

## CHAPTER 86

## MISCELLANEOUS HIGHWAY PROVISIONS

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**86.01 Materials left in highway; penalty.** It shall be unlawful for any highway superintendent or any other person to leave any materials in the traveled portion of any highway not closed to public travel in piles or rows after sunset without placing within one hour after sunset upon such piles or at the end of such rows a lighted lantern containing sufficient oil or fuel to keep the same burning until daylight. Any person violating any of the provisions of this section shall be liable to a fine of not less than \$10 nor more than \$100.

**86.02 Injury to highway.** Any person who shall injure any highway by obstructing or diverting any creek or watercourse or sluiceway, or by dragging logs or timber thereon, or by any other act, shall be liable in treble damages, to be recovered by the political division chargeable with the maintenance of highway injured, and the amount recovered shall be credited to the highway maintenance fund.

**86.021 Highways, cultivation of; injury by farm machinery.** (1) No person shall, within the limits of any public highway, plow, cultivate or otherwise work any lands in such manner as to interfere with or obstruct the drainage in any public highway ditch, nor shall any person operate any farm or other machinery on, over, along or across any public highway in such

manner as to materially damage the said highway.

(2) Any person who shall violate the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$10 nor more than \$50, or by imprisonment in the county jail not less than 10 days nor more than 30 days, and shall in addition pay the whole cost of restoring the ditch or highway, or both, to their former condition.

**86.022 Obstructing highway with embankment or ditch.** Any person who shall wilfully or maliciously make any ditch, depression or embankment or place any obstruction in any public highway intended or calculated to impede or incommode the use of such highway, or who shall place any obstruction in any ditch constructed to drain any highway, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$10 nor more than \$100.

**86.025 Camping on highways.** It shall be unlawful for any person or persons to camp in wagons, tent or otherwise on the public highways or lands adjacent thereto, after a notice to remove therefrom by the owners of such adjacent lands, or the owner of land abutting on the highway, or by a member of the board of

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supervisors or any trustee of any town or village where such camping place is made. Any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding \$10, or imprisoned in the county jail not exceeding 30 days, or both.

**86.03 Trees on and adjacent to highway.**

(1) **REMOVAL OF FALLEN TREES.** If any tree falls from adjacent land into any highway, the owner or occupant of the land shall immediately remove the tree from the highway. It shall be the duty of every highway patrolman, street commissioner, or other officer in charge of the maintenance of streets or highways, to remove from any highway any fallen tree or trees therein.

(2) **OWNERSHIP.** All trees on land over which any highway is laid out shall be for the use of the owner of the land or person otherwise entitled thereto, except trees that have been acquired by and for the public in the acquisition of the highway right of way and except such trees within the highway as may be requisite to make or repair the highways on the land or within one mile of the same; but no trees reserved for shade or ornament, unless acquired by the public, shall be used for such purpose.

(3) **PLANTING TREES AND SHRUBS IN HIGHWAY.** Any person owning or occupying land adjoining any highway may, with the approval of the public authority maintaining the highway, plant, cultivate and maintain trees, shrubs or hedges on the side of the highway contiguous to and within 10 feet of his land. Such trees, shrubs or hedges shall be cut or removed only by the owner or occupant of the abutting land or by the public authority having control of the highway.

(4) **CUTTING OR INJURING TREES ON HIGHWAY.** No person shall cut down, break, girdle, bruise the bark or in any other manner injure, or allow any animal under his control to injure, any public or private trees, shrubs or hedges growing within the highway, except as the owner thereof or the public authority maintaining the highway may cut down, trim and remove trees, shrubs and hedges for the purpose of and conducting to the benefit and improvement of the owner's land or the highway facility.

(5) **MUTILATION OF TREES.** It shall be unlawful for any person to injure, mutilate, cut down or destroy any shade tree growing on or within any street or highway in any incorporated village in this state, unless express permission so to do be first granted by the board of trustees of such village.

