

CHAPTER 346.

RULES OF THE ROAD.

- GENERAL PROVISIONS.**
- 346.01 Words and phrases defined.
 346.02 Applicability of chapter.
 346.03 Applicability of rules of the road to authorized emergency vehicles.
 346.04 Obedience to traffic officers, signs and signals; fleeing from officer.
- DRIVING, MEETING, OVERTAKING AND PASSING.**
- 346.05 Vehicles to be driven on right side of roadway; exceptions.
 346.06 Meeting of vehicles.
 346.07 Overtaking and passing on the left.
 346.08 When overtaking and passing on the right permitted.
 346.09 Limitations on overtaking on left or driving on left side of roadway.
 346.10 When passing at railroad crossing or intersection prohibited.
 346.11 Passing or meeting frightened animal.
 346.12 Driving through safety zones prohibited.
 346.13 Driving on roadways laned for traffic.
 346.14 Distance between vehicles.
 346.15 Driving on divided highway.
 346.16 Use of controlled-access highways, expressways and freeways.
 346.17 Penalty for violating sections 346.04 to 346.16.
- RIGHT OF WAY.**
- 346.18 General rules of right of way.
 346.19 What to do on approach of emergency vehicle.
 346.20 Right of way of funeral processions and military convoys.
 346.21 Right of way of livestock.
 346.22 Penalty for violating sections 346.18 to 346.21.
- RESPECTIVE RIGHTS AND DUTIES OF DRIVERS AND PEDESTRIANS.**
- 346.23 Crossing controlled intersection or crosswalk.
 346.24 Crossing at uncontrolled intersection or crosswalk.
 346.25 Crossing at place other than crosswalk.
 346.26 Blind pedestrian on highway.
 346.27 Persons working on highway.
 346.28 Pedestrians to walk on left side of highway; pedestrians on sidewalks.
 346.29 When standing or loitering in roadway or highway prohibited.
 346.30 Penalty for violating sections 346.23 to 346.29.
- TURNING AND STOPPING AND REQUIRED SIGNALS.**
- 346.31 Required position and method of turning at intersections.
 346.32 Required position for turning into private road or driveway.
 346.33 Where turns prohibited.
 346.34 Turning movements and required signals on turning and stopping.
 346.35 Method of giving signals on turning and stopping.
 346.36 Penalty for violating sections 346.31 to 346.35.
- TRAFFIC SIGNS, SIGNALS AND MARKINGS.**
- 346.37 Traffic-control signal legend.
 346.38 Pedestrian control signals.
 346.39 Flashing signals.
 346.40 Whistle signals.
 346.41 Display of unauthorized signs and signals prohibited.
 346.42 Interference with signs and signals prohibited.
 346.43 Penalty for violating sections 346.37 to 346.42.
- REQUIRED STOPS.**
- 346.44 All vehicles to stop at signal indicating approach of train.
- 346.45 Certain vehicles to stop at all railroad crossings.
 346.46 Vehicles to stop at stop signs.
 346.47 When vehicles using alley or non-highway access to stop.
 346.48 Vehicles to stop for school busses loading or unloading children.
 346.49 Penalty for violating sections 346.44 to 346.48.
- RESTRICTIONS ON STOPPING AND PARKING.**
- 346.50 Exceptions to stopping and parking restrictions.
 346.51 Stopping, standing or parking outside of business or residence districts.
 346.52 Stopping prohibited in certain specified places.
 346.53 Parking prohibited in certain specified places.
 346.54 How to park and stop on streets.
 346.55 Other restrictions on parking and stopping.
 346.56 Penalty for violating sections 346.51 to 346.55.
- SPEED RESTRICTIONS.**
- 346.57 Speed restrictions.
 346.58 Special speed restrictions for certain vehicles.
 346.59 Minimum speed regulation.
 346.595 Motor-driven cycles.
 346.60 Penalty for violating sections 346.57 to 346.595.
- RECKLESS AND DRUNKEN DRIVING.**
- 346.61 Applicability of sections relating to reckless and drunken driving.
 346.62 Reckless driving.
 346.63 Operating under influence of intoxicant.
 346.64 Employment of drunken operators.
 346.65 Penalty for violating sections 346.62 to 346.64.
- ACCIDENTS AND ACCIDENT REPORTS.**
- 346.66 Applicability of sections relating to accidents and accident reporting.
 346.67 Duty upon striking person or attended or occupied vehicle.
 346.68 Duty upon striking unattended vehicle.
 346.69 Duty upon striking property on or adjacent to highway.
 346.70 Duty to report accident.
 346.71 Coroners to report; require blood specimen.
 346.72 Garages to keep record of repairs of accident damage.
 346.73 Accident reports confidential.
 346.74 Penalty for violating sections 346.67 to 346.73.
- BICYCLES AND PLAY VEHICLES.**
- 346.77 Responsibility of parent or guardian for violation of bicycle and play vehicle regulations.
 346.78 Play vehicles not to be used on roadway.
 346.79 Special rules applicable to bicycles.
 346.80 Riding bicycle on roadway.
 346.81 Lamps and other equipment on bicycles.
 346.82 Penalty for violating sections 346.77 to 346.81.
- MISCELLANEOUS RULES.**
- 346.87 Limitations on backing.
 346.88 Obstruction of operator's view or driving mechanism.
 346.89 Inattentive driving.
 346.90 Following emergency vehicle.
 346.91 Crossing fire hose.
 346.92 Illegal riding.
 346.93 Intoxicants in vehicle carrying minor.
 346.94 Miscellaneous prohibited acts.
 346.95 Penalty for violating sections 346.87 to 346.94.

GENERAL PROVISIONS.

346.01 **Words and phrases defined.** Words and phrases defined in s. 340.01 are used in the same sense in this chapter unless a different definition is specifically provided.

346.02 **Applicability of chapter.** (1) **APPLIES PRIMARILY UPON HIGHWAYS.** Chapter 346 applies exclusively upon highways except as otherwise expressly provided in this chapter.

(2) **APPLICABILITY TO PERSONS RIDING OR DRIVING ANIMALS OR PROPELLING PUSH CARTS.** Every person riding an animal or driving any animal-drawn vehicle or propelling any push cart upon a roadway is granted all the rights and is subject to all the duties which ch. 346 grants or applies to the operator of a vehicle, except those provisions of ch. 346 which by their very nature would have no application.

(4) **APPLICABILITY TO PERSONS RIDING BICYCLES.** Subject to the special provisions applicable to bicycles, every person riding a bicycle upon a roadway is granted all the rights and is subject to all the duties which ch. 346 grants or applies to the operator of a vehicle, except those provisions which by their express terms apply only to motor vehicles or which by their very nature would have no application to bicycles.

(5) **APPLICABILITY TO PUBLIC OFFICERS AND EMPLOYEES.** The provisions of ch. 346 applicable to operators of vehicles apply also to operators of vehicles owned by or operated by or for any governmental agency, including the United States government, subject to the specific exceptions set forth in this section and s. 346.03.

(6) **APPLICABILITY TO PERSONS WORKING ON HIGHWAYS.** This chapter applies to persons, teams, motor vehicles and road machinery while traveling to or from highway construction or maintenance work but the provisions of ss. 346.05 (3) to 346.17, 346.28, 346.29 (2), 346.31 to 346.36, 346.52 to 346.56 and 346.59 do not apply to persons, teams, motor vehicles or road machinery when actually engaged in maintenance or construction work upon a highway.

(7) **APPLICABILITY OF PROVISIONS REQUIRING SIGNPOSTING.** No provision of ch. 346 for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section is effective even though no signs are erected or in place.

(8) **APPLICABILITY TO PEDESTRIAN WAYS.** (a) All of the applicable provisions of ch. 346 pertaining to highways, streets, alleys, roadways and sidewalks also apply to pedestrian ways. A pedestrian way means a walk designated for the use of pedestrian travel.

(b) Public utilities may be installed either above or below a pedestrian way, and assessments may be made therefor as if such pedestrian way were a highway, street, alley, roadway or sidewalk.

346.03 **Applicability of rules of the road to authorized emergency vehicles.** (1) The operator of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated in subs. (2) to (5).

(2) The operator of an authorized emergency vehicle may:

- (a) Stop, stand or park, irrespective of the provisions of this chapter;
- (b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (c) Exceed the speed limit;
- (d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemption granted the operator of an authorized emergency vehicle by sub. (2) (a) applies only when the operator of such vehicle is giving visual signal by means of at least one flashing, oscillating or rotating red light. The exemptions granted by sub. (2) (b), (c) and (d) apply only when the operator of the emergency vehicle is giving both such visual signal and also an audible signal by means of a siren or exhaust whistle, except as otherwise provided in sub. (4).

(4) For the purpose of obtaining evidence of a speed violation, the operator of a police vehicle may exceed the speed limit without giving audible and visual signal but otherwise shall comply with the requirements of sub. (3) relative to the giving of audible and visual signals.

(5) The exemptions granted the operator of an authorized emergency vehicle by this section do not relieve such operator from the duty to drive with due regard under the

circumstances for the safety of all persons nor do they protect such operator from the consequences of his reckless disregard for the safety of others.

346.04 Obedience to traffic officers, signs and signals; fleeing from officer. (1) No person shall fail or refuse to comply with any lawful order, signal or direction of a traffic officer.

(2) No operator of a vehicle shall disobey the instructions of any official traffic sign or signal unless otherwise directed by a traffic officer.

(3) No operator of a vehicle, after having received a visual or audible signal from a traffic officer, or marked police vehicle, shall knowingly flee or attempt to elude any traffic officer by wilful or wanton disregard of such signal so as to interfere with or endanger the operation of the police vehicle, or the traffic officer or other vehicles or pedestrians, nor shall he increase the speed of his vehicle or extinguish the lights of his vehicle in an attempt to elude or flee.

History: 1965 c. 187.

DRIVING, MEETING, OVERTAKING AND PASSING.

346.05 Vehicles to be driven on right side of roadway; exceptions. (1) Upon all roadways of sufficient width the operator of a vehicle shall drive on the right half of the roadway and in the right-hand lane of a 3-lane highway, except:

(a) When making an approach for a left turn under circumstances in which the rules relating to left turns require driving on the left half of the roadway; or

(b) When overtaking and passing under circumstances in which the rules relating to overtaking and passing permit or require driving on the left half of the roadway; or

(c) When the right half of the roadway is closed to traffic while under construction or repair; or

(d) When overtaking and passing pedestrians, animals or obstructions on the right half of the roadway; or

(e) When driving in a particular lane in accordance with signs or markers designating such lane for traffic moving in a particular direction or at designated speeds; or

(f) When the roadway has been designated and posted for one-way traffic, subject, however, to the rule stated in sub. (3) relative to slow moving vehicles.

