



2009 ASSEMBLY BILL 492

October 13, 2009 - Introduced by Representatives BIES, BROOKS, LOTHIAN, TOWNSEND and ZEPNICK, cosponsored by Senators LEHMAN and TAYLOR. Referred to Committee on Transportation.

1 **AN ACT** *to amend* 346.89 (1), 346.89 (2) and 346.95 (1); and *to create* 346.89 (3)
2 and 346.89 (4) of the statutes; **relating to:** inattentive driving and providing
3 a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits inattentive driving in two forms:

1. A driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle.
2. A person may not drive a motor vehicle equipped with any device for receiving a television broadcast if the device is located forward of the back of the driver's seat or is visible to the driver, regardless of whether the device interferes with the safe driving of the vehicle.

Any person who is convicted of a violation described in item 1., above, may be required to forfeit not less than \$20 nor more than \$400, and any person who is convicted of a violation described in item 2., above, may be required to forfeit not less than \$20 nor more than \$40 for a first offense and not less than \$50 nor more than \$100 for a second or subsequent offense within one year.

This bill modifies both existing forms of inattentive driving and creates a third form of inattentive driving. The bill modifies the violation described in item 1., above, to prohibit a driver of a motor vehicle from being engaged or occupied with an activity, other than driving the vehicle, that interferes or reasonably appears to interfere with the person's ability to drive the vehicle safely.

The bill also modifies the violation described in item 2., above, by expanding the prohibition to include devices for visually displaying live or recorded cable television

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and satellite broadcasts, films, or other fluctuating video images, but also limits the prohibition by excluding certain vehicles and devices.

The bill also creates a third form of inattentive driving prohibiting a person from driving a motor vehicle while operating or being in a position to directly observe any electronic device located within the vehicle that is activated and that is transmitting information or providing entertainment primarily by visual means, regardless of whether the device interferes with the safe driving of the vehicle. This prohibition does not apply to certain vehicles and devices. Any person who is convicted of a violation of this prohibition is subject to the same forfeiture that applies to a violation described in item 2., above, under current law.

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

1 **SECTION 1.** 346.89 (1) of the statutes is amended to read:

2 346.89 (1) No person while driving a motor vehicle ~~shall be so~~ may be engaged
3 or occupied as with an activity, other than driving the vehicle, that interferes or
4 reasonably appears to interfere with the safe driving of such vehicle the person's
5 ability to drive the vehicle safely.

6 **SECTION 2.** 346.89 (2) of the statutes is amended to read:

7 346.89 (2) ~~No~~ Subject to sub. (4), no person shall may drive any motor vehicle,
8 other than an authorized emergency vehicle, a commercial motor vehicle described
9 in s. 340.01 (8), or a tow truck, equipped with any device for visually receiving
10 displaying a television, cable television, or satellite broadcast ~~when such device is~~
11 located in the motor vehicle at any point forward of the back of the operator's seat
12 or, film, or other fluctuating video image, whether in broadcast, tape-recorded, or
13 optically or electronically recorded format, when the display for such device is visible
14 to the operator while driving the motor vehicle.

15 **SECTION 3.** 346.89 (3) of the statutes is created to read:

16 346.89 (3) Subject to sub. (4), no person while driving a motor vehicle, other
17 than an authorized emergency vehicle, a commercial motor vehicle described in s.

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1 340.01 (8), or a tow truck, may operate or be in a position to directly observe any
2 electronic device located within the vehicle that is activated and that is transmitting
3 information or providing entertainment primarily by visual means. This subsection
4 does not prohibit a person from using a cellular telephone for purposes of verbal
5 communication.

6 **SECTION 4.** 346.89 (4) of the statutes is created to read:

7 346.89 (4) Subsections (2) and (3) do not apply to any of the following:

8 (a) Any global positioning system device installed or mounted, either
9 permanently or temporarily, in the vehicle.

10 (b) The display by any device of information related to the operation, condition,
11 or safety of the vehicle or that is intended to be used to enhance the driver's view
12 forward, behind, or to the sides of a motor vehicle.

13 (c) The display by any device of information related to traffic, road, or weather
14 conditions.

15 (d) Any device in a vehicle that permits the vehicle driver to monitor vehicle
16 occupants seated rearward of the driver.

17 **SECTION 5.** 346.95 (1) of the statutes is amended to read:

18 346.95 (1) Any person violating s. 346.87, 346.88, 346.89 (2) or (3), 346.90 to
19 346.92 or 346.94 (1), (9), (10), (11), (12) or (15) may be required to forfeit not less than
20 \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100
21 for the 2nd or subsequent conviction within a year.

22 **SECTION 6. Initial applicability.**

23 (1) This act first applies to violations committed on the effective date of this
24 subsection, but does not preclude the counting of other violations as prior violations
25 for purposes of sentencing a person.