(6) **FINES.** Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof

shall be punished by a fine not to exceed \$25 for each tree or shrub damaged, felled or destroyed.

**86.04 Highway encroachments. (1)**

**ORDER FOR REMOVAL.** If any highway right of way shall be encroached upon, under or over by any fence, stand, building or any other structure or object, and including encroachments caused by acquisition by the public of new or increased widths of highway right of way, the highway commission (in case of a state trunk highway), the county highway committee (in case of a county trunk highway), or the city council, village or town board (in case of a street or highway maintained by or under the authority of any city, village or town) may order the occupant or owner of the land through or by which such highway runs, and to which the encroachment shall be appurtenant, to remove the same beyond the limits of such highway within 30 days. The order shall specify the extent and location of the encroachment with reasonable certainty, and shall be served upon such occupant or owner.

(2) **NONREMOVAL.** If the occupant or owner upon whom the order is served shall not deny such encroachment, under sub. (3), and the encroachment is not removed within 30 days after the service of such order, the occupant or owner shall forfeit \$1 for every day after the expiration of that time during which the encroachment continues. An action to recover such penalty may be brought in any court of record in the county. In all cases where a judgment is rendered, the judgment shall order that the occupant or owner remove the encroachment within the time fixed by the judgment, and if he fails to obey the order, the highway commission, county highway committee, or city council, village or town board, as appropriate, may remove the encroachment and recover from the occupant or owner the cost thereof.

(3) **DENIAL OF ENCROACHMENT, PROCEDURE.** If, within 30 days after service of the order issued under sub. (1) upon him, the owner or occupant delivers a denial in writing of the alleged encroachment to the ordering body, or fails to make a denial, the ordering body may commence an action to remove the encroachment in a court of record in the county where the property is located.

Cross Reference: For highway obstructions see 86.022

**86.05 Entrances to highways restored.**

Whenever it is necessary, in making any highway improvement to cut or fill or otherwise grade the highway in front of any entrance to abutting premises, a suitable entrance to the premises shall be constructed as a part of the improvements; and if the premises are divided by the

highway, then one such entrance shall be constructed on each side of the highway. Thereafter each entrance shall be maintained by the owner of the premises. During the time the highway is under construction, the state, county, city, village or town shall not be responsible for any damage that may be sustained through the absence of an entrance to any such premises.

**86.06 Highways closed to travel; penalties.** (1) Whenever any highway is impassable or unsafe for travel or during the construction or repair of any such highway and until it is ready for traffic the authorities in charge of the maintenance or construction thereof may keep it closed by maintaining barriers at each end of the closed portion. The barriers shall be of such material and construction and so placed as to indicate that the highway is closed and shall be lighted at night.

(2) Any person who, without lawful authority, removes, takes down, alters the position of, destroys, passes over or beyond any barrier so erected, or travels with any vehicle upon any portion of a highway closed by barriers as in this section provided, or walks or travels in any manner upon the materials placed thereon as part of the repair or construction work, shall be liable to a fine of not less than \$10 nor more than \$100, or to imprisonment not less than 10 nor more than 60 days, or both, and in addition thereto shall be liable for all damages done to the highway, said damages to be recovered by such governmental agency.

**86.07 Depositing rubbish or digging in highways or using bridges for advertising.**

(1) Any person who throws, leaves or deposits any weeds, sod, brush or other waste or rubbish in any highway shall be fined not less than \$10 nor more than \$200 or imprisoned not more than 30 days or both; and every person who draws, paints, prints or pastes upon any culvert, bridge or guard rail on any highway shall be liable to a like fine.

