



2013 ASSEMBLY BILL 799

February 20, 2014 - Introduced by Representatives A. OTT, ZEPNICK, BARCA, BIES, BROOKS, RINGHAND, RIPP and SPIROS, cosponsored by Senators PETROWSKI, HANSEN, T. CULLEN and SCHULTZ. Referred to Committee on Transportation.

1 **AN ACT to amend** 346.49 (2m) (a), 346.49 (2m) (am), 346.49 (2m) (b), 346.49 (2r)
2 (a), 346.49 (2r) (b) and 346.495 (1) (a); and **to create** 346.445, 346.49 (2m) (c)
3 and 346.49 (2v) of the statutes; **relating to:** pedestrians crossing railroad
4 tracks and penalties for violations relating to railroad crossings and providing
5 a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the operator of a vehicle may not drive on or across a railroad crossing while: 1) any traffic officer or railroad employee signals to stop; 2) any warning device signals to stop, subject to an exception; or 3) any railroad train occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision, if the crossing is posted with a crossbuck sign. In addition, the operator of a vehicle may not drive through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. A person who violates any of these prohibitions may be required to forfeit not more than \$1,000, except the maximum forfeiture for a bicyclist or operator of an electric personal assistive mobility device is \$40.

Current law also requires the operator of certain vehicles, including school buses, motor buses, and vehicles that are transporting certain hazardous substances, with limited exceptions, to stop within 50 feet but not less than 15 feet from the nearest track and take certain precautions before proceeding. An operator who fails to comply with this requirement may be required to forfeit not less than \$60 nor more than \$600.

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Current law also imposes, with exceptions, liability on the owner of a vehicle that is observed violating either of the railroad crossing provisions. The penalty imposed on the owner under this provision is the same as the penalty for the underlying railroad crossing violation.

Current law also provides that a railroad crossing improvement assessment be imposed on any person found to have violated traffic laws relating to railroad crossings. The amount of the assessment is equal to 50 percent 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.

This bill creates limitations on the use of railroad crossings and on crossing railroad tracks by pedestrians. Under this bill, a pedestrian may not enter or cross a railroad crossing while: 1) any traffic officer or railroad employee signals to stop; 2) any warning device signals to stop, subject to an exception; or 3) any railroad train occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision, if the crossing is posted with a crossbuck sign. The bill also prohibits a pedestrian from crossing through, around, over, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed or a railroad train while the train occupies a railroad crossing. A person who violates any of the provisions related to pedestrians crossing railroad crossings or railroad tracks may be required to forfeit not less than \$100 nor more than \$250 for the first offense and not less than \$225 nor more than \$750 for the second or subsequent conviction within three years. A person who violates any of these provisions is also subject to the railroad crossing improvement assessment.

This bill also increases the penalty for railroad crossing violations committed by a bicyclist or operator of an electric personal assistive mobility device to not less than \$100 nor more than \$250 for the first offense and not less than \$225 nor more than \$750 for the second or subsequent conviction within three years. The bill also triples minimum and maximum penalties for second or subsequent convictions committed within three years for other railroad crossing violations and requires that a court require a person convicted of a railroad crossing violation participate in certain driver safety education.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1 **SECTION 1.** 346.445 of the statutes is created to read:
- 2 **346.445 Limitations on pedestrians crossing railroad tracks.** (1) No
- 3 pedestrian may enter or cross a railroad crossing under any of the following
- 4 circumstances:

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1 (a) While a traffic officer or railroad employee signals to stop.

2 (b) While a warning device signals to stop, except that if the pedestrian after
3 stopping and investigating finds that no railroad train or railroad track equipment
4 is approaching, the pedestrian may proceed.

5 (c) If any crossbuck sign specified under s. 192.29 (5) (a) is maintained at the
6 crossing, while a railroad train or railroad track equipment occupies the crossing or
7 approaches so closely to the crossing as to constitute a hazard of collision.

