

2005 Assembly Bill 618

Date of enactment: February 6, 2006
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2005 WISCONSIN ACT 106

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

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

SECTION 1. 343.32 (2) (bt) of the statutes is amended to read:

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

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

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

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

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

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

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

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

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

* Section 991.11, WISCONSIN STATUTES 2003-04 : 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].

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

SECTION 6m. 347.48 (4) (a) 3. of the statutes is repealed.

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

347.48 (4) (ag) In this subsection:

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

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

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

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

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

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

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

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

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

2. Subject to subd. 1., if the child is at least one year old and weighs at least 20 pounds but is less than 4 years old or weighs less than 40 pounds, the child shall be properly restrained in a forward-facing child safety restraint system, positioned at a designated seating position in a

back passenger seat of the vehicle if the vehicle is equipped with a back passenger seat.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 (4) (am) of the statutes, as affected by this act, involving a child who is at least 4 years old and less than 8 years old, 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 writ-

ten warning for, a previous violation of section 347.48 (4) (am) of the statutes, as affected by this act, involving a child who is at least 4 years old and less than 8 years old 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.

(2) Section 20.003 (4) of the statutes does not apply to the actions of the legislature in enacting this act.

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.