(2) No person shall make any excavation or fill or install any culvert or make any other alteration in any highway or in any manner disturb any highway or bridge without a permit therefor from the highway authority maintaining the highway. Such permit shall contain the statement and be subject to the condition that the work shall be constructed subject to such rules and regulations as may be prescribed by said authority and be performed and completed to its satisfaction, and in the case of temporary alterations that the highway or bridge shall be restored to its former condition, and that the permittee shall be liable to the town or county or state, as the case may be, for all damages which

occur during the progress of said work or as a result thereof. Nothing herein shall abridge the right of the highway commission or the county board or its highway committee to make such additional rules, regulations and conditions not inconsistent herewith as may be deemed necessary and proper for the preservation of highways, or for the safety of the public, and to make the granting of any such permit conditional thereon. If any culvert is installed or any excavation or fill or any other alteration is made in violation of the provisions of this subsection, the highway may be restored to its former condition by the highway authority in charge of the maintenance thereof; and any person who violates this subsection shall be punished by a fine of not less than \$5 nor more than \$100, or by imprisonment not exceeding 6 months, or both.

(2a) The restriction or depriving of used access to highways from abutting lands through the use of posts under any program to delineate driveways is prohibited.

(3) The prohibitions in this section do not apply to highway authorities in the performance of their duties.

**86.075 Highway authorities to notify drainage board of highway construction.**

Whenever a highway crossing any draining ditch of a drainage district governed by ch. 88 is being constructed or reconstructed or a culvert in any such ditch is being replaced, the highway authority in charge of such work shall consult with the drainage board having jurisdiction of such district for the purpose of determining the depth at which such drainage ditch was laid out. If any culvert or similar opening in a highway is installed at a grade higher than the depth at which such drainage ditch was laid out, the expenses involved in any future lowering of the culvert pursuant to s. 88.68 (4) shall be borne by the unit of government in charge of maintenance of the highway unless the highway authority in charge of the installation was misled by the drainage board as to the proper grade at which to install the culvert. This section applies only to work done after January 1, 1965.

**86.08 Dust-free surfacing at licensed dairy or meat packing plants.**

(1) The duly constituted authority charged with the maintenance of any highway not having a dust-free surface shall cause the main traveled portion thereof within 400 feet of any licensed dairy or meat packing plant to be rendered dust-free by palliative treatment or an improved surface approved by the highway commission. The cost of such treatment or surface shall be paid from the funds for maintenance or improvement of highways which shall be made available by the

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division of government responsible for the highway.

(2) If such treatment or surface is not applied by the division of government responsible on or before June 1 of any year, the county shall cause the work to be done. It shall keep an accurate account of the cost of such work and the county clerk shall, on or before November 1 of each year, certify to the highway commission the cost of such work. The amount so certified shall be credited to the county in its allotment and deducted from the allotment to the division of government responsible.

**86.09 Access to cemetery preserved.**

In all cases where the paving, improvement, change of grade or any other change in the condition of any street or highway in this state shall operate to cut off, impede or obstruct the access or approach from such highway to a cemetery, it shall be the duty of the local or state authorities in charge of such paving, improvement or change to include in such work provisions for and to effect such grading and improvement of the access and approach to such cemetery as shall be necessary to preserve such access or approach in an equal degree of usability. And whenever in any city, village or town such paving, improvement or change of grade or condition heretofore made has operated so as to cut off, impede or obstruct the access or approach from such highway to a cemetery, it shall be the duty of the council or board of such city, village or town upon the request of any person to restore such access or approach to its former condition of usefulness, and to provide for such work in the same way that street or highway improvements are provided.

**86.10 Salvage in highway construction.**

Materials removed from a highway incident to its improvement or maintenance which are suitable for reuse or have a market value, and which are not used in or disposed of under the contract for the work, shall become the property of the duly constituted authority maintaining the highway from which the material was removed and may be used or disposed of by such authority in the manner as in its judgment is for the best interest of the public, and any money received for such material shall be paid into the maintenance fund.

**86.105 Snow removal in private driveways.**

The governing body of any county, town, city or village may enter into contracts to remove snow from private roads and driveways.

