

February 20, 2014

To: Members of the Senate Committee on Judiciary and Labor  
From: Senator Glenn Grothman  
Re: Senate Bill 592

It recently came to my attention that under current law in Wisconsin parents or other adult sponsors must sign an operator license for a person under the age of eighteen. The parent or adult sponsor is then held jointly and severally liable with the minor for damages caused by negligence or willful misconduct of the minor while operating a motor vehicle.

Current law is out of line with other states. Only thirteen states, including Wisconsin, currently have statutes that specifically impose liability for parents that sponsor their minor child's driver's license. Most of our surrounding states, including Minnesota, Illinois, Michigan and Iowa do not have these statutes.

This legislation would create a limit for liability of \$300,000 for all parents or adult sponsors to all parties from any one accident. This amount is still much higher than the cap for most other states.

Please join me in supporting this reasonable legislation that will help bring Wisconsin in line with other states and will give some reasonable protection to parents with drivers under the age of eighteen.



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**Testimony of  
Christopher Stombaugh  
on behalf of the  
Wisconsin Association for Justice  
before the  
Senate Judiciary & Labor Committee  
Sen. Glenn Grothman, Chair  
on  
2013 Senate Bill 592  
February 20, 2014**

CHAIRMAN GROTHMAN AND MEMBERS OF THE COMMITTEE, my name is Christopher Stombaugh and I am from Platteville, Wisconsin practicing law with the Keenan Law Firm. I serve as President of the Wisconsin Association for Justice and I appear on their behalf.

WAJ strongly supports Wis. Stat. § 343.15. We believe the statute puts the responsibility for young drivers where it should be: with the parents or sponsor of a young driver. AB-706 is out of step with today's expectation that parents should take more responsibility for their children's actions, not less.

Section 343.15 does exactly that. In order to get a driver's license a minor must be "sponsored" by "either of the applicant's parents . . . or other adult sponsor . . ." The statute then provides that the adult sponsor is jointly and severally liability with the minor for any damages caused by the minor's careless conduct. *See* § 343.15(2)(b). The purpose of this statute is to insure financial responsibility by individuals who may exercise some control over a minor's actions otherwise the burden for the loss – medical expenses, lost wages and other costs – will fall on the injured party and taxpayers.

The Legislature intended for sponsors to be persons who are likely to have personal knowledge of the minor's characteristics and have an opportunity to exercise some degree of control over the minor's driving. Who knows better the abilities of the minor than a parent or sponsor? The Legislature intended the sponsor's control to afford protection to other users of the road by decreasing the likelihood of a minor's negligent or willful misconduct.

This is very important since young drivers are more likely to be involved in motor vehicle crashes than any other age group. The Wisconsin Department of Transportation (WisDOT) recently published "2012 Wisconsin Crash Facts on the 16 to 19 Year-Old Age Group," which I have attached to the testimony. The report states, "Drivers aged 16 -19 who are involved in crashes are more likely than other drivers to be reported as exceeding the speed limit, driving too fast for conditions, failing to yield right-of-way, failing to control, following too close, and driving inattentively..."

The statute places the onus on parents to be responsible for children that drive. We might be sympathetic for a parent who has a child out of control but we don't believe the answer is to relieve the parents of their responsibility and let the potential financial burden fall on all taxpayers or society. If a parent does not want the responsibility, the statute provides a solution: cancel the license of the minor.

The harm caused by motor vehicle crashes in Wisconsin is extensive. WisDOT estimates that the total economic loss caused by automobile crashes was \$2.723 billion in 2012. The loss remains whether it is compensated or not. If the losses are not compensated by the person who caused the injury, it simply relieves the wrongdoer of his or her responsibility to pay appropriate damages to an injured person. Why do we want to relieve someone from paying for the harm they caused?

As a practical matter, most insurance policies will have a provision that limits liability for injuries. Most people have some sort of limit – from \$25,000 to over \$1 million. If there is inadequate insurance, personal assets could be at risk. However, it is not likely that the parents' assets are sought where there was inadequate insurance to cover injuries. If people are concerned about having their personal assets at risk, they should check with their insurance agent to get adequate coverage.

