



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-3948/1
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2023 SENATE BILL 460

September 29, 2023 - Introduced by Senators COWLES, FEYEN and TAYLOR, cosponsored by Representatives SPIROS, DONOVAN, MOSES, MURSAU, OHNSTAD, PENTERMAN and SHANKLAND. Referred to Committee on Judiciary and Public Safety.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 346.17 (5) (a), 346.17 (5) (b), 346.22 (1) (b) 1., 346.22 (1) (b) 2.,
2 346.43 (1) (b) 3. a., 346.43 (1) (b) 3. b., 346.49 (1) (c) 1., 346.49 (1) (c) 2., 346.57
3 (3), 346.60 (3m) (a) 1., 346.60 (3m) (a) 2., 346.65 (5m) (a), 346.65 (5m) (b) and
4 346.89 (4m); and **to create** 340.01 (47e) of the statutes; **relating to:** traffic
5 violations when railroad workers are present and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill increases the penalties for certain traffic violations that are committed where workers are present in a railroad construction or maintenance area and are at risk from traffic.

Under current law, the amount of any applicable minimum and maximum fine or forfeiture is doubled for specified traffic violations committed where persons working in a highway maintenance or construction area, utility area, or emergency or roadside response area are at risk from traffic. These traffic violations include failing to follow certain traffic signs and signals, failing to follow certain orders of traffic officers, exceeding certain maximum speed limits, and driving recklessly. In addition, if the violation results in an injury to another, the operator may be fined not more than \$10,000 or imprisoned not more than nine months, or both. The bill expands these provisions to apply to violations committed in a railroad construction or maintenance area.

Current law prohibits inattentive driving of a motor vehicle in general and specifically prohibits the use of a wireless telephone while driving a motor vehicle

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where persons are engaged in work in a highway maintenance or construction area, utility work area, or emergency or roadside response area. The bill expands this prohibition to apply to railroad construction or maintenance areas where workers are present.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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

1 **SECTION 1.** 340.01 (47e) of the statutes is created to read:

2 340.01 (**47e**) “Railroad maintenance or construction area” means any of the
3 following:

4 (a) The entire section of roadway between the first advance warning sign of
5 railroad maintenance or construction work and a sign indicating the end of the area.

6 (b) The entire section of roadway within 500 feet of a railroad employee using
7 flags to signal the presence of a railroad train or other railroad vehicle or railroad
8 employees.

9 (c) In the case of a moving vehicle engaged in railroad maintenance or
10 construction work, that section of roadway where the normal flow of traffic is first
11 altered by the vehicle until that section of roadway where traffic may return to its
12 normal flow without impeding such work.

13 **SECTION 2.** 346.17 (5) (a) of the statutes is amended to read:

14 346.17 (**5**) (a) Except as provided in par. (b), if an operator of a vehicle violates
15 s. 346.04 (1) or (2) where persons engaged in work in a highway maintenance or
16 construction area, railroad maintenance or construction area, utility work area, or
17 emergency or roadside response area are at risk from traffic, any applicable

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1 minimum and maximum forfeiture specified in sub. (1) for the violation shall be
2 doubled.

3 **SECTION 3.** 346.17 (5) (b) of the statutes is amended to read:

4 346.17 (5) (b) If an operator of a vehicle violates s. 346.04 (1) or (2) where
5 persons engaged in work in a highway maintenance or construction area, railroad
6 maintenance or construction area, utility work area, or emergency or roadside
7 response area are at risk from traffic and the violation results in bodily harm, as
8 defined in s. 939.22 (4), to another, the operator may be fined not more than \$10,000
9 or imprisoned for not more than 9 months, or both. In addition to the penalties
10 specified under this paragraph, a court may also order a person convicted under this
11 paragraph to perform not fewer than 100 nor more than 200 hours of community
12 service work and attend traffic safety school, as provided under s. 345.60.

