



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0382/2
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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 90**

March 9, 2004 – Offered by Representatives YOUNG, MORRIS, TAYLOR and A.
WILLIAMS.

1 **AN ACT to amend** 347.48 (2m) (e), 347.48 (2m) (gm) and 347.50 (2m) (a); and **to**
2 **create** 165.842 and 165.85 (4) (b) 1d. f. of the statutes; **relating to:**
3 enforcement of motor vehicle safety belt violations, collection of data
4 concerning motor vehicle stops, law enforcement training standards, granting
5 rule-making authority, and providing a penalty.

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

6 **SECTION 1.** 165.842 of the statutes is created to read:

7 **165.842 Motor vehicle stops; collection and analysis of information;**
8 **annual report. (1) DEFINITIONS.** In this section:

9 (a) “Department” means the department of justice.

10 (b) “Law enforcement agency” has the meaning given in s. 165.77 (1) (b).

11 (c) “Law enforcement officer” means a person who is employed by a law
12 enforcement agency for the purpose of detecting and preventing crime and enforcing

1 laws or ordinances and who is authorized to make arrests for violations of the laws
2 or ordinances that the person is employed to enforce, whether that enforcement
3 authority extends to all laws or ordinances or is limited to specific laws or ordinances.

4 (d) “Motor vehicle stop” means the stop or detention of a motor vehicle that is
5 traveling in any public or private place, or the detention of an occupied motor vehicle
6 that is already stopped in any public or private place, for the purpose of investigating
7 any alleged or suspected violation of a state or federal law or city, village, town, or
8 county ordinance.

9 **(2) INFORMATION COLLECTION REQUIRED.** All persons in charge of law
10 enforcement agencies shall obtain, or cause to be obtained, all of the following
11 information with respect to each motor vehicle stop made on or after January 1, 2005,
12 by a law enforcement officer employed by the law enforcement agency:

13 (a) The name, address, gender, and race of the operator of the motor vehicle.

14 The officer shall subjectively select the operator’s race from the following list:

- 15 1. Caucasian.
- 16 2. African American.
- 17 3. Hispanic.
- 18 4. American Indian or Alaska Native.
- 19 5. Asian or Pacific Islander.

20 (b) The reason that the officer stopped or detained the motor vehicle.

21 (c) The make and year of the motor vehicle.

22 (d) The date, time, and location of the motor vehicle stop.

23 (e) Whether or not a law enforcement officer conducted a search of the motor
24 vehicle, the operator, or any passenger and, if so, whether the search was with
25 consent or by other means.

1 (f) The name, address, gender, and race of any person searched, with the officer
2 subjectively selecting the person's race from the list under par. (a).

3 (g) The name and badge number of the officer making the motor vehicle stop.

4 **(3) SUBMISSION OF INFORMATION COLLECTED.** The person in charge of a law
5 enforcement agency shall forward the information obtained under sub. (2) to the
6 department using the form prescribed by the rules promulgated under sub. (5) and
7 in accordance with the reporting schedule established under the rules promulgated
8 under sub. (5).

9 **(4) ANALYSIS AND REPORT BY DEPARTMENT.** (a) The department shall compile the
10 information submitted to it by law enforcement agencies under sub. (3) and shall
11 analyze the information, along with any other relevant information, to determine,
12 both for the state as a whole and for each law enforcement agency, all of the following:

13 1. Whether the number of motor vehicle stops and searches involving motor
14 vehicles operated or occupied by members of a racial minority compared to the
15 number of motor vehicle stops and searches involving motor vehicles operated or
16 occupied solely by persons who are not members of a racial minority is
17 disproportionate based on an estimate of the population and characteristics of all
18 persons traveling on state highways, on an estimate of the populations and
19 characteristics of persons traveling on state highways who are violating a law or
20 ordinance, or on some other relevant population estimate.

21 2. A determination as to whether any disproportion found under subd. 1. is the
22 result of racial profiling, racial stereotyping, or other race-based discrimination or
23 selective enforcement.

24 (b) For each year, the department shall prepare an annual report that
25 summarizes the information submitted to it by law enforcement agencies concerning

1 motor vehicle stops made during the year and that describes the methods and
2 conclusions of its analysis of the information. On or before March 31, 2006, and on
3 or before each March 31 thereafter, the department shall submit the annual report
4 required under this paragraph to the legislature under s. 13.172 (2), to the governor,
5 and to the director of state courts.

6 **(5) RULES.** The department shall promulgate rules to implement the
7 requirements of this section, including rules prescribing a form for use in obtaining
8 information under sub. (2) and establishing a schedule for forwarding the
9 information obtained to the department. The department shall make the form
10 prescribed by its rules available to law enforcement agencies. The department may,
11 by rule, require the collection of information in addition to that specified in sub. (2)
12 (a) to (g) if the department determines that the information will help to make the
13 determinations required under sub. (4) (a).

14 **(6) ACCESS TO RECORDS.** Information collected under sub. (2) is not subject to
15 inspection or copying under s. 19.35 (1).

16 **SECTION 2.** 165.85 (4) (b) 1d. f. of the statutes is created to read:

17 165.85 (4) (b) 1d. f. Training concerning cultural diversity, including sensitivity
18 toward racial and ethnic differences. The training shall be designed to prevent the
19 use of race, racial profiling, racial stereotyping, or other race-based discrimination
20 or selection as a basis for detaining, searching, or arresting a person or for otherwise
21 treating a person differently from persons of other races and shall emphasize the fact
22 that the primary purposes of enforcement of traffic regulations are safety and equal
23 and uniform enforcement under the law.

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

1 347.48 **(2m)** (e) Paragraph (b) does not apply to a person who qualifies for
2 registration plates of a special design under s. 341.14 (1), (1a), (1m), or (1q) or for a
3 special identification card under s. 343.51. The department shall, by rule, exempt
4 from the requirements under pars. ~~(b) to (c)~~ and (d) persons who, because of a
5 physical or medical condition, cannot be properly restrained in a safety belt.

6 **SECTION 4.** 347.48 (2m) (gm) of the statutes is amended to read:

7 347.48 **(2m)** (gm) ~~Notwithstanding s. 349.02, a law enforcement officer may not~~
8 ~~stop or inspect a vehicle solely to determine compliance with this subsection or sub.~~
9 ~~(1) or (2) or a local ordinance in conformity with this subsection, sub. (1) or (2) or rules~~
10 ~~of the department. This paragraph does not limit the authority of a law enforcement~~
11 ~~officer to issue a citation for a violation of this subsection or sub. (1) or (2) or a local~~
12 ~~ordinance in conformity with this subsection, sub. (1) or (2) or rules of the department~~
13 ~~observed in the course of a stop or inspection made for other purposes, except that~~
14 ~~-a~~ A law enforcement officer may not take a person into physical custody solely for
15 a violation of this subsection or sub. (1) or (2) or a local ordinance in conformity with
16 this subsection, sub. (1) or (2) or rules of the department.

17 **SECTION 5.** 347.50 (2m) (a) of the statutes is amended to read:

18 347.50 **(2m)** (a) Any person who violates s. 347.48 (2m) (b) or (c) and any person
19 16 years of age or older who violates s. 347.48 (2m) (d) may be required to forfeit \$10
20 \$25 for the first offense and not less than \$50 nor more than \$75 for the 2nd or any
21 later offense committed within 3 years.

22 **SECTION 6. Initial applicability.**

23 (1) The treatment of section 347.50 (2m) (a) of the statutes first applies to
24 violations committed on the effective date of this subsection, but does not preclude
25 the counting of other violations as prior violations for sentencing a person.