**86.11 Highways; railroad crossings; grade separation.**

Whenever any highway

crosses a railroad at grade and the town, village or county board or the city council or city commissioners other than in a city of the first class, as the case may be, shall deem it for the best interest of the public that said highway and railroad shall cross at separate grades, and when an agreement can be made between such board and the railroad company as to the manner of constructing of such separated grade crossing and doing the necessary work they may contract therefor; and such board shall after entering into such contract levy a tax sufficient to raise the money required to carry out such contract on its part, which tax shall be collected at the time and in the manner as other taxes are, and when collected shall be set aside as a special fund and used for said purpose. The plans for such grade separation shall have the approval of the state highway engineer before the contract shall be binding or the change shall be made.

**86.12 Highway railroad grade crossings; construction and repair.**

It shall be the duty of all steam railroad companies owning or operating tracks crossing streets or highways at grade to keep the surface of the crossings between the tracks and rails and extending 4 feet on either side of the outside rails, in good condition and repair for highway travel; the common council, the village board, or town board of the municipality in which the crossing is located, may by resolution require any such railroad company to pave, plank, repair, change or otherwise improve such crossings, as the needs require, and the clerk of such city, village or town shall cause to be served upon the local agent of such railroad company a copy of such resolution; and if the railroad company shall fail for 30 days thereafter to comply with such resolution, the city, village or town may pave, plank, repair, change or otherwise improve such crossing as designated by said resolution, and may recover the reasonable cost thereof from the railroad company in the manner provided in s. 66.695. The duty imposed upon railroad companies, and the remedy given by this section, shall be in addition to other duties and remedies, and shall not be construed to repeal any other duties or remedies.

**86.13 Railroads to maintain highway crossings.**

(1) When any street or highway crosses any railroad track at grade, the company owning or operating the railroad shall grade, construct and maintain in good and safe condition for public travel the portion of such street or highway extending across said track. When such street or highway shall be or is about to be paved, surfaced or otherwise improved, the railway company shall improve, pave or surface

such crossing between the tracks and rails and extending 4 feet beyond the outside rails on its right of way in substantially the same manner as the adjacent highway and with substantially the same materials, but this provision applies in cities only when the work is under ch. 83 or 84. This section shall not restrict the application of s. 66.694 relating to special assessments against railroads for street improvements.

(2) When the improvement of the portion of a street or highway adjacent to a railroad crossing has been decided upon, notice thereof may be given to the railway company. Unless the company, within 30 days after receipt of such notice, informs the public board, committee or officer in charge of such improvement that it will do the improvement work at the crossing, the company shall be deemed to have elected to have the work done by and under the direction of the highway authorities in charge of the adjacent improvement, and to pay the cost thereof as in case of failure to improve the crossing as required by law.

(3) When any company fails to grade, construct, pave, surface or otherwise improve or maintain in good and safe condition for public travel as required by this section any street or highway crossing after having been notified so to do by the officer in charge thereof or of the highway improvement for 30 days after such notification, the highway authorities may grade, construct, pave, surface, improve or repair the street or highway across the railroad right of way, and the cost shall be paid by the company to and may be collected by that unit of government out of whose treasury the original cost of the work was disbursed.

(4) The notice to the company shall be in writing and shall specify with reasonable certainty the work to be done by the company and may be served on any station agent of the company in this state. But failure to give such notice shall not prevent a recovery from the company of such sum as may be equitably due for the performance of a duty imposed by this section upon the company.

**86.14 Strength of bridges.** (1) After July 1, 1943, no bridge or culvert shall be constructed in any highway unless it shall be designed to have sufficient strength to carry at least 15 ton truck loading in accordance with standard specifications covering design for structures as adopted by the highway commission and in force at the time of design. Repairs to any bridge or culvert shall be of substantial character, strengthening same as much as practical.