(2) The operator of a vehicle actually engaged in constructing or maintaining the highway may operate on the left-hand side of the highway; however, whenever such operation takes place during the hours of darkness the vehicle shall be lighted as required by s. 347.23.

(3) Any vehicle proceeding upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand edge or curb of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

Cross Reference: See 346.59 for minimum speed regulation and duty of slow drivers.

A contention that proof of skidding is a vigorous one which is not dissipated alone relieved the driver who invaded the wrong lane unless the driver so invading the wrong lane of the inference of negligence lane proves he was without fault. *Voigt v. Voigt*, 22 W (2d) 573, 126 NW (2d) 543.

346.06 Meeting of vehicles. Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each operator shall give to the other at least one-half of the main traveled portion of the roadway as nearly as possible.

346.07 Overtaking and passing on the left. The following rules govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules stated in ss. 346.08 to 346.11:

(1) The operator of an overtaking motor vehicle not within a business or residence district shall give audible warning with his warning device before passing or attempting to pass on the left a vehicle proceeding in the same direction.

(2) The operator of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(3) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

346.08 When overtaking and passing on the right permitted. The operator of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety and only if he can do so without driving off the pavement or main-traveled portion of the roadway, and then only under the following conditions:

- (1) When the vehicle overtaken is making or about to make a left turn; or
- (2) Upon a street or highway with unobstructed pavement of sufficient width to enable 2 or more lines of vehicles lawfully to proceed, at the same time, in the direction in which the passing vehicle is proceeding; or
- (3) Upon a one-way street or divided highway with unobstructed pavement of sufficient width to enable 2 or more lines of vehicles lawfully to proceed in the same direction at the same time.

A driver passing on the right by driving mainly did so at that place. *Reyes v. Lawry*, partly on the shoulder cannot justify his 33 W (2d) 112, 146 NW (2d) 510. conduct by proving that other drivers custo-

346.09 Limitations on overtaking on left or driving on left side of roadway. (1) Upon any roadway where traffic is permitted to move in both directions simultaneously, the operator of a vehicle shall not drive to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be done in safety. In no case when overtaking and passing on a roadway divided into 4 or more clearly indicated lanes shall the operator of a vehicle drive to the left of the pavement marking indicating allocation of lanes to vehicles moving in the opposite direction or, in the absence of such marking, to the left of the center of the roadway. In no case shall the operator of a vehicle drive in a lane when signs or signals indicate that such lane is allocated exclusively to vehicles moving in the opposite direction.

(2) Upon any roadway where traffic is permitted to move in both directions simultaneously, the operator of a vehicle shall not drive on the left side of the center of the roadway upon any part of a grade or upon a curve in the roadway where the operator's view is obstructed for such a distance as to create a hazard in the event another vehicle might approach from the opposite direction.

(3) The operator of a vehicle shall not drive on the left side of the center of a roadway on any portion thereof which has been designated a no-passing zone, either by signs or by a yellow unbroken line on the pavement on the right-hand side of and adjacent to the center line of the roadway, provided such signs or lines would be clearly visible to an ordinarily observant person.

(4) Other provisions of this section notwithstanding, the operator of a vehicle shall not overtake and pass on the left any other vehicle which, by means of signals as required by s. 346.34 (1), indicates its intention to make a left turn.

346.10 When passing at railroad crossing or intersection prohibited. (1) The operator of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction at any railroad crossing unless the roadway is of sufficient width for 2 or more lines of vehicles to lawfully proceed simultaneously in the direction in which such vehicle is proceeding or unless permitted or directed by a traffic officer to pass at such crossing.

(2) Subject to the exception stated in sub. (3), the operator of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction at any intersection unless the roadway is marked or posted for 2 or more lines of vehicles moving simultaneously in the direction in which such vehicle is proceeding or unless permitted or directed by a traffic officer to pass at such intersection.

(3) Outside of a business or residence district, the restrictions which sub. (2) places upon passing at an intersection apply only if such intersection has been designated by an official traffic sign or signal, regardless of whether such sign or signal was intended to guide, direct, warn or regulate traffic.

346.11 Passing or meeting frightened animal. Whenever a person riding, driving or leading an animal which is frightened gives a signal of distress to the operator of a motor vehicle by a raising of the hand or otherwise, the operator of the motor vehicle shall promptly stop his vehicle unless a movement forward is necessary to avoid an accident or injury and shall, upon request, stop all motive power until such animal is under control.

346.12 Driving through safety zones prohibited. The operator of a vehicle shall not at any time drive through or over a safety zone when such safety zone is clearly indicated.

346.13 Driving on roadways laned for traffic. Whenever any roadway has been divided into 2 or more clearly indicated lanes, including those roadways divided into lanes

by clearly indicated longitudinal joints, the following rules, in addition to all others consistent with this section, apply:

(1) The operator of a vehicle shall drive as nearly as practicable entirely within a single lane and shall not deviate from the traffic lane in which he is driving without first ascertaining that such movement can be made with safety to other vehicles approaching from the rear.

(2) Upon a 2-way roadway which is divided into 3 lanes the operator of a vehicle shall not drive in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is marked or posted to give notice of such allocation.

(3) Notwithstanding sub. (2), when lanes have been marked or posted for traffic moving in a particular direction or at designated speeds, the operator of a vehicle shall drive in the lane designated.

A driver of a motor vehicle on a laned highway may proceed on the assumption that other drivers will stay in their lanes until it is reasonably foreseeable that his path will be invaded. *Ballas v. Superior Mut. Ins. Co.* 13 W (2d) 151, 108 NW (2d) 192.

are marked for slow and fast moving traffic coming uphill, and intending to turn left, should remain in his right-hand lane until he reaches the intersection, instead of angling into the center lane, even if no traffic is coming uphill in that lane. *Niedbalski v. Cuchna*, 13 W (2d) 308, 108 NW (2d) 576.

A driver going downhill where two lanes

346.14 Distance between vehicles. (1) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the highway.

(2) Upon a highway outside a business or residence district, the operator of any motor truck with a gross weight of more than 10,000 pounds or of any motor vehicle which is drawing or towing another vehicle where the combined gross weight is more than 10,000 pounds shall keep the vehicle he is operating at a distance of not less than 500 feet to the rear of any vehicle immediately preceding it, being driven in the same direction. This subsection does not apply upon any lane especially designated for use by motor trucks or by truck tractor-semitrailer or tractor-trailer units nor does it apply when overtaking and passing another vehicle, but the fact that the operator of any vehicle or combination of vehicles mentioned in this subsection follows the preceding vehicle more closely than 500 feet for one mile or more or follows more closely than 500 feet when the preceding vehicle is moving at the maximum speed then and there permissible for such following vehicle is prima facie evidence that the operator of such following vehicle is violating this subsection.

In order properly to perform his duty not to follow too closely the driver of a motor vehicle may not always safely assume that a vehicle ahead of him will not stop instantaneously but will slow down and travel a short distance before coming to a complete stop, and each case will depend on its own circumstances. *Hibner v. Lindauer*, 13 W (2d) 451, 118 NW (2d) 873. This section is directed against "tailgating". It does not necessarily apply simply because there is a rear-end collision. *Milwaukee & S. T. Corp. v. Royal Transit Co.* 29 W (2d) 620, 139 NW (2d) 595.

346.15 Driving on divided highway. Whenever any highway has been divided into 2 roadways by an intervening unpaved or otherwise clearly indicated dividing space or by a physical barrier so constructed as to substantially impede crossing by vehicular traffic, the operator of a vehicle shall drive only to the right of such space or barrier and no operator of a vehicle shall drive over, across or within any such space or barrier except through an opening or at a cross-over or intersection established by the authority in charge of the maintenance of the highway, except that the operator of a vehicle when making a left turn to or from a private driveway, alley or highway may drive across a paved dividing space or a physical barrier not so constructed as to impede crossing by vehicular traffic, unless such crossing is prohibited by signs erected by the authority in charge of the maintenance of the highway.

History: 1961 c. 205.

346.16 Use of controlled-access highways, expressways and freeways. (1) No person shall drive a vehicle onto or from a controlled-access highway, expressway or freeway except through an opening provided for that purpose.

(2) No pedestrian or person riding a bicycle or other nonmotorized vehicle or person operating a power driven cycle or motor bicycle shall go upon any expressway or freeway when official signs have been erected prohibiting such person from using the expressway or freeway.

Note: See 59.965 (5) (j) for additional restrictions on the use of expressways in Milwaukee county.

346.17 Penalty for violating sections 346.04 to 346.16. (1) Any person violating s. 346.04 (1) or (2), 346.06, 346.07 (1), 346.12 or 346.13 (1) or (3) may be fined not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating any provision of ss. 346.05, 346.07 (2) or (3), 346.08 to 346.11, 346.13 (2) or 346.14 to 346.16 may be fined not less than \$20 nor more than \$200 or imprisoned not more than 30 days or both.

(3) Any person violating s. 346.04 (3) may be fined not less than \$50 nor more than \$300 or imprisoned not more than 6 months or both.

History: 1965 c. 187; 1967 c. 292.

RIGHT OF WAY.

346.18 General rules of right of way. (1) **GENERAL RULE AT INTERSECTIONS.** Except as otherwise expressly provided in this section or in s. 346.19 or 346.20, when 2 vehicles approach or enter an intersection at approximately the same time, the operator of the vehicle on the left shall yield the right of way to the vehicle on the right. The operator of any vehicle driving at an unlawful speed forfeits any right of way which he would otherwise have under this subsection.

(2) **TURNING LEFT AT INTERSECTION.** The operator of a vehicle within an intersection intending to turn to the left across the path of any vehicle approaching from the opposite direction shall yield the right of way to such vehicle.

(3) **RULE AT INTERSECTION WITH THROUGH HIGHWAY.** The operator of a vehicle shall stop as required by s. 346.46 before entering a through highway, and shall yield the right of way to other vehicles which have entered or are approaching the intersection upon the through highway.

(4) **ENTERING HIGHWAY FROM ALLEY OR NON-HIGHWAY ACCESS.** The operator of a vehicle entering a highway from an alley or from a point of access other than another highway shall yield the right of way to all vehicles approaching on the highway which he is entering.

