

State of Wisconsin



2023 Senate Bill 460

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2023 WISCONSIN ACT 159

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

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

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

340.01 (47e) "Railroad maintenance or construction area" means any of the following:

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

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

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

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

346.17 (5) (a) Except as provided in par. (b), if an operator of a vehicle violates s. 346.04 (1) or (2) where persons engaged in work in a highway maintenance or construction area, railroad maintenance or construction

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

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

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

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

346.22 (1) (b) 1. Except as provided in subd. 2., if an operator of a vehicle violates s. 346.18 (6) where persons engaged in work in a highway maintenance or construction area, railroad maintenance or construction area, util-

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

ity work area, or emergency or roadside response area are at risk from traffic, any applicable minimum and maximum forfeiture specified in par. (a), (c), (d), or (e) for the violation shall be doubled.

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

346.22 (1) (b) 2. If an operator of a vehicle violates s. 346.18 (6) where persons engaged in work in a highway maintenance or construction area, railroad maintenance or construction area, utility work area, or emergency or roadside response area are at risk from traffic and the violation results in bodily harm, as defined in s. 939.22 (4), to another, the operator may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both. In addition to the penalties specified under this subdivision, a court may also order a person convicted under this subdivision to perform not fewer than 100 nor more than 200 hours of community service work and attend traffic safety school, as provided under s. 345.60.

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

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

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

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

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

346.49 (1) (c) 1. Except as provided in subd. 2., if an operator of a vehicle violates s. 346.46 (1) where persons engaged in work in a highway maintenance or construction area, railroad maintenance or construction area, utility work area, or emergency or roadside response area are at risk from traffic, any applicable minimum and maximum forfeiture specified in par. (a) for the violation shall be doubled.

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

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

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

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

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

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

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

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

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

346.65 (5m) (a) Except as provided in par. (b), if an operator of a vehicle violates s. 346.62 (2) to (4) where persons engaged in work in a highway maintenance or construction area, railroad maintenance or construction area, utility work area, or emergency or roadside response area are at risk from traffic or where sanitation workers are at risk from traffic and the operator knows or should know that sanitation workers are present, any applicable minimum and maximum forfeiture or fine specified in sub. (1), (3), (4m), or (5) for the violation shall be doubled.

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

346.65 (5m) (b) If an operator of a vehicle violates s. 346.62 (2) to (3) where persons engaged in work in a highway maintenance or construction area, railroad maintenance or construction area, utility work area, or emergency or roadside response area are at risk from traffic and the violation results in bodily harm, as defined in s. 939.22 (4), to another, the operator may be fined not

more than \$10,000 or imprisoned for not more than 9 months, or both. In addition to the penalties specified under this paragraph, a court may also order a person convicted under this paragraph to perform not fewer than 100 nor more than 200 hours of community service work and attend traffic safety school, as provided under s. 345.60.

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

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