(2) Any person who subjects any bridge or culvert to a load in excess of maximum limitations on weight of vehicles on highways

imposed by law or regulations thereunder or limitation as to gross weight of vehicles as posted on or at any such bridge or culvert shall be liable for double the amount of damages that may be caused thereby. There shall be no recovery for any injury to himself or to the property in his keeping.

(3) Every person who wilfully injures any highway structure shall be liable for treble damages to the subdivision of the state chargeable with the maintenance or repair of such structure.

**86.15 Donations of highway aid to adjoining municipalities.** (1) Any town, city or village to which is or has been bequeathed or donated money or other property for the construction of a proposed highway or the improvement of an existing highway, either or both of the terminals or any part of which highway are outside the limits of such town, city or village, may accept such bequest or donation, and with the consent of the councils of the cities, the boards of the towns and villages and the boards or other bodies in control of any state lands, through or into which such proposed highway may be constructed or such existing highway may be improved, which permission said councils and boards are hereby authorized to grant, may enter such towns, cities, villages, and state land, and may do all other things necessary for the purpose of carrying out the terms and conditions of such bequest or donation.

(2) Any city, of the fourth class, however organized, may appropriate a sum not to exceed one-fourth of one mill on each dollar of the assessed valuation of such city, according to the last preceding assessment therein, for the purpose of aiding any adjoining town, city or village in the construction or improvement of any highway or part thereof in accordance with the terms and conditions of any bequest or donation to such adjoining town, city or village, and any part of such moneys so appropriated may be expended within or without the corporate limits of such city.

**86.16 Utility lines on highways; place of poles; penalty.** (1) Any person, firm or corporation including any foreign corporation authorized to transact business in this state may, with the written consent of the town board, but subject to the approval of the highway commission, construct and operate telegraph, telephone or electric lines, or pipes or pipe lines for the purpose of transmitting messages, water, heat, light or power along, across or within the limits of any highway.

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(2) All poles used in the construction of such lines shall be set in such manner as not to interfere with the use of such highway by the public, nor with the use of the adjoining land by the owner thereof; and all pole lines shall hereafter be constructed so as to meet the requirements of the Wisconsin state electrical code.

(3) No tree shall be cut, trimmed or the branches thereof cut or broken in the construction or maintenance of any such line without the consent of the owner of the tree.

(4) Any person erecting any telephone, telegraph, electric light or other pole or stringing any telephone, telegraph, electric light or other wire, or constructing any pipes or pipe lines in violation of the provisions of this section shall forfeit a sum not less than \$10 nor more than \$50.

(5) Any person, firm or corporation whose written application for permission to construct such lines within the limits of any highway of any town has been refused, or when such application shall have been on file with the town clerk for 20 days and no action shall have been taken thereon, such applicant may file with such town clerk a notice of appeal to the highway commission. The town clerk shall thereupon make return of all the papers and action of the board to the highway commission, and such highway commission shall proceed to hear and try and determine such appeal on 10 days' notice to the town board, and the applicant. The order entered by the highway commission shall be final.

The highway commission may approve the construction of coaxial cable pole lines by community antenna television operators along, across or within highways in towns 58 Atty. Gen 31

**86.17 Taking water from highway streams.** (1) The general public shall have the right to use and take water from any spring, creek or running water that may be found running in or across the limits of any public highway, provided that this section shall not interfere with the tunneling or piping of water for the purpose of draining or improving lands on either side of such highway.

(2) Any person who shall wantonly interfere with the free use of the water from any spring or in any creek or stream running across or in any highway shall be guilty of a misdemeanor and be liable to any person damaged thereby for all damages sustained.

**86.18 Milwaukee county highways; location, alteration, maintenance.** (1) The county board of any county having a population of 250,000 or more, shall have power and authority to acquire, establish, lay out, relocate, widen, enlarge, extend, pave, repave, improve and maintain state and county trunk highways

therein, and when requested by resolution adopted by the governing body of any municipality situated therein, any other highway located in such municipality; to construct and lay water pipes, sewers, curbs, gutters and all other public facilities in such highways; to make assessments of benefits and damages, levy assessments, and issue assessment certificates and bonds in the making of and paying for said improvement to the same extent as is given to cities on the same subject matter.