(5) **MOVING FROM PARKED POSITION.** The operator of any vehicle that has been parked or standing shall, while moving such vehicle from such position, yield the right of way to all vehicles approaching on the highway.

(6) **RIGHT OF WAY WHERE YIELD SIGN INSTALLED.** The operator of a vehicle, when approaching any intersection at which has been installed a yield sign, shall yield the right of way to other vehicles which have entered the intersection from an intersecting highway or which are approaching so closely on the intersecting highway as to constitute a hazard of collision and, if necessary, shall reduce speed or stop in order to so yield.

(7) **ENTERING ALLEY OR DRIVEWAY FROM HIGHWAY.** The operator of any vehicle intending to turn to the left into an alley or private driveway across the path of any vehicle approaching from the opposite direction shall yield the right of way to such vehicle.

History: 1961 c. 205; 1963 c. 189.

It is not necessary that negligent speed be found causal in order to deprive a driver of his statutory right of way. *Van Wie v. Hill*, 15 W (2d) 98, 112 NW (2d) 168.

Under (3), while unlawful speed on an arterial may be an element of negligence, it does not work a forfeiture of the right of way as it would on a nonarterial highway. *Magnin v. Bemis*, 17 W (2d) 192, 116 NW (2d) 129.

The directional right-of-way afforded a vehicle on the right over one on the left when both approach or enter an intersection at approximately the same time is not forfeited because the favored vehicle unnecessarily stops at the uncontrolled intersection. *Brunette v. Dade*, 25 W (2d) 617,

131 NW (2d) 340.

The duty imposed upon a driver at a yield sign is less than the duty to stop at a stop sign—the latter obligation to stop being absolute, followed by a duty of lookout, including a calculation of interference with the right of way of other vehicles, whereas the former duty to stop arises after the required efficient lookout, including calculation. *Sailing v. Wallestad*, 32 W (2d) 435, 145 NW (2d) 725.

A driver passing other cars on the right by driving partly on the shoulder does not have the right of way over another driver turning left across his path into a driveway. *Reyes v. Lawry*, 33 W (2d) 112, 146 NW (2d) 510.

346.19 What to do on approach of emergency vehicle. (1) Upon the approach of any authorized emergency vehicle giving audible signal by siren the operator of a vehicle shall yield the right of way and shall immediately drive such vehicle to a position as near as possible and parallel to the right curb or the right-hand edge of the shoulder of the roadway, clear of any intersection and, unless otherwise directed by a traffic officer, shall stop and remain standing in such position until the authorized emergency vehicle has passed.

(2) This section does not relieve the operator of an authorized emergency vehicle from

the duty to drive with due regard under the circumstances for the safety of all persons using the highway.

346.20 Right of way of funeral processions and military convoys. (1) Funeral processions and military convoys have the right of way at intersections when vehicles comprising such procession have their bright headlights lighted, subject to the following conditions and exceptions:

(a) Operators of vehicles in a funeral procession or military convoy shall yield the right of way in accordance with s. 346.19 upon the approach of an authorized emergency vehicle giving audible signal by siren;

(b) Operators of vehicles in a funeral procession or military convoy shall yield the right of way when directed to do so by a traffic officer;

(c) The operator of the leading vehicle in a funeral procession or military convoy shall comply with stop signs and traffic control signals, but when the leading vehicle has proceeded across an intersection in accordance with such signal or after stopping as required by the stop sign, all vehicles in such procession may proceed without stopping, regardless of the sign or signal.

(2) The operator of a vehicle not in a funeral procession shall not drive his vehicle between the vehicles of the funeral procession, except when authorized to do so by a traffic officer or when such vehicle is an authorized emergency vehicle giving audible signal by siren.

(3) Operators of vehicles not a part of a funeral procession or military convoy shall not form a procession or convoy and have their headlights lighted for the purpose of securing the right of way granted by this section to funeral processions or military convoys.

346.21 Right of way of livestock. The operator of a motor vehicle shall yield the right of way to livestock being driven over or along any highway but any person in charge of such livestock shall use reasonable care and diligence to open the roadway for vehicular traffic.

346.22 Penalty for violating sections 346.18 to 346.21. (1) Any person violating s. 346.18 may be fined not less than \$20 nor more than \$50 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.19 or 346.20 (1) (a) may be fined not less than \$20 nor more than \$200 or imprisoned not more than 30 days or both.

(3) Any person violating s. 346.20 (1) (b) or (c), (2), (3) or 346.21 may be fined not less than \$10 nor more than \$20 for the first offense and not less than \$25 nor more than \$50 for the 2nd or subsequent conviction within a year.

History: 1967 c. 292.

RESPECTIVE RIGHTS AND DUTIES OF DRIVERS AND PEDESTRIANS.

346.23 Crossing controlled intersection or crosswalk. (1) At an intersection or crosswalk where traffic is controlled by traffic control signals or by a traffic officer, the operator of a vehicle shall yield the right of way to a pedestrian crossing or who has started to cross the highway on a green or "WALK" signal and in all other cases pedestrians shall yield the right of way to vehicles lawfully proceeding directly ahead on a green signal. The rules stated in this subsection are modified at intersections or crosswalks on divided highways or highways provided with safety zones in the manner and to the extent stated in sub. (2).

(2) At intersections or crosswalks on divided highways or highways provided with safety zones where traffic is controlled by traffic control signals or by a traffic officer, the operator of a vehicle shall yield the right of way to a pedestrian who is crossing or has started to cross the roadway either from the near curb or shoulder or from the center dividing strip or safety zone with green or "WALK" signal in his favor but when the signal turns against the pedestrian before he leaves the center dividing space or safety island, he shall yield the right of way to vehicles lawfully proceeding directly ahead on a green signal.

History: 1965 c. 62.

346.24 Crossing at uncontrolled intersection or crosswalk. (1) At an intersection or crosswalk where traffic is not controlled by traffic control signals or by a traffic officer, the operator of a vehicle shall yield the right of way to a pedestrian who is crossing the highway within a marked or unmarked crosswalk.

(2) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is difficult for the operator of the vehicle to yield.

(3) Whenever any vehicle is stopped at an intersection or crosswalk to permit a pedestrian to cross the roadway, the operator of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

346.25 Crossing at place other than crosswalk. Every pedestrian crossing a roadway at any point other than within a marked or unmarked crosswalk shall yield the right of way to all vehicles upon the roadway.

346.26 Blind pedestrian on highway. (1) An operator of a vehicle shall stop his vehicle before approaching closer than 10 feet to a pedestrian carrying a cane or walking stick which is white in color or white trimmed with red and which is held in an extended or raised position and shall take such precautions as may be necessary to avoid accident or injury to such pedestrian. The fact that such pedestrian may be violating any of the laws applicable to pedestrians does not relieve the operator of a vehicle from the duties imposed upon him by this subsection.

(2) Nothing in this section shall be construed to deprive any totally or partially blind person not carrying the white or the red and white cane or walking stick of the rights of other pedestrians crossing highways, nor shall the failure of such totally or partially blind pedestrian to carry such cane or walking stick be evidence of any negligence.

(3) No person who is not totally or partially blind shall carry or use on any street, highway or other public place any cane or walking stick which is white in color, or white trimmed with red.

346.27 Persons working on highway. The operator of a vehicle shall yield the right of way to persons engaged in maintenance or construction work on a highway whenever he is notified of their presence by flagmen or warning signs.

346.28 Pedestrians to walk on left side of highway; pedestrians on sidewalks. (1) Any pedestrian walking along and upon a highway other than upon a sidewalk shall walk on and along the left side of the highway and upon meeting a vehicle shall, if practicable, step to the extreme outer limit of the traveled portion of the highway.

(2) Operators of vehicles shall yield the right of way to pedestrians on sidewalks as required by s. 346.47.

Children riding a toy bicycle, as distinguished from a statutory bicycle, on the sidewalk are "pedestrians". *Bey v. Transport Indemnity Co.* 23 W (2d) 182, 127 NW (2d) 251.

A pedestrian walking against traffic along the furthest edge of the traveled portion of

the roadway and not being reasonably aware of any hazard to his rear by reason of car lights, sounding of horn or otherwise, has no duty to maintain a lookout to his rear. *Dahl v. Ellis*, 35 W (2d) 441, 151 NW (2d) 61.

346.29 When standing or loitering in roadway or highway prohibited. (1) No person shall be on a roadway for the purpose of soliciting a ride from the operator of any vehicle other than a public passenger vehicle.

(2) No person shall stand or loiter on any roadway other than in a safety zone if such act interferes with the lawful movement of traffic.

(3) No person shall be on a bridge or approach thereto for the purpose of utilizing such bridge or approach for fishing or swimming when signs have been erected by the authority in charge of maintenance of the highway indicating that fishing or swimming off of such bridge or approach is prohibited.

346.30 Penalty for violating sections 346.23 to 346.29. (1) Any pedestrian violating s. 346.23, 346.24 (2), 346.25, 346.28 or 346.29 may be fined not less than \$2 nor more than \$20 for the first offense and not less than \$10 nor more than \$50 for the 2nd or subsequent conviction within a year. Any operator of a vehicle violating s. 346.23 or 346.28 may be fined not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.24 (1) or (3) or 346.27 may be fined not less than \$20 nor more than \$200 or imprisoned not more than 30 days or both.

(3) Any person violating any provision of s. 346.26 may be fined not less than \$25 nor more than \$200 or imprisoned not more than 6 months or both for the first offense and may be fined not less than \$50 nor more than \$500 or imprisoned not more than one year in county jail or both for the second or subsequent conviction within a year.

History: 1967 c. 292.

TURNING AND STOPPING AND REQUIRED SIGNALS.

346.31 Required position and method of turning at intersections. (1) **TURNS INDICATED BY MARKERS.** Where state or local authorities have placed markers, buttons or

signs within or adjacent to an intersection directing traffic turning at such intersection to follow a particular course, the operator of a vehicle turning at such intersection shall comply with such directions. In the absence of such markers, buttons or signs, the operator of a vehicle intending to turn at an intersection shall do as provided in subs. (2) to (4).

(2) **RIGHT TURNS.** Both the approach for a right turn and the right turn shall be made as closely as practicable to the right-hand edge or curb of the roadway. If, because of the size of the vehicle or the nature of the intersecting roadway, the turn cannot be made from the traffic lane next to the right-hand edge of the roadway, the turn shall be made with due regard for all other traffic.