13 **SECTION 4.** 346.22 (1) (b) 1. of the statutes is amended to read:

14 346.22 (1) (b) 1. Except as provided in subd. 2., if an operator of a vehicle
15 violates s. 346.18 (6) where persons engaged in work in a highway maintenance or
16 construction area, railroad maintenance or construction area, utility work area, or
17 emergency or roadside response area are at risk from traffic, any applicable
18 minimum and maximum forfeiture specified in par. (a), (c), (d), or (e) for the violation
19 shall be doubled.

20 **SECTION 5.** 346.22 (1) (b) 2. of the statutes is amended to read:

21 346.22 (1) (b) 2. If an operator of a vehicle violates s. 346.18 (6) where persons
22 engaged in work in a highway maintenance or construction area, railroad
23 maintenance or construction area, utility work area, or emergency or roadside
24 response area are at risk from traffic and the violation results in bodily harm, as
25 defined in s. 939.22 (4), to another, the operator may be fined not more than \$10,000

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1 or imprisoned for not more than 9 months, or both. In addition to the penalties
2 specified under this subdivision, a court may also order a person convicted under this
3 subdivision to perform not fewer than 100 nor more than 200 hours of community
4 service work and attend traffic safety school, as provided under s. 345.60.

5 **SECTION 6.** 346.43 (1) (b) 3. a. of the statutes is amended to read:

6 346.43 (1) (b) 3. a. Except as provided in subd. 3. b., if an operator of a vehicle
7 violates s. 346.37 or 346.39 where persons engaged in work in a highway
8 maintenance or construction area, railroad maintenance or construction area, utility
9 work area, or emergency or roadside response area are at risk from traffic, any
10 applicable minimum and maximum forfeiture specified in subd. 1. for the violation
11 shall be doubled.

12 **SECTION 7.** 346.43 (1) (b) 3. b. of the statutes is amended to read:

13 346.43 (1) (b) 3. b. If an operator of a vehicle violates s. 346.37 or 346.39 where
14 persons engaged in work in a highway maintenance or construction area, railroad
15 maintenance or construction area, utility work area, or emergency or roadside
16 response area are at risk from traffic and the violation results in bodily harm, as
17 defined in s. 939.22 (4), to another, the operator may be fined not more than \$10,000
18 or imprisoned for not more than 9 months, or both. In addition to the penalties
19 specified under this subd. 3. b., a court may also order a person convicted under this
20 subd. 3. b. to perform not fewer than 100 nor more than 200 hours of community
21 service work and attend traffic safety school, as provided under s. 345.60.

22 **SECTION 8.** 346.49 (1) (c) 1. of the statutes is amended to read:

23 346.49 (1) (c) 1. Except as provided in subd. 2., if an operator of a vehicle
24 violates s. 346.46 (1) where persons engaged in work in a highway maintenance or
25 construction area, railroad maintenance or construction area, utility work area, or

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1 emergency or roadside response area are at risk from traffic, any applicable
2 minimum and maximum forfeiture specified in par. (a) for the violation shall be
3 doubled.

4 **SECTION 9.** 346.49 (1) (c) 2. of the statutes is amended to read:

5 346.49 (1) (c) 2. If an operator of a vehicle violates s. 346.46 (1) where persons
6 engaged in work in a highway maintenance or construction area, railroad
7 maintenance or construction area, utility work area, or emergency or roadside
8 response area are at risk from traffic and the violation results in bodily harm, as
9 defined in s. 939.22 (4), to another, the operator may be fined not more than \$10,000
10 or imprisoned for not more than 9 months, or both. In addition to the penalties
11 specified under this subdivision, a court may also order a person convicted under this
12 subdivision to perform not fewer than 100 nor more than 200 hours of community
13 service work and attend traffic safety school, as provided under s. 345.60.