(2) In acquiring property for any purpose covered by sub. (1) the county board shall proceed under ch. 32, except that the board shall determine the necessity of the taking, and the county highway commissioner shall perform all the duties of the commissioners in making awards and appraisals under s. 32.05.

(3) Any party to the condemnation proceedings may appeal from the award of the county highway commissioner in the manner provided for appeals from awards of commissioners in chapter 32 and such appeal shall be heard and delivered as are appeals in said chapter.

(4) The county highway commissioner shall have all the powers now given to the city board of public works in making assessments of benefits and damages in highway improvements, and the same proceedings shall be had and taken after his report is filed with the county clerk as by s. 66.60 is had and taken in the report of such board of public works in city assessments. Notices of both the preliminary and final reports shall be published as a class 2 notice, under ch. 985, in the official county paper, and the date of hearing in each case shall not be earlier than 5 days after the last insertion. Appeals from the final determination of said highway commission may be had, and shall thereafter be heard as provided in s. 66.60(12) and such remedy shall be exclusive.

**86.185 Populous counties; power over state and county trunk highways.** Counties having a population of at least 150,000 may exercise any corresponding power conferred upon cities in the widening or improving and maintaining of state trunk or county trunk highways, the constructing or laying of water pipes, sewers and all other public service facilities therein, and in the levying of special assessments and issuing of assessment certificates and special improvement bonds.

**86.19 Highway signs, regulation, prohibition.** (1) No sign shall be placed within the limits of any street or highway except such as are necessary for the guidance or warning of traffic or as provided by s. 66.046. The authorities charged with the maintenance of streets or

highways shall cause the removal therefrom and the disposal of all other signs.

(2) The highway commission shall prescribe regulations with respect to the erection of signs on public highways. Such regulations shall have the full force of law. No advertising sign shall use prominently any words, or combination of words, commonly used for the guidance or warning of travel, nor shall any advertising sign be erected or be permitted to remain in any place or manner so as to endanger travel on the highways, either by reason of causing an obstruction to the view or otherwise.

(3) Any person who shall erect any sign on any public highway, or elsewhere in violation of any of the provisions of this section or the regulations of the highway commission, or without the written consent of the highway commission if the sign is to be erected on a state trunk highway, the county highway committee in the case of a county trunk highway, or the city council, village or town board in case of a street or highway maintained by a city, village or town, shall be fined not less than \$10 nor more than \$100, and for a second or subsequent violation shall be fined not less than \$10 nor more than \$500.

(4) This section shall not be construed as prohibiting the erection of such historical monuments or markers within the limits of public streets and highways as shall be approved by highway commission. The name of a newspaper on a newspaper tube or receptacle shall not be deemed a sign within the meaning of this section.

(5) The department of transportation shall assign to each county and local authority responsible for the placement and maintenance of signs, guide boards, mile posts, signals or markers erected for the warning, instruction or information of the public a code number which the county or local authority shall place on each warning, instruction or information device at the time of replacement or new installation of such device.

History: 1975 c. 169.

Note: Chapter 169, laws of 1975, provides that (5) takes effect one year after publication. Chapter 169 was published on March 19, 1976.

**86.191 Advertising in highways prohibited, where.** (1) No person shall erect, or cause to be erected, any advertising, direction, guide, warning or other sign or marker within any public highway within a distance of 1,000 feet from the intersection of any 2 or more highways, when such intersection is beyond the corporate limits of any city or villages, unless permission is first obtained from the officials charged with the maintenance of such highways. The name of a

newspaper on a newspaper tube or receptacle shall not be deemed to be any advertising, direction, guide, warning or other sign or marker within the meaning of this section.