(3) **LEFT TURNS.** Except as otherwise provided in sub. (4), left turns at intersections shall be made as follows:

(a) The approach for a left turn shall be made in that lane farthest to the left which is lawfully available to traffic moving in the direction of travel of the vehicle about to turn left. Unless otherwise marked or posted, this means the lane immediately to the right of the center line or center dividing strip of a 2-way highway and the lane next to the left-hand curb or edge of the roadway of a one-way highway.

(b) The intersection shall be entered in the lane of approach and, whenever practicable, the left turn shall be made in that portion of the intersection immediately to the left of the center of the intersection. For the purposes of this paragraph, a divided highway intersected by any other highway is considered to be one intersection.

(c) A left turn shall be completed so as to enter the intersecting highway in that lane farthest to the left which is lawfully available to traffic moving in the direction of the vehicle completing the left turn. Unless otherwise marked or posted, this means the lane immediately to the right of the center line or center dividing strip of a 2-way highway and the lane next to the left-hand curb or edge of the roadway of a one-way highway.

(4) **LEFT TURNS ON 3-LANE HIGHWAYS.** On a 2-way highway having an uneven number of lanes the approach for a left turn shall be made in the center lane thereof, unless otherwise posted or marked. A left turn into a 2-way highway having an uneven number of lanes shall be made so as to enter the highway in the lane immediately to the right of the center lane.

(3) (c) does not require that a driver, after making a left turn onto a one-way street, continue in the left-hand lane. *Gile v. Windholm*, 17 W (2d) 275, 116 NW (2d) 249.

not apply to the driver of a truck which was approaching an intersection at a point where the highway on which the truck was traveling merely curved toward the left and the driver had no intention of making any turn. *Donlea v. Carpenter*, 21 W (2d) 390, 124 NW (2d) 305.

This section, requiring an approach for a left "turn" at an intersection to be made in the traffic lane farthest to the left, did

346.32 Required position for turning into private road or driveway. The operator of a vehicle on a highway who intends to turn into a private road or driveway shall make the approach for the turn in the same manner as specified in s. 346.31 for vehicles making an approach for a right or left turn at an intersection. If, because of the size of the vehicle or the nature of the intersecting private road or driveway, the turn cannot be made from the specified lane of approach, the turn shall be made with due regard for all other traffic.

346.33 Where turns prohibited. (1) The operator of a vehicle shall not turn his vehicle so as to proceed in the opposite direction upon a highway at any of the following places:

(a) At any intersection at which traffic is being controlled by traffic control signals or by a traffic officer;

(b) In mid-block on any street in a business district;

(c) In mid-block on any through highway in a residence district.

(d) At any place where signs prohibiting such turn have been erected by the authority in charge of the maintenance of the highway.

(2) The operator of a vehicle shall not back his vehicle into an intersection at which turns are prohibited by sub. (1) (a) for the purpose of turning his vehicle so as to proceed in the opposite direction upon the highway.

(3) In this section, "mid-block" means any part of a street or highway other than an intersection.

History: 1961 c. 205.

346.34 Turning movements and required signals on turning and stopping. (1) **TURNING.** No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in s. 346.31, or turn a vehicle to enter a private road or driveway unless the vehicle is in proper position on the roadway as required in s. 346.32, or otherwise turn a vehicle from a direct course or move right or left upon a

roadway unless and until such movement can be made with reasonable safety. In the event any other traffic may be affected by such movement, no person shall so turn any vehicle without giving an appropriate signal in the manner provided in s. 346.35. Such signal shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.

(2) **STOPPING.** No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in s. 346.35 to the operator of any vehicle immediately to the rear when there is opportunity to give such signal.

Making a left turn in violation of (1) is negligence as a matter of law because such statute is a safety statute, but the breach of such statute is not established from the fact that a collision occurred, nor does a breach of such statute establish as a matter of law the degree of contribution of the negligence to the accident. *Grana v. Summerford*, 12 W (2d) 517, 107 NW (2d) 463. A driver meeting a car which is signaling a left turn may in some circumstances assume that the turning driver will wait until it is safe before completing the turn. *Walker v. Baker*, 13 W (2d) 637, 109 NW (2d) 499. A driver entering a divided highway from another road cannot complain that another driver on the arterial changed from one lane to another without signalling. *Donlea v. Carpenter*, 21 W (2d) 390, 124 NW (2d) 305. It is not correct to say that a preceding driver owes no duty to a following driver. He must signal his intention to deviate from his lane and must use the roadway in the usual manner with proper regard to other users of the highway. *Burlison v. Janssen*, 30 W (2d) 495, 141 NW (2d) 274.

346.35 Method of giving signals on turning and stopping. Whenever a stop or turn signal is required by s. 346.34, such signal may in any event be given by a signal lamp or lamps of a type meeting the specifications set forth in s. 347.15. Except as provided in s. 347.15 (3m), such signals also may be given by the hand and arm in lieu of or in addition to signals by signal lamp. When given by hand and arm, such signals shall be given from the left side of the vehicle in the following manner and shall indicate as follows:

- (1) Left turn—Hand and arm extended horizontally.
- (2) Right turn—Hand and arm extended upward.
- (3) Stop or decrease speed—Hand and arm extended downward.

History: 1961 c. 662.

A driver who gives timely signal of stopping by means of brake lights is not required to give a hand signal in addition. *Thompson v. Nee*, 12 W (2d) 326, 107 NW (2d) 150.

346.36 Penalty for violating sections 346.31 to 346.35. Any person violating ss. 346.31 to 346.35 may be fined not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

History: 1967 c. 292.

TRAFFIC SIGNS, SIGNALS AND MARKINGS.

346.37 Traffic-control signal legend. (1) Whenever traffic is controlled by traffic control signals exhibiting different colored lights successively, or with arrows, the following colors shall be used and shall indicate and apply to operators of vehicles and pedestrians as follows:

(a) *Green.* 1. Vehicular traffic facing a green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn, but vehicular traffic shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

2. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(b) *Yellow.* When shown with or following the green, traffic facing a yellow signal shall stop before entering the intersection unless so close to it that a stop may not be made in safety.

(c) *Red.* 1. Vehicular traffic facing a red signal shall stop before entering the crosswalk on the near side of an intersection, or if none, then before entering the intersection or at such other point as may be indicated by a clearly visible sign or marking and shall remain standing until green or other signal permitting movement is shown.

2. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(d) *Green arrow.* 1. Vehicular traffic facing a green arrow signal may enter the intersection only to make the movement indicated by such arrow but shall yield the right of way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection. When the green arrow signal indicates a right or left turn traffic shall cautiously enter the intersection.

2. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(2) In the event an official traffic signal is erected and maintained at a place other than an intersection, the provisions of this section are applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

History: 1963 c. 25.

346.38 Pedestrian control signals. Whenever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place such signals indicate as follows:

(1) **WALK.** A pedestrian facing a "Walk" signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the operators of all vehicles.

(2) **WAIT OR DON'T WALK.** No pedestrian shall start to cross the roadway in the direction of a "Wait" or "Don't Walk" signal, but any pedestrian who has partially completed his crossing on the walk signal may proceed to a sidewalk or safety island while the wait signal is showing.

346.39 Flashing signals. Whenever flashing red or yellow signals are used they require obedience by vehicular traffic as follows:

(1) **FLASHING RED (STOP SIGNAL).** When a red lens is illuminated with rapid intermittent flashes, operators of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed is subject to the rules applicable after making a stop at a stop sign.

(2) **FLASHING YELLOW (CAUTION SIGNAL).** When a yellow lens is illuminated with rapid intermittent flashes, operators of vehicles may proceed through the intersection or past such signal only with caution.

The legislature intended to impose on 59.
 an arterial driver approaching a flashing yellow light a somewhat added caution than red and yellow lights discussed. Seitz v. that governing other arterial highways. Seitz, 35 W (2d) 282, 151 NW (2d) 86.
 Ide v. Wamsler, 22 W (2d) 325, 126 NW (2d)

346.40 Whistle signals. (1) Whenever traffic is alternately being directed to stop and to proceed by a traffic officer using a whistle, such officer shall use the following whistle signals which shall signify as follows:

(a) One blast of the whistle means that all traffic not within the intersection shall stop.
 (b) Two blasts of the whistle means that traffic which had been stopped prior to the one blast shall proceed through the intersection and that the traffic which was stopped by the one blast shall remain stopped.

(2) The traffic officer shall regulate the interval between the one and the 2 blasts so as to permit traffic that is legally within the intersection to clear the intersection.

346.41 Display of unauthorized signs and signals prohibited. (1) No person shall place, maintain or display upon or in view of any highway or at or in view of any railroad crossing any unauthorized sign, light, reflector, signal, marking or device which:

(a) Purports to be or is an imitation of or resembles or may be mistaken for an official traffic sign or signal or railroad sign or signal; or
 (b) Attempts to direct the movement of traffic; or
 (c) Hides from view or by its color, location, brilliance or manner of operation interferes with the effectiveness of any official traffic sign or signal or railroad sign or signal.

(2) No person shall place or maintain nor shall any public authority permit upon any highway any traffic control device bearing thereon any advertising except that a federal yellow flag, 24 inches square and bearing either the words "Safety Patrol" or "School," attached to a light weight pole 8 feet or less in length may be used by members of school safety patrols standing adjacent to but off the roadway to warn traffic that children are about to cross the roadway.

346.42 Interference with signs and signals prohibited. No person shall intentionally damage, deface, move, or obstruct an official traffic sign or signal or intentionally interfere with the effective operation of such sign or signal.

346.43 Penalty for violating sections 346.37 to 346.42. (1) Any pedestrian violating s. 346.37 or 346.38 may be fined not less than \$2 nor more than \$20 for the first offense and not less than \$10 nor more than \$50 for the 2nd or subsequent conviction within a year. Any operator of a vehicle violating ss. 346.37 to 346.39 may be fined

not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.42 may be fined not less than \$20 nor more than \$200 or imprisoned not more than 30 days or both.

(3) Any person violating any provision of s. 346.41 may be fined not less than \$25 nor more than \$200 or imprisoned not more than 6 months or both for the first offense and may be fined not less than \$50 nor more than \$500 or imprisoned not more than one year in county jail or both for the second or subsequent conviction within a year.

History: 1967 c. 292.

REQUIRED STOPS.

