



2009 ASSEMBLY BILL 176

March 30, 2009 - Introduced by Representatives GRIGSBY, PASCH, RICHARDS, A. WILLIAMS, BERCEAU, DANOU, FIELDS, CULLEN, SINICKI, YOUNG, TURNER, TOLES, KESSLER, PARISI, ZEPNICK and COLON, cosponsored by Senators COGGS, TAYLOR, CARPENTER, ERPENBACH, HANSEN, PLALE and RISSER. Referred to Committee on Children and Families.

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

Analysis by the Legislative Reference Bureau

Under current Department of Children and Families (DCF) administrative rules, a child may not be left unattended in a vehicle that transports children to or from a day care center that is licensed by DCF, a day care provider that is certified according to standards adopted by DCF, or a day care program that is established or contracted for by a school board (child care provider).

Under this bill, a child care provider or contractor of a child care provider that owns or leases a child care vehicle must install a child safety alarm, which has been approved by DCF, before the child care vehicle is placed in service. Under the bill, "child care vehicle" means "a vehicle that has a seating capacity of six 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

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from the child care provider.” Under the bill, “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.” The bill, however, grants to a child care provider or contractor of a child care provider that owns or leases a child care vehicle that is in use before the effective date of the bill a grace period of three months after the effective date of the bill to install a child safety alarm. Under the bill, any person who knowingly transports a child 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 may be fined not more than \$1,000 or imprisoned for not more than one year in the county jail or both. The same penalty applies to any child care provider or contractor of a child care provider that knowingly permits a child to be transported in a child care vehicle it owns or leases and in which a child safety alarm has not been installed, is not properly maintained, or is not in good working order.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

2 48.657 (1) (a) Violations of statutes, rules promulgated by the department
3 under s. 48.658 (4) (a) or 48.67, or provisions of licensure under s. 48.70 (1) by the day
4 care center. In providing information under this paragraph, the department may not
5 disclose the identity of any employee of the day care center.

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

7 48.657 (1) (b) A telephone number at the department that a person may call
8 to complain of any alleged violation of a statute, rule promulgated by the department
9 under s. 48.658 (4) (a) or 48.67, or provision of licensure under s. 48.70 (1) by the day
10 care center.

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

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1 48.657 **(2g)** If the report under sub. (1) indicates that the day care center is in
2 violation of a statute, a rule promulgated by the department under s. 48.658 (4) (a)
3 or 48.67, or a provision of licensure under s. 48.70 (1), the day care center shall post
4 with the report any notices received from the department relating to that violation.

5 **SECTION 4.** 48.658 of the statutes is created to read:

6 **48.658 Child safety alarms in child care vehicles. (1) DEFINITIONS.** In this
7 section:

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

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

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

18 **(2) CHILD SAFETY ALARMS REQUIRED.** Before a child care vehicle is placed in
19 service, the child care provider or contractor of a child care provider that is the owner
20 or lessee of the child care vehicle shall have a child safety alarm that is approved by
21 the department under sub. (4) (b) installed in the child care vehicle. A person who
22 is required under this subsection to have an approved child safety alarm installed
23 in a child care vehicle shall ensure that the child safety alarm is properly maintained
24 and in good working order each time the child care vehicle is used for transporting
25 children to or from a child care provider.

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1 **(3) VIOLATION.** (a) No person may knowingly transport a child, and no child care
2 provider or contractor of a child care provider that is the owner or lessee of a child
3 care vehicle may knowingly permit a child to be transported, to or from a child care
4 provider in a child care vehicle in which a child safety alarm has not been installed,
5 is not properly maintained, or is not in good working order.

6 (b) In addition to the sanctions and penalties specified in s. 48.715, any person
7 who violates par. (a) may be fined not more than \$1,000 or imprisoned for not more
8 than one year in the county jail or both.

9 **(4) RULES; APPROVAL OF CHILD SAFETY ALARMS.** (a) The department shall
10 promulgate rules to implement this section.

11 (b) The department shall maintain a list of child safety alarms that are
12 approved by the department for use in a child care vehicle. Notwithstanding s.
13 227.10 (1), that list need not be promulgated as rules under ch. 227.

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

15 48.715 **(2)** (c) That a licensee stop violating any provision of licensure under s.
16 48.70 (1) or ~~rules~~ rule promulgated by the department under s. 48.658 (4) (a) or 48.67.

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

18 48.715 **(2)** (d) That a licensee submit a plan of correction for violation of any
19 provision of licensure under s. 48.70 (1) or rule promulgated by the department under
20 s. 48.658 (4) (a) or 48.67.

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

22 48.715 **(2)** (f) That a licensee close the intake of any new children until all
23 violations of the provisions of licensure under s. 48.70 (1) and the rules promulgated
24 by the department under s. 48.658 (4) (a) or 48.67 are corrected.

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

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

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

9 48.715 (4) (a) The department has imposed a penalty on the licensee under sub.
10 (3) and the licensee or a person under the supervision of the licensee either continues
11 to violate or resumes violation of a rule promulgated under s. 48.658 (4) (a) or 48.67,
12 a provision of licensure under s. 48.70 (1), or an order under this section forming any
13 part of the basis for the penalty.

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

15 48.715 (4) (b) The licensee or a person under the supervision of the licensee has
16 committed a substantial violation, as determined by the department, of a rule
17 promulgated under s. 48.658 (4) (a) or 48.67, a provision of licensure under s. 48.70
18 (1), or an order under this section.

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

20 48.715 (4) (d) The licensee or a person under the supervision of the licensee has
21 violated, as determined by the department, a rule promulgated under s. 48.658 (4)
22 (a) or 48.67, a provision of licensure under s. 48.70 (1), or an order under this section
23 that is the same as or similar to a rule promulgated under s. 48.658 (4) (a) or 48.67,
24 a provision of licensure under s. 48.70 (1), or an order under this section that the
25 licensee or a person under the supervision of the licensee has violated previously.

ASSEMBLY BILL 176**SECTION 12****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

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1 date of this subsection shall have a child safety alarm, as defined in section 48.658
2 (1) (c) of the statutes, as created by this act, that is approved by the department of
3 children and families under section 48.658 (4) (b) of the statutes, as created by this
4 act, installed in the child care vehicle by a qualified technician or mechanic by the
5 first day of the 3rd month beginning after the effective date of this subsection.

SECTION 13. Initial applicability.

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

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

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

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

21 (END)