The bill will affect the most seriously injured individuals. For example, a 16-year-old driver is texting while driving and slams into the back of vehicle with a family of four, two parents and two children. The injuries are extensive for the family – over \$750,000. The 16-year-old child has his own policy of only \$100,000, while the parents have coverage of \$1 million. This bill will mean the injured family cannot recover their full damages from the 16-year-old and his parents. The parents' liability would be capped at \$300,000. The injured family is out hundreds of thousands of dollars despite the fact there is adequate insurance to cover their damages. If the parent and teen have adequate insurance shouldn't that cover the injured family?

Limiting the liability under this statute does not make the community safer. It is a privilege to drive and the state requires the person who drives to be financial responsible. Sponsors of young drivers who accept the risk, should also accept the responsibility. WAJ urges you not to support SB-592.

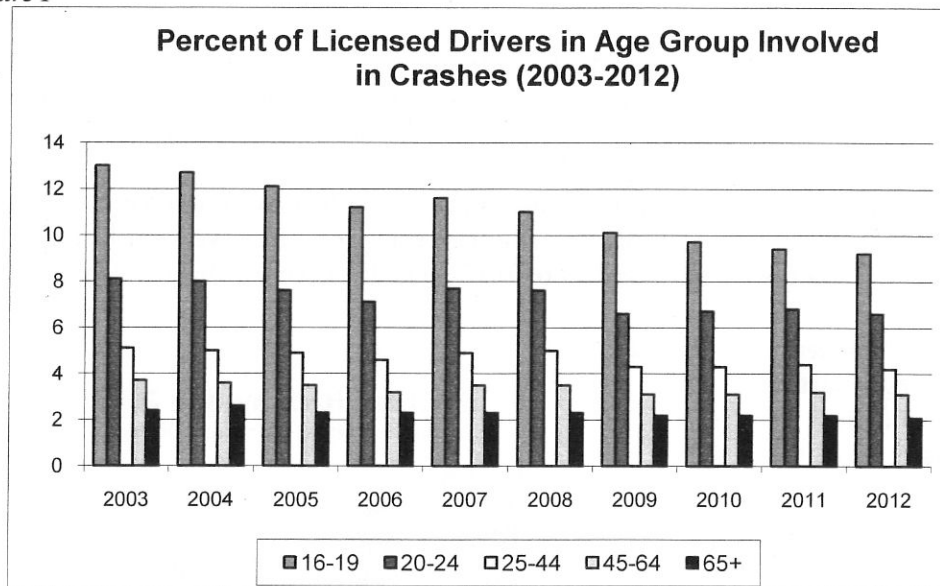
Thank you. I would be happy to answer any questions.

**2012 WISCONSIN CRASH FACTS  
ON THE 16- to 19-YEAR-OLD AGE GROUP**  
AUGUST 2013



- **Historically, for two out of three 16- to 19-year-old drivers killed in motor vehicle crashes, it was their first and last crash.** In 2012, traffic crashes claimed the lives of 57 teens ages 16 - 19. That compares to 43 who were killed in 2011, 51 in 2010, 57 in 2009, 56 in 2008, and 91 in 2007.
- **Drivers between the ages of 16 and 19 are more likely to be in a motor vehicle crash than other age groups (Figure 1).** During 2012, 9.2% of all 16- to 19-year-old licensed drivers in Wisconsin had a crash – more than one in 11 teen drivers.