346.44 All vehicles to stop at signal indicating approach of train. (1) The operator of a vehicle shall not drive on or across a railroad crossing under any of the following circumstances:

(a) While any traffic officer or railroad employe signals to stop;

(b) While any warning device signals to stop, except that if the operator of the vehicle after stopping and investigating finds that no railroad train is approaching he may proceed.

(2) The operator of a vehicle shall not drive through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

346.45 Certain vehicles to stop at all railroad crossings. (1) The operator of any of the following vehicles shall stop such vehicle before driving on or across any main line track at a railroad crossing, whether or not any person or device signals to stop:

(a) A vehicle being operated by or for a common motor carrier as defined in s. 194.01 (5), when actually engaged in carrying passengers for hire.

(b) A bus carrying school children to or from school or carrying school children in connection with any extracurricular school activity. This section shall not apply to any such vehicle of less than 10 passengers not painted in accordance with s. 347.44.

(c) A vehicle, whether loaded or empty, used in transporting flammable liquids in quantities over 100 gallons. "Flammable liquid" means any liquid which has a flash point of 150° F. or less as determined by a Tagliabue or equivalent closed-cup test device.

(2) Every stop required by this section shall be made at least 15 but not more than 50 feet from the nearest rail of the main line tracks of such railroad. While the vehicle is so stopped, the operator shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train. After stopping and upon proceeding when it is safe to do so, the operator of such vehicle shall cross only in such gear of the vehicle as will make it unnecessary to manually shift gears while traversing the crossing and he shall not shift gears while traversing the crossing.

(3) This section does not apply at crossings with interurban railroad tracks which are laid on or along streets within the corporate limits of a city or village.

(4) The school board or public service commission may refuse to accept the bond of any person who has been convicted of a violation of this section and may cancel any such bond theretofore issued if it believes that the safety of the public requires such action.

346.46 Vehicles to stop at stop signs. (1) Every operator of a vehicle approaching an official stop sign at an intersection shall cause such vehicle to stop before entering the intersection except when directed to proceed by a traffic officer or traffic control signal.

(2) Stops required by sub. (1) shall be made in the following manner:

(a) If there is a clearly marked stop line, the operator shall stop his vehicle immediately before crossing such line.

(b) If there is no clearly marked stop line, the operator shall stop his vehicle immediately before entering the crosswalk on the near side of the intersection.

(c) If there is neither a clearly marked stop line nor a marked or unmarked crosswalk at the intersection or if the operator cannot efficiently observe traffic on the intersecting roadway from the stop made at the stop line or crosswalk, he shall, before entering the intersection, stop his vehicle at such point as will enable him to efficiently observe the traffic on the intersecting roadway.

(3) Every operator of a vehicle approaching an official stop sign at a railroad crossing shall, before proceeding on or over such crossing, stop his vehicle not less than 10 nor more than 30 feet from the nearest rail.

(4) (a) Every operator of a vehicle approaching an official stop sign or official temporary stop sign erected mid-block on or in the roadway by local authorities under s. 349.08 (5) shall cause such vehicle to stop not less than 10 nor more than 30 feet from such official sign except when directed to proceed by a traffic officer.

(b) As used in this subsection "mid-block" has the meaning given it in s. 346.33 (3).

History: 1965 c. 357.

A driver on an arterial highway has no duty to slow down in anticipation that the user of an intersecting highway will not

yield the right of way. *Lundquist v. Western Casualty & Surety Co.* 30 W (2d) 159, 140 NW (2d) 241.

346.47 When vehicles using alley or nonhighway access to stop. (1) The operator of a vehicle emerging from an alley or about to cross or enter a highway from any point of access other than another highway shall stop such vehicle immediately prior to moving on to the sidewalk or on to the sidewalk area extending across the path of such vehicle and shall yield the right of way to any pedestrian and upon crossing or entering the roadway shall yield the right of way to all vehicles approaching on such roadway.

(2) The operator of a vehicle on an alley shall stop such vehicle immediately before crossing or entering an intersecting alley, whether or not such intersecting alley crosses the alley on which the vehicle is being operated.

Where there is no sidewalk or sidewalk area a driver need not stop before entering a highway, but he must yield to approaching traffic. *Mayville v. Hart*, 14 W (2d) 292, 110 NW (2d) 923. See note to 346.28, citing *Bev v. Transport Indemnity Co.* 23 W (2d) 182, 127 NW (2d) 251.

346.48 Vehicles to stop for school busses loading or unloading children. (1) The operator of a vehicle which approaches from the front or rear any school bus which has stopped on a street or highway when the bus is equipped according to s. 347.25 (2) and when it is displaying flashing red warning lights, shall stop the vehicle not less than 20 feet from the bus and shall remain stopped until the bus resumes motion or the operator extinguishes the flashing red warning lights. This subsection does not apply to operators of vehicles proceeding in the opposite direction on a divided highway.

(2) (a) Except as provided in par. (b) the operator of a school bus equipped with flashing red warning lights as specified in s. 347.25 (2) shall actuate such lights at least 100 feet before stopping to load or unload pupils or other authorized passengers, and shall not extinguish such lights until loading or unloading is completed and persons who must cross the highway are safely across. Where the curb and sidewalk are laid on one side of the road only, the operator shall use the flashing red warning lights when loading or unloading passengers from either side.

(b) School bus operators shall not use the flashing red warning lights in:

1. Special school bus loading areas where the bus is entirely off the traveled portion of the highway;

2. Residence or business districts when pupils or other authorized passengers are to be loaded or unloaded where a sidewalk and curb are laid on both sides of the road.

(c) When a school bus is being used on a highway for purposes other than the actual transportation of pupils or other authorized passengers to or from a school or a school-approved activity, the flashing red warning lights shall not be used, and all markings on the front and rear of the bus indicating it is a school bus shall be removed or completely concealed.

History: 1965 c. 386.

Cross Reference: See 349.21 which authorizes towns, cities, villages and counties to provide for the use of flashing red lights by school busses in certain residence or business districts.

346.49 Penalty for violating sections 346.44 to 346.48. (1) Any person violating s. 346.46 or 346.47 may be fined not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.44, 346.45 or 346.48 may be fined not less than \$20 nor more than \$200 or imprisoned not more than 30 days or both.

History: 1967 c. 292.

RESTRICTIONS ON STOPPING AND PARKING.

346.50 Exceptions to stopping and parking restrictions. (1) The prohibitions against stopping or leaving a vehicle stand contained in ss. 346.51 to 346.54 and 346.55 (1) and (3) do not apply when:

(a) The vehicle becomes disabled while on the highway in such a manner or to such an extent that it is impossible to avoid stopping or temporarily leaving the vehicle in the prohibited place; or

(b) The stopping of the vehicle is necessary to avoid conflict with other traffic or to comply with traffic regulations or the directions of a traffic officer or traffic control sign or signal.

(c) The vehicle of a public utility, as defined in s. 196.01 (1), or a rural electric co-operative is stopped or left standing and is required for maintenance, installation, repair, construction or inspection of its facilities by the public utility or a rural electric co-operative when warning signs, flags, traffic cones, or flashing yellow lights or barricades, have been placed to warn approaching motorists of any obstruction to the traveled portion of the highway.

(2) An automobile bearing special registration plates issued under s. 341.14 (1) is exempt from any ordinance imposing time limitations on parking in any street or highway zone and parking lot, whether municipally owned or a municipal parking utility, with one-half hour or more limitation but otherwise is subject to the laws relating to parking. Where the time limitation on a metered stall is one-half hour or more, no meter payment is required. Parking privileges granted by this subsection are limited to the disabled veteran to whom the special plates were issued and to qualified operators acting under his express direction with the disabled veteran present.

(2a) An automobile bearing special registration plates issued under s. 341.14 (1a) is exempt from any ordinance imposing time limitations on parking in any street or highway zone and parking lot, whether municipally owned or a municipal parking utility, with one-half hour or more limitation but otherwise is subject to the laws relating to parking. Where the time limitation on a metered stall is one-half hour or more, no meter payment is required. Parking privileges granted by this subsection are limited to the person to whom the special plates were issued and to qualified operators acting under his express direction with the disabled person present.

History: 1961 c. 20, 401, 622; 1963 c. 332; 1967 c. 148.

346.51 Stopping, standing or parking outside of business or residence districts.

(1) No person shall park, stop or leave standing any vehicle, whether attended or unattended, upon the roadway of any highway outside a business or residence district when it is practical to park, stop or leave such vehicle standing off the roadway, but even the parking, stopping or standing of a vehicle off the roadway of such highway is unlawful unless the following requirements are met:

(a) An unobstructed width of at least 15 feet upon the roadway of such highway must be left opposite such standing vehicle for the free passage of other vehicles. This section shall not apply to busses used exclusively for the transportation of school children when such busses are loading or unloading such children where red flashing signal lights are used as required by s. 346.48 (2).

(b) Such standing vehicle must be capable of being seen by operators of other vehicles from a distance of 500 feet in each direction along such highway.

(2) This section also applies to vehicles or equipment used in highway maintenance or construction work unless the nature of the work is such as to require the stopping or standing of the vehicle or equipment on the roadway.

A driver who stops his car on the highway because of children crossing or about to cross is not negligent if a man of ordinary prudence similarly situated would reasonably conclude that the safety of the children required the stopping. *Mack v. Decker*, 24 W (2d) 219, 128 NW (2d) 455. Area within a city can be nonresidential or nonbusiness. Stopping a bus without pulling off where it would be possible to do so can be held to be causal negligence even though it was so stopped for some time before the collision. *Milwaukee & S. T. Corp. v. Royal Transit Co.* 29 W (2d) 620, 139 NW (2d) 595.

346.52 Stopping prohibited in certain specified places. (1) No person shall stop or leave standing any vehicle, whether attended or unattended and whether temporarily or otherwise, in any of the following places:

(a) Within an intersection;

(b) On a crosswalk;

(c) Between a safety zone and the adjacent curb, or within 15 feet of a point on the curb immediately opposite the end of a safety zone unless a different distance is clearly indicated by an official traffic sign or marker or parking meter;

(d) On a sidewalk or sidewalk area, except when parking in such place is clearly indicated by official traffic signs or markers or parking meters;

(e) Alongside or opposite any highway excavation or obstruction when such stopping or standing would obstruct traffic or when pedestrian traffic would be required to travel in the roadway;

(f) On the roadway side of any parked vehicle unless double parking is clearly indicated by official traffic signs or markers;

(g) Within 15 feet of the driveway entrance to a fire station or directly across the highway from such entrance;

(h) Upon any portion of a highway where and at the time when stopping or standing is prohibited by official traffic signs indicating the prohibition of any stopping or standing.

