



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2003 Wisconsin Act 209
[2003 Assembly Bill 15]

**Vehicle Owner Liability for Certain
Railroad Crossing Violations**

2003 Acts: www.legis.state.wi.us/2003/data/acts/

Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

Current law:

1. Prohibits the operator of a vehicle from doing any of the following: (a) driving the vehicle on or across a railroad crossing while being signaled to stop by a traffic officer, railroad employee, or warning device (after stopping for a warning device, however, the operator may proceed if no train is approaching); and (b) driving the vehicle through, around, or under any railroad crossing gate or barrier if it is closed or is being opened or closed. An operator who fails to comply with either of these prohibitions may be required to forfeit not more than \$1,000, except that a bicyclist may be required to forfeit not more than \$40.
2. Requires the operator of certain vehicles, including school buses, motor buses, and vehicles that are transporting certain hazardous substances, with limited traffic-related exceptions, to stop within 50 feet from the nearest track and take certain precautions before proceeding to ensure that a train is not approaching. An operator who fails to comply with this requirement is required to forfeit not less than \$60 nor more than \$600.
3. Imposes a railroad crossing improvement assessment on any person found to have violated any of these traffic laws relating to railroad crossings. The amount of the assessment is equal to 50% of the amount of the forfeiture that is imposed upon conviction. The money collected from the assessment must be used to fund railroad crossing protection improvements, such as automatic signals or other warning devices, and their maintenance.

2003 Wisconsin Act 209 imposes liability upon the **owner** of a vehicle involved in a violation of any of these traffic laws relating to railroad crossings. A railroad employee who observes a railroad crossing violation may submit a written report concerning the violation to a traffic officer within 24 hours of observing the violation. The traffic officer may, within 48 hours of receiving the report, prepare a traffic citation for the violation and serve it upon the owner of the vehicle. Under the Act:

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

1. The owner is subject to the **same penalties** as those that apply to the operator of the vehicle involved in the violation, **including a railroad crossing improvement assessment**. However, the Act provides that the vehicle owner's operating privilege may not be suspended or revoked, and no demerit points may be recorded against the owner's driving record, for the imposition of vehicle owner liability created by the Act.
2. The owner has a **defense to liability** for the violation if: (a) the vehicle had been stolen at the time of the violation; or (b) the owner provides the traffic officer with the name and address of the person who was operating the vehicle or who had the vehicle under his or her control at the time of the violation and that person admits operating the vehicle or having the vehicle under his or her control at the time of the violation. Lessors and dealers of vehicles have similar types of defenses.

Effective Date: April 23, 2004

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May 17, 2004

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