*Figure 1*

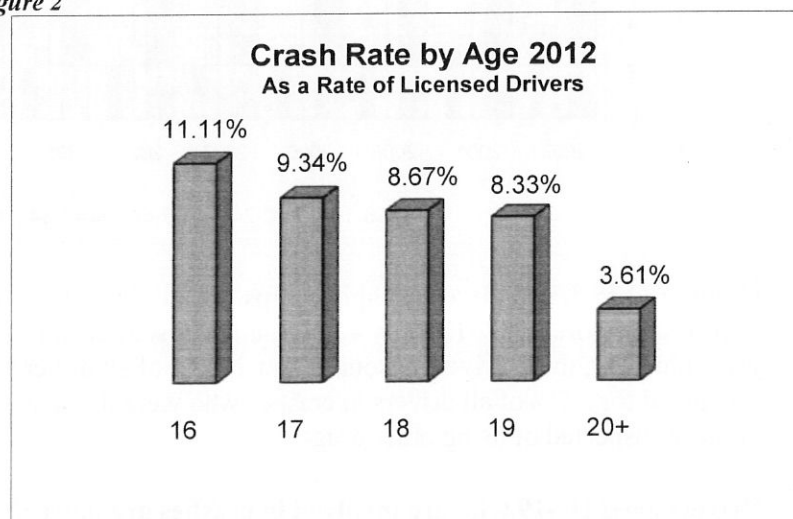


- **Compared to drivers in other age groups, teen drivers have more crashes involving high-risk factors.** In 2012, only 4.7% of all licensed drivers were between the ages of 16-19 years old. Yet, these drivers accounted for 11.1% of all drivers in crashes. They also accounted for 5.7% of all drivers in crashes who were listed as *had been drinking* and 9.4% of those suspected of using other drugs.
- **Drivers aged 16 -19 who are involved in crashes are more likely than other drivers to be reported as exceeding the speed limit, driving too fast for conditions, failing to yield right-of-way, failing to control, following too close, and driving inattentively** according to the possible contributing circumstances (PCCs) listed on crash reports.

- **Nearly two out of three 16- to 19-year-old passengers killed or seriously injured were in a vehicle driven by another teenager.** Specifically, of the 25 passengers age 16-19 killed in traffic crashes in 2012, 19 (76%) of them were riding in vehicles with drivers under the age of 20. Additionally, 112 passengers age 16-19 suffered incapacitating injuries in crashes in 2012. Fifty-three percent of them were in vehicles driven by teenagers.
- **Peer pressure may affect when teens wear seat belts.** Among teen drivers and their passengers of all ages who were killed or seriously injured in a passenger car or light truck crash in 2012, seat belt use was 71% in driver-only crashes and dropped to 62% when peer passengers were also present in the vehicle.
- **Weekends are more deadly for teens than weekdays.** Twenty-five of the 57 (44%) 16- to 19-year-olds who died in traffic crashes in 2012 died in crashes occurring on Friday, Saturday, or Sunday.
- **Teen drivers tend to crash in the late afternoon.** The peak hour for teen crashes is 3-4 p.m. during the school year and 4-6 p.m. during the summer. More crashes involving 16- to 19-year-old drivers occurred on Friday than on any other day of the week.
- **Snowy/slushy/icy road conditions pose special threats for teen drivers.** Relative to the number of licensed drivers by age, a larger percentage of teen drivers crashed during these conditions in January and December of 2012, than did drivers over age 19 (53% vs. 43%).

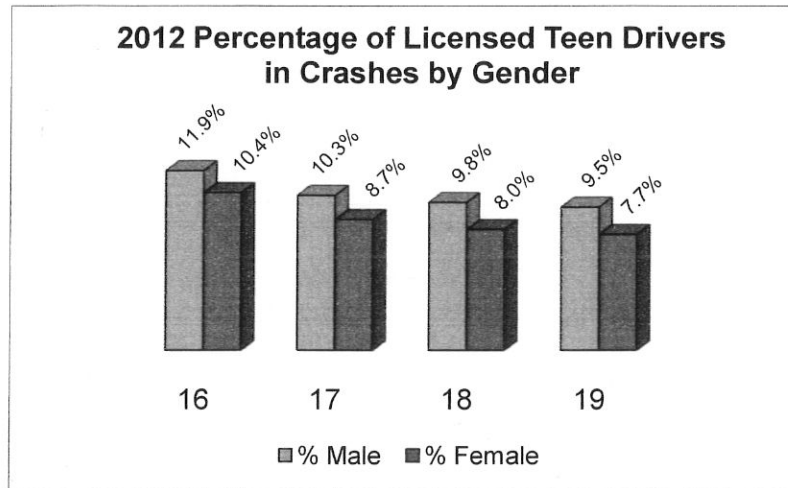
- **Even in the teen years, age matters.** 11.1% of all licensed 16-year-old drivers crash; at age 17, the percentage drops to 9.3%; at age 18, it is down to 8.7%; at age 19, it falls to 8.3%. Among licensed drivers aged 20 and older, the 2012 crash rate was 3.6%. (Figure 2).