(2) During the hours of 7:30 a.m. to 4:30 p.m. during school days, no person shall stop or leave any vehicle standing, whether temporarily or otherwise, upon the near side of a through highway adjacent to a schoolhouse used for any children below the 9th grade. If the highway adjacent to such schoolhouse is not a through highway, the operator of a vehicle may stop upon the near side thereof during such hours, provided such stopping is temporary and only for the purpose of receiving or discharging passengers. This subsection shall not apply to cities when the common council thereof by ordinance permits parking on the near side of specified highways or streets adjacent to schoolhouses during specified hours.

History: 1967 c. 329.

346.53 Parking prohibited in certain specified places. No person shall stop or leave any vehicle standing in any of the following places except temporarily for the purpose of and while actually engaged in loading or unloading or in receiving or discharging passengers and while the vehicle is attended by a licensed operator so that it may promptly be moved in case of an emergency or to avoid obstruction of traffic:

- (1) In a loading zone;
- (2) In an alley in a business district;
- (3) Within 10 feet of a fire hydrant, unless a greater distance is indicated by an official traffic sign;
- (4) Within 4 feet of the entrance to an alley or a private road or driveway;
- (5) Closer than 15 feet to the near limits of a crosswalk;
- (6) Upon any portion of a highway where and at the time when parking is prohibited, limited or restricted by official traffic signs.

346.54 How to park and stop on streets. (1) Upon streets where stopping or parking is authorized or permitted, a vehicle is not lawfully stopped or parked unless it complies with the following requirements:

(a) Upon a street where traffic is permitted to move in both directions simultaneously and where angle parking is not clearly designated by official traffic signs or markers, a vehicle must be parked parallel to the edge of the street, headed in the direction of traffic on the right side of the street;

(b) Upon a one-way street or divided street where parking on the left side of the roadway is clearly authorized by official traffic signs or markers, vehicles shall be parked as indicated by such markers;

(c) Upon streets where angle parking is clearly authorized by official traffic signs or markers, vehicles shall be parked at the angle and within the spaces indicated.

(d) In parallel parking, a vehicle shall be parked facing in the direction of traffic with the right wheels within 12 inches of the curb or edge of the street when parked on the right side and with the left wheels within 12 inches of the curb or edge of the street when parked on the left side. In parallel parking, a vehicle shall be parked with its front end at least 2 feet from the vehicle in front and with its rear end at least 2 feet from the vehicle in the rear, unless a different system of parallel parking is clearly indicated by official traffic signs or markers.

(2) No person shall stop or leave a vehicle standing in violation of this section.

346.55 Other restrictions on parking and stopping. (1) No person shall stop or leave standing any vehicle on the left side of a highway except as provided in s. 346.54.

(2) No person shall stop or leave standing upon any highway any vehicle displayed for sale.

(3) No person shall, without the permission of the owner or lessee of any public or private property, leave or park any motor vehicle thereon contrary to a posted sign thereon, if there is in plain view on such property a "No Parking" sign, or a sign indicating limited or restricted parking. Owners or lessees of such property may prohibit parking, may restrict or limit parking and may permit parking by certain persons and prohibit it or limit it as to other persons.

346.56 Penalty for violating sections 346.51 to 346.55. (1) Any person violating s. 346.52 to 346.54 or 346.55 (3) may be fined not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.51 or 346.55 (1) or (2) may be fined not less than \$20 nor more than \$200 or imprisoned not more than 30 days or both.

History: 1967 c. 292.

SPEED RESTRICTIONS.

346.57 Speed restrictions. (1) **DEFINITIONS.** In this section, the following terms have the designated meanings:

(a) "Outlying district" means the territory contiguous to and including any highway within the corporate limits of a city or village where on each side of the highway within any 1,000 feet along such highway the buildings in use for business, industrial or residential purposes fronting thereon average more than 200 feet apart.

(b) "Semiurban district" means the territory contiguous to and including any highway where on either side of the highway within any 1,000 feet along such highway the buildings in use for business, industrial or residential purposes fronting thereon average not more than 200 feet apart or where the buildings in use for such purposes fronting on both sides of the highway considered collectively average not more than 200 feet apart.

(2) **REASONABLE AND PRUDENT LIMIT.** No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard for the actual and potential hazards then existing. The speed of a vehicle shall be so controlled as may be necessary to avoid colliding with any object, person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and using due care.

(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 or other pedestrians, and when special hazard exists with regard to other traffic or by reason of weather or highway conditions.

(4) **FIXED LIMITS.** In addition to complying with the speed restrictions imposed by subs. (2) and (3), no person shall drive a vehicle at a speed in excess of the following limits unless different limits are indicated by official traffic signs:

(a) 15 miles per hour when passing a schoolhouse at those times when children are going to or from school or are playing within the sidewalk area at or about the school.

(b) 15 miles per hour when passing an intersection properly marked with a "school crossing" sign of a type approved by the state highway commission when children are crossing or are about to cross the highway.

(c) 15 miles per hour when passing a safety zone occupied by pedestrians and at which a public passenger vehicle has stopped for the purpose of receiving or discharging passengers.

(d) 15 miles per hour in any alley.

(e) 25 miles per hour on any highway within the corporate limits of a city or village, other than on highways in outlying districts in such city or village.

(f) 35 miles per hour in any outlying district within the corporate limits of a city or village.

(g) 35 miles per hour on any highway in a semiurban district outside the corporate limits of a city or village.

(h) In the absence of any other fixed limits or the posting of limits as required or authorized by law, 55 miles per hour during hours of darkness and 65 miles per hour at other times.

(i) 15 miles per hour on any city or village street, except a state trunk highway or connecting street, within, contiguous to or adjacent to a public park or recreation area when children are going to or from or are playing within such area, when the local authority has enacted an ordinance regulating such traffic and has properly marked such area with movable traffic signals which conform to rules of the state highway commission erected at such points as said authority deems necessary and at those points on the streets concerned where persons traversing the same would enter such area from an area where a different speed limit is in effect.

(j) 35 miles per hour on any town road where on either side of the highway within any 1,000 feet along such highway the buildings in use for business, industrial or residential purposes fronting thereon average less than 150 feet apart, provided the town board has adopted an ordinance determining such speed limit and has posted signs at such points as the town board deems necessary to give adequate warning to users of the town road.

(5) **ZONED AND POSTED LIMITS.** In addition to complying with the speed restrictions imposed by subs. (2) and (3), no person shall drive a vehicle in excess of any speed limit established pursuant to law by state or local authorities and indicated by official signs.

(6) **CERTAIN STATUTORY LIMITS TO BE POSTED.** On state trunk highways and connecting streets and on county trunk highways or highways marked and signed as county trunks, the speed limits specified in sub. (4) (e) and (f) are not effective unless official signs giving notice thereof have been erected by the authority in charge of maintenance of the highway in question. The speed limit specified in sub. (4) (g) is not effective on any highway unless official signs giving notice thereof have been erected by the authority in charge of maintenance of the highway in question. The signs shall be erected at such points as the authority in charge of maintenance deems necessary to give adequate warning to users of the highway in question, but an alleged failure to post a highway as required by this subsection is not a defense to a prosecution for violation of the speed limits specified in sub. (4) (e), (f) or (g), or in an ordinance enacted in conformity therewith, if official signs giving notice of the speed limit have been erected at those points on the highway in question where a person traversing such highway would enter it from an area where a different speed limit is in effect.

Where plaintiff was injured while crossing a highway at a place other than a crosswalk, the court properly refused to include the second sentence of (2) in its instruction on defendant's speed. *Field v. Vinograd*, 10 W (2d) 500, 103 NW (2d) 500. A car operator is not necessarily negligent in proceeding ahead over pavement which he has observed by preview is clear of obstructions, even though thereafter blinded by approaching lights of an oncoming car. *Cary v. Klabunde*, 12 W (2d) 267, 107 NW (2d) 142. A crossover between the roadways of a divided highway does not constitute an "intersection" and hence a driver on the highway need not reduce his speed. *Mayville v. Hart*, 14 W (2d) 292, 110 NW (2d) 923. Proof of a violation of (2) and (3) does not require showing a collision with an object, person, vehicle or other conveyance on or entering the highway. 52 Atty. Gen. 30.

346.58 Special speed restrictions for certain vehicles. In addition to complying with other speed restrictions imposed by law, no person shall drive any of the following types of vehicles at a speed in excess of the limits fixed by this section:

(1) 15 miles per hour for any vehicle equipped with metal or solid rubber tires. "Metal tire" means a tire the surface of which in contact with the highway is wholly or partially of metal or other hard, nonresilient material; "solid rubber tire" means a tire made of rubber but not inflated with compressed air.

(2) 45 miles per hour for any commercial vehicle or combination of commercial vehicles, except motor busses, having a gross weight of more than 10,000 pounds.

History: 1963 c. 209.

346.59 Minimum speed regulation. (1) No person shall drive a motor vehicle at a speed so slow as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or is necessary to comply with the law.

(2) The operator of a vehicle moving at a speed so slow as to impede the normal and reasonable movement of traffic shall, if practicable, yield the roadway to an overtaking vehicle whenever the operator of the overtaking vehicle gives audible warning with his warning device and shall move at a reasonably increased speed or yield the roadway to overtaking vehicles when directed to do so by a traffic officer.

346.595 Motor-driven cycles. (1) All motor vehicles including motor-driven cycles are entitled to the full use of a traffic lane and no vehicle shall be driven or operated in such a manner so as to deprive any other vehicle of the full use of a traffic lane, with the exception that motor-driven cycles may, with the consent of both drivers, be operated not more than 2 abreast in a single lane.

(2) No person shall ride any motor-driven cycle while in a side-saddle position.

(3) No passenger shall ride a motor-driven cycle who when properly seated cannot rest his feet on the foot rests or pegs.

(4) No passenger shall ride in front of the operator on a motor-driven cycle.

(5) The headlamps on motor-driven cycles must be lighted whenever the cycle is in operation.

History: 1967 c. 292.

346.60 Penalty for violating sections 346.57 to 346.595. (1) Any person violating s. 346.59 may be fined not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.57 (4) (d) to (h) or (5) or 346.58 may be fined not less than \$20 nor more than \$200 or imprisoned not more than 30 days or both.

