under paragraph (a) take effect. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of children and families is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.

(2) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES; GRACE PERIOD. Notwithstanding section 48.658 (2) of the statutes, as created by this act, a child care provider, as defined in section 48.658 (1) (a) of the statutes, as created by this act, or a contractor of a child care provider that is the owner or lessee of a child care vehicle, as defined in section 48.658 (1) (b) of the statutes, as created by this act, that is used to transport children to and from a child care provider on the day before the effective date of this

subsection shall have a child safety alarm, as defined in section 48.658 (1) (c) of the statutes, as created by this act, installed in the child care vehicle by a qualified technician or mechanic by the first day of the 3rd month beginning after the effective date of this subsection.

SECTION 13. Initial applicability.

(1) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES. Except as provided in subsection (2), this act first applies to a child care vehicle, as defined in section 48.658 (1) (b) of the statutes, as created by this act, that is used to transport children to or from a child care provider, as defined in section 48.658 (1) (a) of the statutes, as created by this act, on the effective date of this subsection.

(2) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES; GRACE PERIOD. This act first applies to a child care vehicle, as defined in section 48.658 (1) (b) of the statutes, as created by this act, described in SECTION 12 (2) of this act that is used to transport children to or from a child care provider, as defined in section 48.658 (1) (a) of the statutes, as created by this act, on the first day of the 3rd month beginning after the effective date of this subsection.

SECTION 14. Effective dates. This act takes effect on the first day of the 12th month beginning after publication, except as follows:

(1) RULES. SECTION 12 (1) of this act takes effect on the day after publication.