Figure 2



- **Male and female circumstances differ.** By individual age, a larger percentage of 16- to 19-year-old male drivers were involved in all types of crashes than female drivers (*Figure 3*). Forty of the 57 (70%) 16- to 19-year-olds killed in 2012 traffic crashes were male. In crashes that proved fatal or incapacitating to a 16- to 19-year-old, 65% of the female victims wore seatbelts; only 58% of the male victims did so.

*Figure 3*



- **16- to 19-year-olds injure/kill 16- to 19-year-olds.** In crashes where 16- to 19-year-olds were driving the vehicle in 2012, 51% of those injured/killed were 16- to 19-year-olds; 76% of injured/killed occupants were under 20 years old.
- **On average, a teen driver was involved in a fatal crash every 5.9 days.** About once every 1.7 hours, a 16- to 19-year-old driver had an injury crash; about once every 42 minutes, a 16- to 19-year-old driver had a property damage crash (*Figure 4*).
- **New Wisconsin drivers under the age of 18 obtain their licenses via graduated licensing.** Since all phases of Wisconsin's Graduated Driver Licensing Law took effect in 2000, 16- and 17-year-old drivers must have an additional 30 hours of practice driving time (including 10 hours at night) and hold an instruction permit for at least six months before taking a road test and applying for a probationary driver's license. The probationary license imposes a curfew (no operation between midnight and 5 a.m. except for going to/from school or work) and a passenger restriction (one passenger other than family members) during the first nine months of probationary operation. These limitations are removed for drivers who remain conviction-free or who turn 18. For more information on Wisconsin's graduated driver licensing: <http://www.dot.state.wi.us/dmv/GDLchanges.html>.

## Wisconsin's Crash Clock for 16- to 19-year-olds

*Figure 4*

Frequency of Consequence for 16- to 19-year-olds in 2012	Number of Incidents Involving 16- to 19-year-olds			
	2012	2011	2010	2009
One driver involved in property damage crash every 42.0 minutes	12,558	13,090	13,398	14,536
One driver involved in injury crash every 1.7 hours	5,318	5,363	5,972	6,416
One 16- to 19-year-old injured every 2.0 hours	4,493	4,603	5,092	5,537
One driver injured roughly every 3.3 hours	2,675	2,698	3,074	3,334
One vehicle passenger injured every 6.4 hours	1,368	1,515	1,632	1,799
One 16-19 year passenger killed or injured while a 16-19 year was driving every 12.7 hours	692	821	925	1,015
One pedestrian injured every 2.6 days	139	132	137	143
One motorcyclist injured every 3.1 days	120	94	71	93
One bicyclist injured every 2.8 days	131	126	133	130
One driver involved in a fatal crash every 5.9 days	62	57	74	68
One teen killed every 6.4 days	57	43	51	57
One driver killed every 13.1 days	28	20	24	31
One moped user injured every 6.1 days	60	38	45	38
One vehicle passenger killed every 14.6 days	25	17	19	20
One pedestrian killed every 1year	1	3	3	2
One motorcyclist killed every 4 months	3	3	3	3

**WISCONSIN DEPARTMENT OF TRANSPORTATION**  
**Bureau of Transportation Safety / Safety Programs Section**  
 For more information call (608) 266-0402

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The data for this monograph comes from the WisDOT Division of Motor Vehicles Accident Database.