(3) Any person violating s. 346.57 (2), (3) or (4) (a) to (c) may be fined not less than \$40 nor more than \$300 or imprisoned not more than 6 months or both for the first offense and may be fined not less than \$80 nor more than \$600 or imprisoned

not more than one year in county jail or both for the 2nd or subsequent conviction within a year.

(4) Any person violating s. 346.595 may be fined not less than \$20 nor more than \$200 or imprisoned not more than 30 days or both.

History: 1967 c. 292.

RECKLESS AND DRUNKEN DRIVING.

346.61 Applicability of sections relating to reckless and drunken driving. In addition to being applicable upon highways, ss. 346.62 to 346.64 are applicable upon all premises held out to the public for use of their motor vehicles, whether such premises are publicly or privately owned and whether or not a fee is charged for the use thereof.

346.62 Reckless driving. (1) It is unlawful for any person to endanger the safety of his own person or property or the safety of another's person or property by a high degree of negligence in the operation of a vehicle.

(2) It is unlawful for any person to cause injury to another person by a high degree of negligence in the operation of a vehicle.

(3) A high degree of negligence is conduct which demonstrates ordinary negligence to a high degree, consisting of an act which the person should realize creates a situation of unreasonable risk and high probability of serious property damage or of death or great bodily harm to himself or another.

346.63 Operating under influence of intoxicant. (1) It is unlawful for any of the following to drive or operate a motor vehicle:

(a) A person who is under the influence of an intoxicant or under the influence of a dangerous or narcotic drug;

(b) A person who is an habitual user of dangerous or narcotic drugs;

(c) A person who is subject to epilepsy and who does not hold a valid operator's license issued pursuant to s. 343.09.

(2) It is unlawful for any person to cause injury to another person by the negligent operation of a vehicle while under the influence of an intoxicant. No person shall be convicted under this subsection except upon proof of causal negligence in addition to such operation while under the influence of an intoxicant.

(3) In this section, "dangerous drug" means any drug defined in s. 151.07 (1) (a).

(4) In this section, unless the context requires otherwise, "drive" or "operate" means exercising physical control over the vehicle's speed and direction while in motion.

History: 1967 c. 292.

Improper driving is not an element of (2d) 411, 124 NW (2d) 690.
the offense. Milwaukee v. Johnston, 21 W

346.64 Employment of drunken operators. (1) No person who owns or has direct control of any vehicle operated upon a highway for the conveyance of passengers for hire shall employ as an operator of such vehicle and retain in his employment any person who is addicted to the excessive use of intoxicating liquor or to the use of a narcotic or dangerous drug. In addition to being subject to fine or imprisonment as prescribed by law, such person shall forfeit \$5 for each day such operator is retained in his employ.

(2) Upon conviction of an operator of any vehicle operated for the conveyance of passengers for hire, for operating such vehicle while under the influence of an intoxicant, the owner or person having direct control of such vehicle shall discharge such operator from such employment. No person shall employ or retain in employment as an operator of a vehicle operated upon a highway for the conveyance of passengers for hire any person who has been so convicted within the preceding 6-month period. In addition to being subject to fine or imprisonment as prescribed by law, such person shall forfeit \$5 for each day such operator is retained in his employ contrary to the provisions of this subsection.

346.65 Penalty for violating sections 346.62 to 346.64. (1) Any person violating any provision of s. 346.62 (1) or 346.64 may be fined not less than \$25 nor more than \$200 or imprisoned not more than 6 months or both for the first offense and, for the second or subsequent violation of s. 346.62 (1) within 4 years and the second or subsequent violation of s. 346.64 within one year, may be fined not less than \$50 nor more than \$500 or imprisoned not more than one year in county jail or both.

(2) Any person violating s. 346.63 (1) may be fined not more than \$200 or imprisoned not more than 6 months or both for the first offense and, upon the second or subsequent conviction within 5 years, shall be imprisoned not less than 5 days nor more than one year and in addition may be fined not more than \$200.

(3) Any person violating any provision of s. 346.62 (2) or 346.63 (2) may be imprisoned in county jail for not less than 30 days nor more than one year.

ACCIDENTS AND ACCIDENT REPORTS.

346.66 Applicability of sections relating to accidents and accident reporting. In addition to being applicable upon highways, ss. 346.67 to 346.70 are applicable upon all premises held out to the public for use of their motor vehicles, whether such premises are publicly or privately owned and whether or not a fee is charged for the use thereof. Such sections do not apply to accidents involving only vehicles propelled by human power or drawn by animals.

346.67 Duty upon striking person or attended or occupied vehicle. (1) The operator of any vehicle involved in an accident resulting in injury to or death of any person or in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the following requirements:

(a) He shall give his name, address and the registration number of the vehicle he is driving to the person struck or to the operator or occupant of or person attending any vehicle collided with; and

(b) He shall, upon request and if available, exhibit his operator's license to the person struck or to the operator or occupant of or person attending any vehicle collided with; and

(c) He shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

346.68 Duty upon striking unattended vehicle. The operator of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the operator and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck, a written notice giving the name and address of the operator and of the owner of the vehicle doing the striking and a statement of the circumstances thereof.

346.69 Duty upon striking property on or adjacent to highway. The operator of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's license and shall make report of such accident when and as required in s. 346.70.

346.70 Duty to report accident. (1) **IMMEDIATE NOTICE OF ACCIDENT.** The operator of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of \$100 or more shall immediately by the quickest means of communication give notice of such accident to the police department, the sheriff's department or the traffic department of the county or municipality in which the accident occurred or to a state traffic patrol officer. In this subsection, "injury" means injury to a person of a physical nature resulting in death or the need of first aid or attention by a physician or surgeon, whether or not first aid or medical or surgical treatment was actually received; "total property damage" means the sum total cost of putting the property damaged in the condition it was before the accident, if repair thereof is practical, and if not practical, the sum total cost of replacing such property.

(2) **WRITTEN REPORT OF ACCIDENT.** Within 10 days after an accident of the type described in sub. (1), the operator of a vehicle involved in such accident shall forward a written report of the accident to the motor vehicle department. The department may accept or require a report of the accident to be filed by an occupant or the owner in lieu of a report from the operator. Every accident report required to be made in writing shall be made on the appropriate form approved by the department and shall contain all of the information required therein unless not available, including information sufficient to enable the department to determine whether the requirements for deposit of security under s. 344.14 are inapplicable by reason of the existence of insurance or other exceptions specified in ch. 344.

(3) **WHO TO REPORT WHEN OPERATOR UNABLE.** Whenever the operator of a vehicle is physically incapable of giving the notice and making the report required by subs. (1)

and (2), and there was another occupant in the vehicle at the time of the accident capable of giving the notice and making the report, such occupant shall give or cause such notice to be given and shall make the report. If there is no other occupant of the vehicle or if such occupant is physically or mentally incapable of giving the notice and making the report, the owner of the vehicle involved in the accident shall, as soon as he learns of the accident, give the notice and make the report required by subs. (1) and (2).

(4) **POLICE AND TRAFFIC AGENCIES TO REPORT.** (a) Every law enforcement agency investigating or receiving a report of a traffic accident resulting in injury to or death of a person or total property damage to an apparent extent of \$100 or more shall forward a report of such accident to the motor vehicle department within 10 days after the date of such accident.

(b) Such reports shall be made on a uniform traffic accident report form prescribed by the committee created by par. (c) and supplied by the commissioner in sufficient quantities to meet the requirements of the department and the law enforcement agency.

(c) The commissioner shall appoint a committee, composed of:

1. Himself as chairman.
2. A state traffic patrol officer appointed by the commissioner.
3. A member of the Wisconsin sheriffs' and deputy sheriffs' association designated by the president thereof.
4. A member of the county traffic patrol association designated by the president thereof.
5. A member of the chiefs of police association designated by the president thereof.
6. A member of the state bar of Wisconsin designated by the president thereof.
7. A member of the Wisconsin council of safety designated by the president thereof.

(d) If any appointment is not made by October 1, 1961, the commissioner of motor vehicles shall designate the appointee from the proper category.

(e) The committee shall meet at the call of the chairman, a majority shall constitute a quorum, and no members shall receive any compensation for their services or reimbursement for expenses.

(f) Notwithstanding s. 346.73, any person may with proper care, during office hours, and subject to such orders or regulations as the custodian thereof prescribes, examine or copy such uniform traffic accident reports retained by local authorities.

(g) The department, upon request of local enforcement agencies, shall make available to them compilations of data obtained from such reports.

(5) **FALSIFYING REPORTS.** No person shall falsely make and file any accident report or knowingly make a false statement in any accident report which is filed pursuant to this section.

History: 1961 c. 201; 1965 c. 370.

Operator of motor vehicle involved in accident with more than \$100 damage to own vehicle only, must give notice and make report. Assessment of demerit points depends on interpretation of administrative rules. 52 Atty. Gen. 279.

346.71 Coroners to report; require blood specimen. (1) Every coroner or other official performing like functions shall on or before the tenth day of each month report in writing to the motor vehicle department the death of any person within his jurisdiction during the preceding calendar month as the result of an accident involving a motor vehicle and the circumstances of such accidents.

(2) In cases of death involving a motor vehicle in which the decedent was the operator of a motor vehicle or a pedestrian 16 years of age or older and who died within 6 hours of the time of the accident, the coroner shall require that a blood specimen of at least 10 cc. be withdrawn from the body of the decedent within 12 hours after his death, by the coroner or by a physician so designated by the coroner or by a qualified person at the direction of such physician. All morticians shall obtain a release from the coroner prior to proceeding with embalming any body coming under the scope of this section. The blood so drawn shall be forwarded to a laboratory approved by the state board of health for analysis of the alcoholic content of such blood specimen. The coroner causing the blood to be withdrawn shall be notified of the results of each analysis made and shall forward the results of each such analysis to the state board of health. The state board of health shall keep a record of all such examinations to be used for statistical purposes only. The cumulative results of the examinations, without identifying the individuals involved, shall be disseminated and made public by the state board of health.

History: 1967 c. 292.

346.72 Garages to keep record of repairs of accident damage. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident shall keep a record of the date such vehicle is

brought in and the nature of the repair, the name and address of the owner, and the make, year and registration number of the vehicle. Such record shall be kept in the place of business during business hours and shall be open to inspection by any traffic officer. Shop records normally kept by garages and repair shops are adequate for the purpose of this section if they contain the information specified in this section.

