



2003 ASSEMBLY BILL 724

January 5, 2004 - Introduced by Representatives PETROWSKI, WASSERMAN, BERCEAU, BIES, KREIBICH, MCCORMICK, MOLEPSKE, ALBERS, J. LEHMAN, GUNDERSON, SUDER, FREESE, KERKMAN, SHILLING, SINICKI and VAN ROY, cosponsored by Senators ROESSLER, LAZICH, ROBSON, RISSER and WIRCH. Referred to Committee on Highway Safety.

1 **AN ACT** *to repeal* 347.50 (4); *to renumber and amend* 347.48 (4) (a) 1., 347.48
2 (4) (a) 2. and 347.48 (4) (a) 3.; *to amend* 343.32 (2) (bt), 347.48 (2m) (c), 347.48
3 (2m) (d), 347.48 (4) (b), 347.48 (4) (d), 347.487 (title), 347.50 (1), 347.50 (3) (a)
4 and 347.50 (3) (b); and *to create* 20.395 (5) (gq), 25.40 (1) (ik), 59.25 (3) (jm),
5 85.56, 347.48 (4) (ag), 347.48 (4) (as), 347.482 and 347.50 (3) (b) 3. of the
6 statutes; **relating to:** child safety restraint systems, seating positions, and
7 safety belt use requirements in motor vehicles, creating a Child Safety
8 Restraint System Program, granting rule-making authority, making an
9 appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, no child under the age of four years may be transported in a motor vehicle unless that child is properly restrained in a child safety restraint system (child safety seat), and no child between the ages of four and eight years may be transported in a motor vehicle unless that child is properly restrained in a child safety seat or by a safety belt (seat belt). A person who fails to comply with the child safety seat requirement is subject to a forfeiture of not less than \$30 nor more than \$75, but no forfeiture may be assessed if the vehicle was not

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equipped with a child safety seat at the time of the violation and the person provides proof that, within 30 days after the violation, a child safety seat was purchased or leased and properly installed in the vehicle. A person who fails to comply with the seat belt requirement is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$25 nor more than \$200.

This bill creates a tiered structure, according to age and size, of restraint requirements for transporting children under the age of eight in a motor vehicle. Under this bill, a child who is:

1. Less than one year old or who weighs less than 20 pounds must be properly restrained in a rear-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

2. At least one year old and weighs at least 20 pounds but is less than four years old or weighs less than 40 pounds must be properly restrained in a forward-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

3. At least four years old but less than eight years old, weighs between 40 and 80 pounds, and is no more than four feet nine inches tall must be properly restrained in a child booster seat positioned according to the child seating requirements described below.

4. Under the age of eight and exceeds the weight or height limits specified in Item 3., above, must be properly restrained by a seat belt (as under current law), and is subject to the child seating requirements specified below.

If a child, because of age, weight, or height, falls into more than one of these categories, the child must be transported according to the requirements of the more protective category. If a vehicle is not equipped with a back seat, the seating position requirement under Items 1. and 2., above, does not apply.

This bill prohibits a person from transporting a child under the age of eight in a motor vehicle unless the child is properly restrained as described above and the restraint system meets the standards established by the Department of Transportation (DOT) and is appropriate to the child's age and size. Certain exceptions that apply under current law continue to apply to these requirements.

Under the bill, the same penalty applies regardless of which specific requirement is violated. A person who fails to comply with any of these requirements is subject to a forfeiture of not less than \$50 nor more than \$75 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$75 nor more than \$200. However, no forfeiture may be assessed if the vehicle was not equipped with an applicable child safety restraint system at the time of the violation, the person provides proof that, within 30 days after the violation, a child safety restraint system was purchased or leased and properly installed in the vehicle, and the person has not been issued a uniform traffic citation for violation of the child safety restraint system requirements within the immediately preceding three years.

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The bill also prohibits any person from operating a motor vehicle unless he or she reasonably believes that each child being transported who is at least four years old but less than 12 years old is seated in a designated seating position as follows:

1. In a back seat equipped with a lap belt and shoulder harness, unless each such seat is occupied by a younger or smaller child who is properly restrained.

2. If the vehicle does not have a seat described in Item 1., above, then in a front seat equipped with a lap belt and shoulder harness, unless each such seat is occupied by a younger or smaller child who is properly restrained.