# Wisconsin Defense Counsel

Defending Individuals And Businesses In Civil Litigation

To: Members, Senate Judiciary and Labor Committee  
From: Arthur Simpson, Wisconsin Defense Counsel  
Date: February 20, 2014  
Re: **Wisconsin Defense Counsel Support for AB 706, Liability of an adult sponsor of a minor applicant for a motor vehicle operator's license.**

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Wisconsin is currently one of only 12 states that impose unlimited liability on parents or adult sponsors of a minor's driver's license. As a result, parents could face financial ruin if the minor or sponsored driver negligently injures another person. Assembly Bill 706 would protect unsuspecting parents/sponsors by amending current law to simply place a \$300,000 limit on liability.

Interestingly, Wisconsin already has a \$5,000.00 limit on damages "for personal injury attributable to a willful, malicious, or wanton act of the child."<sup>1</sup> Yet, if a child negligently causes a vehicular accident, the parent/sponsor faces unlimited liability.

Below is the current statute,<sup>2</sup> known as "Sponsorship Liability," with the language from AB 706 (underlined):

Any negligence or willful misconduct of a person under the age of eighteen years when operating a motor vehicle upon the highways is imputed to the parents where both have custody and either parent signed as a sponsor, otherwise, it is imputed to the adult sponsor who signed the application for such person's license. The parents or the adult sponsor is jointly and severally liable with such operator for any damages caused by such negligence or willful misconduct. The liability imputed under this paragraph is limited to a maximum total of \$300,000 for all parents or adult sponsors to all parties arising from any one accident.

This legislation simply places a cap of \$300,000, which is completely reasonable. California has a similar law imposing liability on parents for their child's negligence while driving a motor vehicle, yet California has a much lower cap (\$15,000 per injury; \$30,000 for all injuries per incident; and \$5,000 for property damage).<sup>3</sup>

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<sup>1</sup> Wis. Stat. § 895.035(2)(a), (4).

<sup>2</sup> Wis. Stat. § 343.15(2)(b).

<sup>3</sup> Cal. Veh. Code § 17708.



This legislation would not change a driver's liability for damages overall. The minor or sponsored driver remains liable to the full extent of damages caused by negligent driving. However, it would allow parents who have responsibly secured insurance the ability to obtain financial security. This bill would affect all parents or sponsors in Wisconsin, giving them some protection against catastrophic liability. This is a threat particularly acute for those with assets to lose, for example, small business owners and professionals, who are at great risk when their child is involved in an accident.

### **Conclusion**

Very few parents are aware that every time they give their minor child the keys to the car they are taking on unlimited liability for negligence. They may even be aware of the limitation on liability for intentional conduct, and have an expectation of similar limit on negligence. This legislation protects that expectation, and brings consistency to the law. AB 706 is reasonable legislation that maintains compensation for plaintiffs, while ensuring that parents are not financially ruined due to their child's negligence while driving a vehicle.

### **Wisconsin Defense Counsel supports AB 706.**

Counsel of Wisconsin (CTCW) is now



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## WDC Journal - Winter 2013

### President's Message: Wis. Stat. § 343.15 —“How About a Cap for the Silent Majority . . . Parents?”

by: Arthur P. Simpson, President, Wisconsin Defense Counsel

Wisconsin has a tradition of legislative action from both sides of the aisle. In recent years, we have seen longstanding statutory provisions concerning uninsured and underinsured motorist coverage modified to prohibit reducing clauses, then within two years modified to allow reducing clauses. Both were a statement of Wisconsin public policy.

We have also seen a statutory cap with respect to punitive damages. There have been previous caps with respect to medical malpractice exposure. There are various caps protecting the government from liability.

Our state has granted immunity to motorcyclists who refuse to wear a helmet. The state has seen fit to limit the responsibility of those who elect not to wear a seatbelt to a maximum of 15% negligence. In short, there has been a crazy quilt of caps and limits with real implications for those involved in accident litigation.

