



To: Members, Assembly Committee on Judiciary
From: Jeffrey Leavell, President
R.J. Pirlot, Legislative Advisor
Date: December 10, 2015
Re: **Wisconsin Defense Counsel support for AB 540, liability of an adult sponsor of a minor applicant for a motor vehicle operator's license.**

The Wisconsin Defense Counsel is a statewide organization of over 450 attorneys dedicated to the defense of Wisconsin citizens and businesses, the maintenance of an equitable civil justice system, and the education of its members. Our members are advocates for the rights of people or businesses sued. Our primary role is to provide a professional defense for people and businesses involved in civil lawsuits.

Wisconsin law currently requires parents or adult sponsors of a minor's driver's license to accept unlimited liability for that minor's driving. As a result, parents or other adult sponsors could face financial ruin if the minor or sponsored driver negligently injures another person.

Assembly Bill 540 would protect unsuspecting parents/sponsors by amending current law to limit the liability imputed to a parent or other adult sponsor to the greater of \$300,000 or the limits of any insurance coverage provided to the minor under the parent or adult sponsor's applicable insurance policies.

Doing so would put a reasonable limit on imputed liability for a sponsor and is a modest limit compared to the law of almost every other state. For example, none of our neighboring states, that is, Iowa, Illinois, Michigan, and Minnesota have a statute that imputes liability to parents or sponsors. Why would parents here be subjected to unlimited liability just for sponsoring their child's license, when just across the border they aren't?

Our neighboring states are in the majority across the Country. In the United States, a total of 27 states do not have a statute imputing such liability to a parent or other adult sponsor.

And of the remaining 23 states which have a statute that imputes liability, 14 of those states do not impute *any* liability to the parent or other adult sponsor if the minor has liability insurance at the state required minimums.

Of the remaining states, even California, a state generally known for liberal insurance and tort law has specific dollar limits on imputed liability, in amounts much lower than proposed here under AB 540.

Interestingly, Wisconsin already has a \$5,000 limit on liability imputed to a parent “for personal injury attributable to a willful, malicious, or wanton act of the child.”¹ Yet, if a child negligently causes a car accident, the parent or other adult sponsor faces unlimited liability.

Below is the current Wisconsin statute,² known as “Sponsorship Liability,” with the language from AB 540 (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 the higher of the following:

1. \$300,000 for all parents of adult sponsors to all parties arising from any one accident.
2. The limits of any insurance coverage provided to the minor under the parent’s or adult sponsor’s applicable insurance policies.

AB 540 would place a reasonable cap of \$300,000 or the limits of any applicable insurance policy, whichever is greater. 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 for injury to or death of one person; \$30,000 for all injuries or deaths per incident; and \$5,000 for property damage).³

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 his or her 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 when they sponsor their child’s license they are taking on unlimited liability for that child’s driving negligence. They may be aware of the limitation on liability for intentional conduct, and have an expectation of a similar limit on liability for

¹ Wis. Stat. § 895.035(2)(a), (4).

² Wis. Stat. § 343.15(2)(b).

³ Cal. Veh. Code §§ 17708, 17709.

negligence. This legislation protects that expectation, and brings consistency to the law. AB 540 is, compared to our neighbor states, reasonable legislation that maintains – beyond the already mandatory auto insurance – another source for recovery, compensation for plaintiffs, while ensuring that parents are not at risk for financial ruin due to their child’s negligence while driving a vehicle. Present law imposes on parents and sponsors greater liability than that in any of our neighbor states and the vast majority of states across the Country, and even AB 540 keeps Wisconsin law among the toughest on parents and sponsors.

The Wisconsin Defense Counsel respectfully requests you support AB 540.

Attachment

Sponsorship Liability State Comparisons

27 states that do not have a statute making sponsor liable	Alabama	New Hampshire
	Connecticut	New Jersey
	Georgia	New York
	Illinois	North Carolina
	Iowa	Oregon
	Kansas	Pennsylvania
	Louisiana	South Dakota
	Maine	Texas
	Maryland	Vermont
	Massachusetts	Virginia
	Michigan	Washington
	Minnesota	West Virginia
	Missouri	Wyoming
	Nebraska	
14 states whose sponsorship statutes do not impute liability if minor has filed proof of liability insurance	Alaska - AS § 28.15.071(c)	
	Arizona - A.R.S. § 28-3160(D)	
	Colorado - C.R.S. § 42-2-108(3)	
	Idaho - Idaho Code § 49-310(3)	
	Kentucky - K.R.S. § 186.590(2)	
	Montana - Mont. Code Ann. § 61-5-108(2)	
	North Dakota - N.D.C.C. § 39-06-10	
	New Mexico - N.M.S.A. § 66-5-11(D)	
	Ohio - Ohio Rev. Code Ann. § 4507.07(B)	
	Oklahoma - Okla. Stat. Ann. Tit. 47, § 6-107(C)	
	Rhode Island - R.I.G.L. § 31-10-16	
	South Carolina - S.C. Code Ann § 56-1-110	
	Tennessee - T.C.A. § 55-50-312(c)	
Utah - U.C.A. § 53-3-211(4)(a)		
1 state has a dollar limit on statutorily imputed sponsor liability	California - Cal Veh Code § 17709(a): For bodily injury, \$15,000 per person per accident, \$30,000 per accident total, and for property damage \$5,000	
8 states that have a statute imposing unlimited imputed liability for statutory sponsor	Arkansas - A.C.A. § 27-16-702(b)(1)	
	Delaware - 21 Del. C. § 6104(a)	
	Florida - F.S.A. § 322.09(2)	
	Hawaii - Haw. Rev. Stat. § 286-112(b)	
	Indiana - I.C. § 9-24-9-4(a)	
	Mississippi - M.C.A. § 63-1-25	
	Nevada - N.R.S. § 483.300(2)	
	Wisconsin - Wis. Stat. § 343.15(2)(b)	