(2) In case any person shall violate the provisions of this section, the authorities in charge of the maintenance of the highway upon which such violation occurs shall promptly remove such advertising, direction, guide, warning or other sign or marker.

(3) If any signs at present exist in the public right of way on any highway within 1,000 feet of the intersection of any 2 or more highways or streets beyond the limits of any incorporated city or village which are, in the opinion of the officials in charge of the maintenance of such highway, a menace to the safety of the public traveling along such highways, said officials shall notify the owners of such signs to remove the same, or to remove the danger producing features, and in case the owners do not do so, or in case the owners cannot be found with reasonable effort, the authorities in charge of said highway shall remove said signs from within the right of way.

(4) The triangles bounded by any 2 adjacent intersecting highways and a line drawn between the points on the center lines of said highways 1,000 feet from the intersection of their center lines, are declared prohibited ground for the erection of any danger producing advertising signs, when such intersection is beyond the corporate limits of any city or village. No advertising sign, design or insignia shall hereafter be erected within said triangles which will endanger the safety of the public traveling along any highways, and if there now exist in any such triangle any advertising signs, designs, or insignia endangering the safety of the public traveling along such highways, the authorities in charge of the maintenance of such highways shall take up the matter with the owner of the sign and with the owner of the land, and shall cause the same to be removed, or to be so altered as to remove the danger producing features. Within the same triangles the authorities in charge of maintaining any road shall require the property owner to minimize the obstruction to the view across the triangle insofar as is possible, and shall make such arrangements with him as will make travel on the intersecting highways as safe as is reasonably possible.

(5) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than \$25 nor more than \$100 for each offense, or by imprisonment in the county jail for a period not exceeding 30 days, or by both such fine and imprisonment in the discretion of the court.

**86.192 Penalty for injuring guide board, markers, etc.** (1) No person may injure, deface or remove any sign, guide board, mile post, signal or marker erected by the state or by any municipality thereof for the warning, instruction or information of the public. The following warning shall be affixed to the front of each such sign, guide board, mile post, signal or marker: "WARNING: \$25 to \$100 fine or imprisonment for removing or tampering with this sign."

(1m) No person may possess any sign, guide board, mile post, signal or marker of the type erected by the state or by any municipality for the warning, instruction or information of the public, unless the person can demonstrate that he or she obtained it in a legal manner. Possession of such a sign, guide board, mile post, signal or marker creates a rebuttable presumption of illegal possession. In this subsection, "possession" means the presence of such a sign, guide board, mile post, signal or marker on premises owned or controlled by the person, including but not limited to a rented apartment, rented room or dormitory room. Persons who voluntarily notify a law enforcement agency of the presence on their premises of such a sign, guide board, mile post, signal or marker shall be exempt from prosecution under this subsection.

(2) Any person who violates this section shall be fined \$25 for the first violation, \$100 for a subsequent violation, or imprisoned not exceeding 30 days for the first violation, or 60 days for a subsequent violation, or both fined and imprisoned in the discretion of the court. The court may, in addition, order any such person either to restore or replace any such damaged sign, mile post, signal or marker, or to pay the cost thereof.

(3) On conviction of any person of a violation of this section, the person or persons who informed against and aided in the prosecution of such offense to conviction shall be paid by the court one-half of the amount of the fine paid into the court.

(4) Any person who violates this section shall be fined up to \$10,000 or imprisoned not more than 2 years, or both fined and imprisoned, if the injury, defacement or removal causes the death of a person.

History: 1975 c. 169, 421

**86.20 Interstate bridge corporations.** Any corporation organized for the purpose of constructing, operating and maintaining a bridge over navigable boundary waters of this state and authorized by congress to erect such bridge shall have all the rights and powers with respect to entry upon, and acquisition, of real estate for the construction, operation and maintenance of such bridge, with the necessary

approaches, terminals and appurtenances thereto, that are possessed by railroad corporations.