One can debate at length the merits of legislative intervention into the common law regarding recovery for injuries. There are legitimate arguments that bona fide legislative policies justify limiting exposure. There are arguments that the chips should “fall where they may” with no special statutes. Various interests have secured legislative remedies to perceived inequity for years.

One statute that neither side of the aisle has addressed is Wis. Stat. § 343.15(2)(b), also known as “Sponsorship Liability.” The statute provides:

Any negligence or willful misconduct of a person under the age of 18 years when operating a motor vehicle upon the highways is imputed to the parents where both have custody and either parent signed as a sponsor, otherwise, it is imputed to the adult sponsor who signed the application for such person's license. The parents or the adult sponsor is jointly and severally liable with such operator for any damages caused by such negligence or willful misconduct.

This law imposes **unlimited liability upon parents or adult sponsors of a minor's driver's license.** (We wonder how many parents are aware of this provision before an accident.) Strangely, Wisconsin has a \$5,000.00 limit on damages “for personal injury attributable to a willful, malicious, or wanton act of a child.”<sup>[1]</sup> On the other hand, if your child “negligently” causes a vehicular accident, the parent faces unlimited liability.

I propose that the legislature amend Wis. Stat. § 343.15(2)(b), adding one sentence—a sentence for parents. That sentence would provide:

The limit of liability for all parents or adult sponsors to all parties from any one accident shall be a maximum of \$300,000.00.

The current law imposes unlimited liability upon parents or adult sponsors of a driver's license. However, parents cannot insure for any one large loss, and such a loss can lead to the financial ruin of the parent or sponsor. The amendment allows a parent or sponsor to secure insurance to \$300,000.00 (multiple times the current minimum limit for a liability policy in Wisconsin). Parents would then be able to protect themselves from unlimited liability. This would eliminate the game of “Russian Roulette,” which all parents and sponsors play whenever a minor is given the keys to a vehicle. The statute would not impair drivers' responsibility for all damages. However, it would allow parents who have responsibly secured insurance to limit their liability to a figure far beyond the minimum limit to obtain financial security.

The statutory provision would have the biggest effect on small business owners and professionals. They are the individuals with the greatest risk when their child is involved in an accident.

We are not rewriting the common law here, contrary to many caps and limits. The current statute is not the common law but rather a legislative carve-out of specific liability. We need to modify the statutory rule, not change the common law.

The legislature has seen fit to limit parental liability for willful, wanton, and malicious acts to \$5,000.00. It makes no sense to create unlimited liability for parents with respect to driving.

One can imagine an intersection accident with debated negligence but large damages. This is a claim that can legitimately be defended but at the same time not necessarily won by a defendant. The parents are at risk for personal financial exposure simply because their child was involved in an accident. This type of accident is something that happens to adults routinely. The adults remain responsible for their own conduct, but family members are not also rendered liable for actions over which they have no control.

The other type of accident is a more aggrieved situation. The parent may think their child is at a friend's house for the evening, but the child is involved with underage drinking or some other wrongful activity that ultimately leads to a serious accident. The child is responsible for that conduct. However, the unknowing parent should not be punished with unlimited tort liability.

The basic goal of the statute is to make sure that someone is financially responsible in the event of wrongdoing by a teen driver who has limited assets. The \$300,000.00 requirement would encourage parents to obtain insurance coverage far in excess of the current statutory minimums. This would provide protection to the public but at the same time provide a reasonable protection for parents.

The legislature has carved out a special rule for those who wish for their children to operate a vehicle. This rule is unduly harsh should the child become involved in a severe accident. It should be revised to cap liability of the parent or sponsor at a figure that allows one to secure appropriate insurance when one allows a teenager to drive.

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[1] See Wis. Stat. § 895.035(2)(a), (4). Section 895.035 is a dazzling statute in and of itself, outlining the exposure of parents for acts of a minor child, but the general premise is a cap of \$5,000.00 in liability for willful, malicious, or wanton personal injury.

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