8 **(2)** No pedestrian may cross through, around, over, or under any crossing gate
9 or barrier at a railroad crossing while the gate or barrier is closed or is being opened
10 or closed.

11 **(3)** No pedestrian may cross through or around or climb over or under a railroad
12 train or railroad track equipment while the railroad train or railroad track
13 equipment occupies a railroad crossing.

14 **SECTION 2.** 346.49 (2m) (a) of the statutes is amended to read:

15 346.49 **(2m)** (a) Unless otherwise provided in par. (b), any person violating s.
16 346.44 may be required to forfeit not more than \$1,000 for the first offense and not
17 more than \$3,000 for the 2nd or subsequent conviction within 3 years.

18 **SECTION 3.** 346.49 (2m) (am) of the statutes is amended to read:

19 346.49 **(2m)** (am) Any person violating s. 346.45 shall forfeit not less than \$60
20 nor more than \$600 for the first offense and not less than \$180 nor more than \$1,800
21 for the 2nd or subsequent conviction within 3 years.

22 **SECTION 4.** 346.49 (2m) (b) of the statutes is amended to read:

23 346.49 **(2m)** (b) Any operator of a bicycle or electric personal assistive mobility
24 device violating s. 346.44 may be required to forfeit not less than \$100 nor more than

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1 ~~\$40 \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd~~
2 ~~or subsequent conviction within 3 years.~~

3 **SECTION 5.** 346.49 (2m) (c) of the statutes is created to read:

4 346.49 **(2m)** (c) Any person violating s. 346.445 may be required to forfeit not
5 less than \$100 nor more than \$250 for the first offense and not less than \$225 nor
6 more than \$750 for the 2nd or subsequent conviction within 3 years.

7 **SECTION 6.** 346.49 (2r) (a) of the statutes is amended to read:

8 346.49 **(2r)** (a) A vehicle owner or other person found liable under s. 346.452
9 with respect to a violation of s. 346.44 may be required to forfeit not more than \$1,000
10 ~~for the first offense and not more than \$3,000 for the 2nd or subsequent conviction~~
11 ~~within 3 years,~~ except that, if the vehicle involved in the violation was a bicycle, the
12 bicycle owner or other person may be required to forfeit not ~~less than \$100 nor~~ more
13 than ~~\$40 \$250 for the first offense and not less than \$225 nor more than \$750 for the~~
14 ~~2nd or subsequent conviction within 3 years.~~

15 **SECTION 7.** 346.49 (2r) (b) of the statutes is amended to read:

16 346.49 **(2r)** (b) A vehicle owner or other person found liable under s. 346.452
17 with respect to a violation of s. 346.45 shall forfeit not less than \$60 nor more than
18 \$600 ~~for the first conviction and not less than \$180 nor more than \$1,800 for the 2nd~~
19 ~~or subsequent conviction within 3 years.~~

20 **SECTION 8.** 346.49 (2v) of the statutes is created to read:

21 346.49 **(2v)** The court shall order a person subject to sub. (2m) (a) or (b) to
22 participate in driver safety education and satisfactorily complete a written
23 examination on railroad safety.

24 **SECTION 9.** 346.495 (1) (a) of the statutes is amended to read:

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1 346.495 (1) (a) If a court imposes a forfeiture under s. 346.49 (1g) or (2m) (a),
2 (am), ~~or (b)~~, or (c) for a violation of s. 346.44, ~~346.445~~, 346.45, or 346.46 (3), the court
3 shall also impose a railroad crossing improvement surcharge under ch. 814 equal to
4 50% of the amount of the forfeiture.

5 **SECTION 10. Initial applicability.**

6 (1) This act first applies to violations committed on the effective date of this
7 subsection, but does not preclude the counting of other violations as prior violations
8 for purposes of sentencing a person.

9 **SECTION 11. Effective date.**

10 (1) This act takes effect on the first day of the 3rd month beginning after
11 publication.

12

(END)