3. If the vehicle does not have a seat described in either Item 1. or 2., above, then in a back seat, unless each such seat is occupied by a younger or smaller child who is properly restrained.

4. If the vehicle does not have a seat described in any of Items 1. to 3., above, then in any seat determined by the vehicle operator to be the safest considering the child's age and size.

These requirements do not apply to a child required to be transported in a rear-facing or forward-facing child safety seat, who, as described above, must be transported in a back seat. Items 1. and 3., above, do not apply if the vehicle is not equipped with a back seat. A person who fails to comply with these requirements is subject to a forfeiture of \$10.

Under current law, with specific exceptions, no person may drive a motor vehicle unless he or she reasonably believes that each passenger between the ages of four and 15 years is properly restrained by a seat belt. No person who is at least four years old may be a passenger in the front seat of a motor vehicle, or in a seat other than the front seat for which a shoulder harness has been installed, unless that person is properly restrained. This bill extends this seat belt requirement to passengers up to the age of 16 years and applies the requirement to passengers in seats other than the front seat for which safety belts are required to be installed.

The bill also requires DOT to develop and administer a program to provide child safety restraint systems to low-income families in this state. To administer the program, DOT must enter into an agreement with Children's Hospital and Health System (CHHS) to provide funds to CHHS to purchase and distribute, through Safe Kids Wisconsin, child safety restraint systems to low-income families in accordance with standards and criteria established by rule by DOT. CHHS must annually submit an audited financial statement of its use of the funds and may not receive funding if it dissolves or loses its tax-exempt status under federal law.

Under current law, fines and forfeitures collected as a result of convictions for state traffic offenses are divided between the collecting local government and the state. Generally, 50 percent of all fines and forfeitures for state traffic offenses is deposited in the common school fund, but a different allocation, involving the deposit of 40 percent of all fines or forfeitures in the transportation fund and ten percent in the common school fund, is made for offenses related to the size, weight, and load of vehicles. This bill requires 50 percent of all forfeitures collected for child safety restraint system violations to be deposited in the transportation fund to be used exclusively for the Child Safety Restraint System Program.

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

2 20.395 (5) (gq) *Child Safety Restraint System Program, state funds.* All moneys
3 received from forfeitures under s. 347.50 (3) (a) allocated to the state, for the purposes
4 specified in s. 85.56.

5 **SECTION 2.** 25.40 (1) (ik) of the statutes is created to read:

6 25.40 (1) (ik) All moneys forwarded by county treasurers from forfeitures under
7 s. 347.50 (3) (a), as provided in s. 59.25 (3) (jm).

8 **SECTION 3.** 59.25 (3) (jm) of the statutes is created to read:

9 59.25 (3) (jm) Forward to the state treasurer for deposit in the transportation
10 fund under s. 25.40 (1) (ik) the 50 percent of the forfeitures under s. 347.50 (3) (a) that
11 is not retained under par. (j).

12 **SECTION 4.** 85.56 of the statutes is created to read:

13 **85.56 Child Safety Restraint System Program.** (1) The department shall
14 develop and administer a program to provide to low-income families in this state
15 child safety restraint systems, including infant and toddler car seats and child
16 booster seats, for the purpose of promoting compliance with the requirements of s.
17 347.48 (4). The department shall adopt rules to implement and administer this
18 section, including standards and criteria for providing low-income families with
19 child safety restraint systems.

20 (2) (a) For purposes of administering the program under sub. (1), the
21 department shall enter into an agreement with Children's Hospital and Health

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1 System, a nonprofit corporation and an organization described in section 501 (c) (3)
2 of the Internal Revenue Code and exempt from federal income tax under section 501
3 (a) of the Internal Revenue Code, to make payments from the appropriation under
4 s. 20.395 (5) (gq) to Children's Hospital and Health System for the purchase and
5 distribution by Safe Kids Wisconsin, led by Children's Hospital and Health System,
6 of child safety restraint systems to low-income families under the standards and
7 criteria established by the department by rule.

8 (b) The agreement under this subsection shall require that Children's Hospital
9 and Health System annually submit to the presiding officer of each house of the
10 legislature an audited financial statement of its use of the payments under this
11 section, prepared in accordance with generally accepted accounting principles.

