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# Wisconsin Legislative Council

## ACT MEMO

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### 2023 Wisconsin Act 159 [2023 Senate Bill 460]

### Penalties for Traffic Violations When Railroad Workers Present

As an overview, 2023 Wisconsin Act 159 penalizes certain conduct that occurs in a “railroad maintenance or construction area,” by increasing the penalties for specified traffic violations occurring in such areas and prohibiting certain cellular telephone use in such areas.

Under the act, a “railroad maintenance or construction area” means any of the following locations:

- 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.
- 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.
- 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.

## INCREASED PENALTIES FOR CERTAIN TRAFFIC VIOLATIONS

State law generally requires that the applicable minimum and maximum forfeiture penalties for certain traffic violations be doubled if the traffic violation occurs where persons are working in a highway maintenance or construction area, a utility work area, or an emergency or roadside response area, pursuant to specific definitions for such areas as provided in statute. State law also increases the penalty to a criminal misdemeanor for certain traffic violations in such areas when workers are at risk from traffic and the violation results in bodily harm to another. In addition to the criminal misdemeanor penalty, a court may order a person convicted under the increased penalty to perform 100 to 200 hours of community service work and to attend traffic safety school.

2023 Wisconsin Act 159 doubles the applicable minimum and maximum forfeiture penalties for the following traffic violations that occur in a railroad maintenance or construction area:

- Failing or refusing to comply with a lawful order, signal, or direction of a traffic officer. [s. 346.04 (1), Stats.]
- Disobeying the instructions of an official traffic sign or signal. [s. 346.04 (2), Stats.]
- Failing to yield the right-of-way at an intersection with a yield sign. [s. 346.18 (6), Stats.]
- Disobedience to a traffic-control signal. [s. 346.37, Stats.]
- Disobedience to a flashing signal. [s. 346.39, Stats.]
- Failing to stop and yield the right-of-way at a stop sign. [s. 346.46 (1), Stats.]
- Driving at a speed greater than what is reasonable and prudent. [s. 346.57 (2), Stats.]
- Failing to drive at an appropriate reduced speed when required by conditions. [s. 346.57 (3), Stats.]

- Exceeding a posted speed limit in certain areas. [s. 346.57 (4) (d) to (h), Stats.]
- Exceeding a posted speed limit. [s. 346.57 (5), Stats.]
- Endangering safety by the negligent operation of a vehicle. [s. 346.62 (2), Stats.]
- Recklessly endangering the safety of another person through certain actions at a railroad crossing. [s. 346.62 (2m), Stats.]
- Causing bodily harm to another by the negligent operation of a vehicle. [s. 346.62 (3), Stats.]
- Causing great bodily harm to another by the negligent operation of a vehicle. [s. 346.62 (4), Stats.]

For those same violations,<sup>1</sup> the act further increases the penalty to a criminal misdemeanor if the violation: (1) occurs where persons engaged in work in a railroad maintenance and construction area are at risk from traffic; and (2) results in bodily harm. Upon conviction, the driver is subject to a fine of up to \$10,000 or imprisonment of up to nine months, or both, an order to perform between 100 and 200 hours of community service work, and an order to attend traffic safety school.

## CELLULAR TELEPHONE USE

Under state law, no person may drive a 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, utility work area, or emergency or roadside response area are at risk from traffic, except to report an emergency. This prohibition does not apply to the use of a voice-operated or hands-free device, if the driver uses his or her hands only to activate or deactivate a feature or function of the device.

The act adds a railroad maintenance or construction area where workers are at risk from traffic to the places where cellular or other wireless telephone use is generally prohibited, as provided above.

**Effective date:** March 23, 2024

For a full history of the bill, visit the Legislature's [bill history page](#).

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<sup>1</sup> The act does not apply the unclassified misdemeanor penalty enhancer to violations of s. 346.62 (4), Stats., as a violation of that provision constitutes a Class H felony. [s. 346.65 (5), Stats.]