346.73 Accident reports confidential. (1) All required written accident reports, including those required by county and municipal authorities and reports supplemental thereto, are without prejudice to the individual so reporting. Reports made to the motor vehicle department are for the confidential use of the department and for the confidential use of the state highway commission for highway engineering purposes. Written reports made to county and municipal authorities are for the confidential use of such authorities. Notwithstanding the confidential nature of written accident reports, the motor vehicle department or county or municipal authority may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident.

(2) No written accident report required to be filed with the motor vehicle department or with a county or municipal authority shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department shall furnish upon demand of any person who has or claims to have made such a report, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that such a report be made to the department.

Discussion of the confidentiality of various types of reports and records filed in public offices. 52 Atty. Gen. 242.

346.74 Penalty for violating sections 346.67 to 346.73. (1) Any person violating s. 346.72 may be fined not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.70 (1), (2) or (3), 346.71 or 346.73 may be fined not less than \$40 nor more than \$200 for the first offense and not less than \$100 nor more than \$500 for the 2nd or subsequent conviction within a year.

(3) Any person violating any provision of s. 346.68 or 346.69 may be fined not more than \$200 or imprisoned not more than 6 months or both.

(4) Any person violating s. 346.70 (5) may be fined not less than \$25 nor more than \$50 or imprisoned not less than 30 nor more than 60 days or both.

(5) Any person violating any provision of s. 346.67 may be fined not more than \$200 or imprisoned not more than 6 months or both if the accident did not involve death or injury to a person and may be fined not less than \$5 nor more than \$5,000 or imprisoned not less than 10 days nor more than one year if the accident involved death or injury to a person.

History: 1967 c. 292.

BICYCLES AND PLAY VEHICLES.

346.77 Responsibility of parent or guardian for violation of bicycle and play vehicle regulations. No parent or guardian of any child shall authorize or knowingly permit such child to violate any of the provisions of ss. 346.78 to 346.81.

346.78 Play vehicles not to be used on roadway. No person riding upon any coaster, roller skates, sled, toboggan or toy vehicle shall attach the same or himself to any vehicle upon a roadway or go upon any roadway except while crossing a roadway at a crosswalk.

346.79 Special rules applicable to bicycles. Whenever a bicycle is operated upon a highway, the following rules apply:

(1) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(2) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(3) No person operating a bicycle shall carry any package, bundle or article which prevents the operator from keeping at least one hand upon the handle bars.

(4) No person riding a bicycle shall attach himself or his bicycle to any vehicle upon a roadway.

346.80 Riding bicycle on roadway. (1) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(2) Persons riding bicycles upon a roadway shall ride single file.

(3) Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

346.81 Lamps and other equipment on bicycles. (1) No person shall operate a bicycle upon a highway during hours of darkness unless such bicycle is equipped with a lamp on the front emitting a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear so mounted and maintained as to be visible from all distances from 50 to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 300 feet to the rear may be used in addition to the red reflector.

(2) No person shall operate a bicycle upon a highway unless it is equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement and with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, but a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

346.82 Penalty for violating sections 346.77 to 346.81. (1) Any person violating any provision of ss. 346.77, 346.79 (1) to (3), 346.80 or 346.81 (2) may be fined not more than \$20.

(2) Any person violating any provision of s. 346.78 or 346.79 (4) may be fined not less than \$10 nor more than \$20 for the first offense and not less than \$25 nor more than \$50 for the second or subsequent conviction within a year.

(3) Any person violating s. 346.81 (1) may be fined not less than \$10 nor more than \$200 or imprisoned not more than 30 days or both.

MISCELLANEOUS RULES.

346.87 Limitations on backing. The operator of a vehicle shall not back the same unless such movement can be made with reasonable safety.

346.88 Obstruction of operator's view or driving mechanism. (1) No person shall drive a vehicle when it is so loaded or when there are in the front seat such number of persons, or any persons so situated, as to obstruct the view of the operator to the front or to the sides or as to interfere with the operator having free use of both hands and feet to the operating mechanisms or controls of the vehicle.

(2) No passenger in a vehicle shall ride in such a position as to interfere with the operator's view ahead or to the sides or to interfere with the operator's control of the operating mechanism of the vehicle.

(3) (a) No person shall drive any motor vehicle with any sign, poster or other non-transparent material upon the front windshield, front side wings, side windows in the driver's compartment or rear window of such vehicle other than a certificate or other sticker issued by order of a governmental agency. Such permitted sticker shall not cover more than 15 square inches of glass surface and shall be placed in the lower left-hand corner of the windshield; the left corner being on the driver's left when seated behind the wheel.

(b) No person shall drive any motor vehicle upon a highway with any object so placed or suspended in or upon the vehicle so as to obstruct the driver's clear view through the front windshield.

(c) No person shall drive any motor vehicle upon a highway so loaded or with any object so placed or suspended in or upon the vehicle so as to obstruct the driver's clear vision through the rear window unless such vehicle is equipped with an outside rear view mirror meeting the requirements of s. 347.40.

(d) Signal lamps used by authorized emergency vehicles shall not be considered a violation of this section.

(4) The windshield, side wings and side and rear windows of a motor vehicle shall be kept reasonably clean at all times.

History: 1961 c. 662.

346.89 Inattentive driving. (1) No person while driving a motor vehicle shall be so engaged or occupied as to interfere with the safe driving of such vehicle.

(2) No person shall drive any motor vehicle equipped with any device for visually receiving a television broadcast when such device is located in the motor vehicle at any point forward of the back of the operator's seat or when such device is visible to the operator while driving the motor vehicle.

346.90 Following emergency vehicle. The operator of any vehicle other than one on official business shall not follow an authorized emergency vehicle responding to a call

or alarm closer than 500 feet or drive into or park his vehicle within the block where fire apparatus has stopped in response to an alarm.

346.91 Crossing fire hose. No person without the consent of the fire department official in command shall drive a vehicle over any unprotected hose of a fire department when such hose is laid down on any street, private driveway or streetcar track to be used at any fire or alarm of fire.

346.92 Illegal riding. (1) No person shall drive a vehicle when any person other than an employe engaged in the necessary discharge of his duty is upon any portion thereof not designed or intended for the use of passengers.

(2) No person other than an employe engaged in the necessary discharge of his duty shall ride upon any portion of a vehicle not designed or intended for the use of passengers.

(3) This section does not apply to persons riding within truck bodies in spaces intended for merchandise or to the operator of any such vehicle.

346.93 Intoxicants in vehicle carrying minor. No person under the age of 21 years, unless he is a parent, guardian or spouse of the minor, may knowingly possess, transport or have under his control any intoxicating liquor in any motor vehicle, or knowingly possess, transport or have under his control any malt beverage in any motor vehicle while any person under 18 years of age is a passenger or present in such motor vehicle unless such person is employed by a liquor licensee, wholesaler, retailer, distributor, manufacturer or rectifier and is possessing, transporting or having such beverage in a motor vehicle under his control during the regular working hours and in the course of his employment.

346.94 Miscellaneous prohibited acts. (1) **DRIVING ON SIDEWALK.** The operator of a vehicle shall not drive upon any sidewalk area except at a permanent or temporarily established driveway unless permitted to do so by the local authorities.

(2) **RACING.** No operator of a motor vehicle shall participate in any race or speed or endurance contest upon any highway.

(3) **LEADING ANIMAL FROM MOTOR VEHICLE.** No person shall lead any animal upon a highway from a motor vehicle or from a trailer or semitrailer drawn by a motor vehicle.

(4) **THROWING MISSILE IN VEHICLE.** No person shall throw any missile, circular or pamphlet at the occupants of any vehicle or throw or place any missile, circular or pamphlet in or on any vehicle, whether or not the vehicle is occupied.

(5) **PLACING INJURIOUS SUBSTANCE ON HIGHWAY.** No person shall place or cause to be placed upon a highway any foreign substance which is or may be injurious to any vehicle or part thereof.

(6) **DEBRIS ON PUBLIC OR PRIVATE PROPERTY.** No person shall throw or deposit any type of debris or waste material on or along any highway or on any other public or private property.

(6m) **PERMITTING THROWING OF DEBRIS ON HIGHWAY.** No operator of any vehicle shall permit to be thrown or deposited from such vehicle any type of debris or waste material.

(7) **SPILLING LOADS OF WASTE OR FOREIGN MATTER.** The operator of every vehicle transporting waste or foreign matter on the highways of this state shall provide adequate facilities to prevent such waste or foreign matter from spilling on or along the highways.

(8) **TRANSPORTING PERSONS IN MOBILE HOMES OR BOATS.** No person shall operate a motor vehicle towing any mobile home or boat on a trailer upon a highway when any person is in such mobile home or boat.

(9) **ALIGHTING FROM OR BOARDING MOVING VEHICLE.** No person shall alight from or board any vehicle when such vehicle is in motion.

(10) **CLINGING TO MOVING VEHICLE.** No person riding upon a motor driven cycle shall attach the same or himself to any other moving vehicle upon a highway.

(11) **TOWING SLEDS, ETC.** No person shall operate any vehicle or combination of vehicles upon a highway when such vehicle or combination of vehicles is towing any toboggan, sled, skis, bicycle, skates or toy vehicle bearing any person.

History: 1961 c. 86, 384, 621.

Elements constituting "racing" under (2) discussed. *Madison v. Geier*, 27 W (2d) 637, 135 NW (2d) 761.

(5) does not protect persons from physical injury; it was designed to protect ve-

hicles. (7) is not a safety statute; it was designed as an anti-littering statute. *Kalkopf v. Donald Sales & Mfg. Co.* 33 W (2d) 247, 147 NW (2d) 277.

346.95 Penalty for violating sections 346.87 to 346.94. (1) Any person violating s. 346.87, 346.88, 346.89 (2), 346.90 to 346.92 or 346.94 (1), (3), (9), (10) or (11) may

be fined not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.89 (1), 346.93 or 346.94 (2), (4) or (7) may be fined not less than \$20 nor more than \$400 or imprisoned not more than 60 days or both.

(3) Any person violating s. 346.94 (5), (6) or (6m) shall be fined \$50 for each offense.

(4) Any person violating s. 346.94 (8) may be fined not to exceed \$20 for the first offense or not to exceed \$50 for each subsequent offense.

History: 1961 c. 36, 384, 621, 662; 1963 c. 6; 1967 c. 224, 292.

Note: Sub. (3) is printed as amended by Chapter 292, laws of 1967. This act did not reflect an earlier amendment by Chapter 224, laws of 1967. See the Preface, paragraph 6 (c), for the printing rule followed in such cases.