12 (c) Payments to Children's Hospital and Health System under this section shall
13 be discontinued by the department if either Children's Hospital and Health System
14 or Safe Kids Wisconsin dissolves or is no longer exempt from taxation under section
15 501 (a) of the Internal Revenue Code, and the department shall designate a new
16 recipient for payments under this section, which must be a nonprofit organization
17 with a purpose of promoting child safety and which must comply with any
18 requirement specified in this section for Children's Hospital and Health System or
19 Safe Kids Wisconsin.

20 **SECTION 5.** 343.32 (2) (bt) of the statutes is amended to read:

21 343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit
22 points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) ~~(a)~~ (am).

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

24 347.48 (2m) (c) If Subject to s. 347.482, if a motor vehicle is required to be
25 equipped with safety belts in this state, no person may operate that motor vehicle

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1 unless he or she reasonably believes that each passenger who is at least ~~4~~ 8 years
2 old and not more than ~~15~~ 16 years old and who is seated at a designated seating
3 position in the front seat required under 49 CFR 571 to have a safety belt installed
4 or at a designated seating position in the seats, other than the front seats, for which
5 a ~~shoulder harness has been~~ safety belt is required to be installed is properly
6 restrained.

7 **SECTION 7.** 347.48 (2m) (d) of the statutes is amended to read:

8 347.48 **(2m)** (d) If Subject to s. 347.482, if a motor vehicle is required to be
9 equipped with safety belts in this state, no person who is at least ~~4~~ 8 years old and
10 who is seated at a designated seating position in the front seat required under 49
11 CFR 571 to have a safety belt installed or at a designated seating position in the
12 seats, other than the front seats, for which a ~~shoulder harness has been~~ safety belt
13 is required to be installed may be a passenger in that motor vehicle unless the person
14 is properly restrained.

15 **SECTION 8.** 347.48 (4) (a) 1. of the statutes is renumbered 347.48 (4) (am) and
16 amended to read:

17 347.48 **(4)** (am) ~~No~~ Subject to par. (au), no person may transport a child under
18 the age of ~~4~~ 8 in a motor vehicle unless the child is properly restrained in compliance
19 with par. (as) in a child safety restraint system is approved that is appropriate to the
20 child's age and size and that meets the standards established by the department. ~~In~~
21 ~~this subdivision, "properly restrained" means fastened in a manner prescribed by the~~
22 ~~manufacturer of the system which permits the system to act as a body restraint but~~
23 ~~does not include a system in which the only body restraint is a safety belt of the type~~
24 ~~required under sub. (1) under this paragraph.~~ The department shall, by rule,
25 establish standards in compliance with applicable federal standards, including

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1 standards under 49 CFR 571.213, for approved types of child safety restraint
2 systems for those child restraint systems purchased after November 1, 1982.

3 **SECTION 9.** 347.48 (4) (a) 2. of the statutes is renumbered 347.48 (4) (as) 4. and
4 amended to read:

5 347.48 (4) (as) 4. ~~No person may transport a~~ Subject to subds. 1. to 3., if the
6 ~~child who is at least 4 years old but is less than 8 years old in a motor vehicle unless,~~
7 ~~the child is~~ shall be properly restrained in a child safety restraint system approved
8 by the department under subd. 1. or in a safety belt approved by the department
9 under sub. (2). ~~In this subdivision, “properly restrained” means fastened in a~~
10 ~~manner prescribed by the manufacturer of the system which permits the system to~~
11 ~~act as a body restraint, positioned in compliance with s. 347.482.~~

12 **SECTION 10.** 347.48 (4) (a) 3. of the statutes is renumbered 347.48 (4) (au), and
13 347.48 (4) (au) (intro.), as renumbered, is amended to read:

14 347.48 (4) (au) (intro.) ~~Notwithstanding subds. 1. and 2. pars. (am) and (as),~~
15 a person other than the operator of a motor vehicle transporting a child required to
16 be properly restrained under ~~subd. 1. or 2. pars. (am) and (as)~~ may temporarily
17 remove a child from a safety restraint system to attend to the personal needs of the
18 child under all of the following conditions:

19 **SECTION 11.** 347.48 (4) (ag) of the statutes is created to read:

20 347.48 (4) (ag) In this subsection:

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

25 2. “Designated seating position” has the meaning given in 49 CFR 571.3.