14 **SECTION 10.** 346.57 (3) of the statutes is amended to read:

15 346.57 (3) CONDITIONS REQUIRING REDUCED SPEED. The operator of every vehicle
16 shall, consistent with the requirements of sub. (2), drive at an appropriate reduced
17 speed when approaching and crossing an intersection or railway grade crossing,
18 when approaching and going around a curve, when approaching a hillcrest, when
19 traveling upon any narrow or winding roadway, when passing school children,
20 highway construction or maintenance workers, railroad construction or
21 maintenance workers, sanitation workers, or other pedestrians, and when special
22 hazard exists with regard to other traffic or by reason of weather or highway
23 conditions.

24 **SECTION 11.** 346.60 (3m) (a) 1. of the statutes is amended to read:

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1 346.60 (3m) (a) 1. Except as provided in subd. 2., if an operator of a vehicle
2 violates s. 346.57 (2), (3), (4) (d) to (h), or (5) where persons engaged in work in a
3 highway maintenance or construction area, railroad maintenance or construction
4 area, utility work area, or emergency or roadside response area are at risk from
5 traffic or where sanitation workers are at risk from traffic and the operator knows
6 or should know that sanitation workers are present, any applicable minimum and
7 maximum forfeiture specified in sub. (2) or (3) for the violation shall be doubled.

8 **SECTION 12.** 346.60 (3m) (a) 2. of the statutes is amended to read:

9 346.60 (3m) (a) 2. If an operator of a vehicle violates s. 346.57 (2), (3), (4) (d)
10 to (h), or (5) where persons engaged in work in a highway maintenance or
11 construction area, railroad maintenance or construction area, utility work area, or
12 emergency or roadside response area are at risk from traffic and the violation results
13 in bodily harm, as defined in s. 939.22 (4), to another, the operator may be fined not
14 more than \$10,000 or imprisoned for not more than 9 months, or both. In addition
15 to the penalties specified under this subdivision, a court may also order a person
16 convicted under this subdivision to perform not fewer than 100 nor more than 200
17 hours of community service work and attend traffic safety school, as provided under
18 s. 345.60.

19 **SECTION 13.** 346.65 (5m) (a) of the statutes is amended to read:

20 346.65 (5m) (a) Except as provided in par. (b), if an operator of a vehicle violates
21 s. 346.62 (2) to (4) where persons engaged in work in a highway maintenance or
22 construction area, railroad maintenance or construction area, utility work area, or
23 emergency or roadside response area are at risk from traffic or where sanitation
24 workers are at risk from traffic and the operator knows or should know that

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1 sanitation workers are present, any applicable minimum and maximum forfeiture
2 or fine specified in sub. (1), (3), (4m), or (5) for the violation shall be doubled.

3 **SECTION 14.** 346.65 (5m) (b) of the statutes is amended to read:

4 346.65 (5m) (b) If an operator of a vehicle violates s. 346.62 (2) to (3) where
5 persons engaged in work in a highway maintenance or construction area, railroad
6 maintenance or construction area, utility work area, or emergency or roadside
7 response area are at risk from traffic and the violation results in bodily harm, as
8 defined in s. 939.22 (4), to another, the operator may be fined not more than \$10,000
9 or imprisoned for not more than 9 months, or both. In addition to the penalties
10 specified under this paragraph, a court may also order a person convicted under this
11 paragraph to perform not fewer than 100 nor more than 200 hours of community
12 service work and attend traffic safety school, as provided under s. 345.60.

13 **SECTION 15.** 346.89 (4m) of the statutes is amended to read:

14 346.89 (4m) No person may drive, as defined in s. 343.305 (1) (b), any motor
15 vehicle while using a cellular or other wireless telephone, including using the
16 telephone for a purpose other than communication, where persons engaged in work
17 in a highway maintenance or construction area, railroad maintenance or
18 construction area, utility work area, or emergency or roadside response area are at
19 risk from traffic, except to report an emergency. This subsection does not apply to
20 the use of a voice-operated or hands-free device if the driver of the motor vehicle does
21 not use his or her hands to operate the device, except to activate or deactivate a
22 feature or function of the device.

23 (END)