

Mike Kuglitsch

STATE REPRESENTATIVE • 84TH ASSEMBLY DISTRICT

DATE: December 10, 2015
RE: **Testimony on 2015 Assembly Bill 540**
TO: The Assembly Committee on Judiciary
FROM: Representative Mike Kuglitsch

Thank you Mr. Chairman and Committee Members for holding a public hearing on Assembly Bill 540. This common sense legislation will bring Wisconsin in line with the majority of states across the country. Currently, Wisconsin is one of only 8 states that have unlimited liability for the sponsor of a minor driver.

In order to legally drive in Wisconsin, a minor driver's license must be sponsored by a parent, grandparent, or other adult sponsor. Many parents, myself included, are not aware that by sponsoring a minor's driver's license, the adult sponsor is fully responsible and liable under current law for any damages caused by negligence or willful misconduct a minor carries out while driving.

Assembly Bill 540 simply brings Wisconsin statutes up to date by imposing a cap on the liability imposed on parents or legal guardians of minors involved in a motor vehicle crash. Under Assembly Bill 540, liability is limited to the higher of: 1) a total of \$300,000 for all parents or adult sponsors to all parties arising from any one accident; or 2) the limits of any insurance. Additionally, this bill does not change the driver's liability for total damages. A minor driver that gets in an accident while driving in a negligent manner will still be cited as stated under current law.

A cap is reasonable because it allows for liability to still be imposed on the parents or adult sponsor of a negligent minor driver up to \$300,000 or the limits of any insurance obtained, whichever is greater. Many Wisconsinites have an umbrella insurance plan that exceeds this cap. In this case, the insurance obtained by the parent or adult sponsor would go into effect and provide greater coverage for the adult sponsor, the minor, and any assets that may be at risk. By enacting this legislation, we are guaranteeing that those who are injured by a minor driver can still be awarded properly, but protects against catastrophic liability and financial ruin for the sponsor or parent of the minor.

It's also important to note that Wisconsin already has a \$5,000 limit on damages for personal injury attributable to willful, malicious, or wanton act of a child. A cap on damages for automobile accidents ensures consistency in our statutes moving forward. This cap guarantees that those who are harmed by a negligent driver can still receive proper damages by the adult sponsor, but also ensures that these guardians are not financially ruined moving forward.

Thank you for allowing me to testify today and I ask you to support AB 540.



CHRIS KAPENGA

WISCONSIN STATE SENATOR

Testimony on Assembly Bill 540

Assembly Committee on Judiciary

December 10, 2015

Thank you Chairman Ott and committee members for holding a hearing today on Assembly Bill 540. I also want to thank Representative Kuglitsch for authoring the bill in the Assembly and appearing with me today to testify.

Under current law, all Wisconsin drivers under 18 years of age need an adult sponsor when they are issued an instruction permit or driver's license. By signing the driver license application as a sponsor, that individual accepts liability for any and all driving actions of the minor.

Under Assembly Bill 540, liability of an adult sponsor is limited to the higher of the following:

- 1) \$300,000 from any particular accident; or
- 2) The limits of any insurance coverage provided to the minor under the adult sponsor's applicable insurance policies.

This bill would not change a driver's overall liability for damages. The sponsored driver would still be liable to the full extent of damages caused by negligent driving. This simply caps liability of an adult sponsor to protect them from possible financial ruin. This threat of a catastrophic financial loss is heightened when an individual has substantial assets to lose, such as a small business.

Wisconsin is in the minority of states that still transfers unlimited liability to adult sponsors, with only 12 other states that allowing it. In fact, California has implemented a similar law, however, their caps are much lower (\$15,000 per injury; \$30,000 for all injuries; and \$5,000 for property damage).

Senate Bill 540 strikes a reasonable balance of protecting adult sponsors from potential financial ruin, but still allows plaintiffs to receive fair compensation for damages against them. I would humbly ask for your support of this common sense legislation.

Thank you Mr. Chairman, and at this time I will be happy to answer any questions from the committee.



Wisconsin Defense Counsel

Defending Individuals And Businesses In Civil Litigation

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

¹ Wis. Stat. § 895.035(2)(a), (4).

² Wis. Stat. § 343.15(2)(b).

³ Cal. Veh. Code §§ 17708, 17709.

liability for intentional conduct, and have an expectation of a similar limit on liability for 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.

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| 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 | |
| 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) | | |
| States that have 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 | |
| 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) | | |