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1 3. “Properly restrained” means any of the following:

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

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

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

14 **SECTION 12.** 347.48 (4) (as) of the statutes is created to read:

15 347.48 (4) (as) A child under the age of 8 years who is being transported in a
16 motor vehicle shall be restrained as follows:

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

21 2. Subject to subd. 1., if the child is at least one year old and weighs at least 20
22 pounds but is less than 4 years old or weighs less than 40 pounds, the child shall be
23 properly restrained in a forward-facing child safety restraint system, positioned at
24 a designated seating position in a back passenger seat of the vehicle if the vehicle is
25 equipped with a back passenger seat.

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1 3. Subject to subds. 1. and 2., if the child is at least 4 years old but less than 8
2 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more
3 than 57 inches in height, the child shall be properly restrained in a child booster seat,
4 positioned in compliance with s. 347.482.

5 **SECTION 13.** 347.48 (4) (b) of the statutes is amended to read:

6 347.48 (4) (b) The department may, by rule, exempt from the requirements
7 under ~~par. (a)~~ pars. (am) and (as) any child who because of a physical or medical
8 condition or body size cannot be placed in a child safety restraint system, child
9 booster seat, or safety belt.

10 **SECTION 14.** 347.48 (4) (d) of the statutes is amended to read:

11 347.48 (4) (d) Evidence of compliance or failure to comply with ~~par. (a)~~ pars.
12 (am) and (as) is admissible in any civil action for personal injuries or property
13 damage resulting from the use or operation of a motor vehicle but failure to comply
14 with ~~par. (a)~~ pars. (am) and (as) does not by itself constitute negligence.

15 **SECTION 15.** 347.482 of the statutes is created to read:

16 **347.482 Child seating requirements. (1)** In this section, “designated
17 seating position” has the meaning given in 49 CFR 571.3.

18 **(2)** Except as provided in s. 347.48 (4) (as) 1. and 2., no person may operate a
19 motor vehicle unless he or she reasonably believes that each passenger who is less
20 than 12 years old is seated as follows:

21 (a) At a designated seating position in a back passenger seat of the vehicle if
22 the seating position is equipped with a combination lap belt and shoulder harness,
23 unless all such seating positions are occupied by other passengers who are younger
24 or weigh less and who are properly restrained in compliance with s. 347.48 (4).

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1 (b) If the vehicle is not equipped with a seating position specified in par. (a), at
2 a designated seating position in a front passenger seat of the vehicle if the seating
3 position is equipped with a combination lap belt and shoulder harness, unless all
4 such seating positions are occupied by other passengers who are younger or weigh
5 less and who are properly restrained in compliance with s. 347.48 (4).

6 (c) If the vehicle is not equipped with a seating position specified in par. (a) or
7 (b), at a designated seating position in a back passenger seat of the vehicle, unless
8 all such seating positions are occupied by other passengers who are younger or weigh
9 less and who are properly restrained in compliance with s. 347.48 (4).

10 (d) If the vehicle is not equipped with a seating position specified in par. (a), (b),
11 or (c), at any designated seating position determined by the operator to be the safest
12 seating position considering the age and size of the passenger.

13 **(3)** Subsection (2) (a) and (c) does not apply if the vehicle is not equipped with
14 a back passenger seat.

15 **SECTION 16.** 347.487 (title) of the statutes is amended to read:

16 **347.487** (title) **Seating Motorcycle seating requirements.**

17 **SECTION 17.** 347.50 (1) of the statutes is amended to read:

18 347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.413 (1) or s.
19 347.415 (1), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475 or s. 347.48 (2m) or (4) (a)
20 or s. 347.489, may be required to forfeit not less than \$10 nor more than \$200.

21 **SECTION 18.** 347.50 (3) (a) of the statutes is amended to read:

22 347.50 (3) (a) Any person violating s. 347.48 (4) (a) 1. (am) may be required to
23 forfeit not less than ~~\$30~~ \$50 nor more than \$75. For a 2nd or subsequent conviction
24 within 3 years, a person may be required to forfeit not less than \$75 nor more than
25 \$200.