**86.21 Interstate toll bridges.** (1) Any county or town, or any village or city however organized, bordering upon any navigable waters which form the boundary line between this and another state, may construct, maintain and operate a foot and vehicular toll bridge over and across such river or waters, commencing at a point within or near the limits of such county, town, village or city, and may acquire land in this and in such other state for approaches, abutments and piers, or may acquire, maintain and operate any such toll bridge which spans any such river or waters, whether such bridge is located wholly or partly only within the boundaries of this state and whether such bridge is located within or only partly within and partly without the limits of such county, town, village or city.

(2) (a) Before any such toll bridge is constructed or acquired under this section, a resolution authorizing the construction or acquisition thereof and specifying the method of payment therefor, shall be adopted by a majority of the members of the governing body of such county, town, village or city at a regular meeting, after publication of said resolution, as a class 2 notice, under ch. 985. The resolution shall include a general description of the property it is proposed to acquire or construct. Any county, town, village or city constructing or acquiring a toll bridge under this section may provide for the payment of the same or any part thereof from the general fund, from taxation, or from the proceeds of either municipal bonds, mortgage bonds, mortgage certificates or as otherwise provided by law. Such resolution shall not be effective until 15 days after its passage and publication. If within said 15 days a petition is filed with the clerk of such municipality signed by 20% of the electors thereof requesting that the question of acquiring such toll bridge be submitted to the said electors, such question shall be submitted at any general or regular municipal election that may be held not less than 10 nor more than 40 days from the date of filing such petition. In case no such general or regular municipal election is to be held within such stated period, then the governing body of such municipality shall order a special election to be held within 30 days from the filing of such petition upon the question of whether such toll bridge shall be acquired by said municipality. The question submitted to the electors shall specify the method of payment for such toll bridge as provided in the resolution for the acquisition thereof. If no such petition is filed, or if the majority of votes cast at such referendum

election are in favor of the acquisition of such toll bridge, then the resolution of the governing body for the acquisition of such toll bridge shall be in effect.

(b) Where such payment is to be made in whole or in part through the issuance of mortgage bonds or mortgage certificates, such bonds or certificates shall be issued as provided in s. 66.066. The amount of all incidental expenses incurred in connection with the construction or acquisition of the bridge and in connection with the authorization and issuance of the bonds or certificates may be included in the amount for which bonds or certificates are issued. Such mortgage bonds or certificates shall be payable solely from the revenues to be derived from the operation of the bridge or bridges as acquired or constructed, and shall not constitute a general indebtedness of the county, town, village or city. Any toll bridge property owned or acquired pursuant to this section is declared to be a public utility. The provisions of s. 66.068 shall be applicable to the management of such bridge and the provisions of ss. 66.066 and 66.068 shall govern insofar as they may be applicable. For purposes of management, operation and financing, 2 or more such bridges, whether acquired or constructed, may be combined into a single project or public utility, and such mortgage bonds or certificates may be issued payable from the revenues of such combined project or utility.

**86.22 Interstate railroad bridges must have convenient approaches.** It shall be the duty of any corporation incorporated under the laws of this state and which have been granted a franchise or permit by the United States congress to construct, maintain and operate a railroad bridge and provide for the passage of pedestrians, wagons, vehicles and all kinds of street railway and motor cars across the waters forming a boundary line between this and any other state and to forever maintain such bridge in accessible and serviceable condition, to construct or cause to be constructed, approaches making such bridge accessible and serviceable for the use of pedestrians, wagons, vehicles and all kinds of street railway and motor cars as a connection between this state and the state connected therewith by such bridge, so that such bridge shall be accessible and serviceable to pedestrians, wagons and vehicles and all kinds of street railway and motor cars at the time such bridge is used for railroad service, and if any such corporation shall fail or refuse to comply with the provisions of this section within one year from the time such bridge is used for railroad service the charter of such corporation granted by this state shall thereupon be ipso facto forfeited without any further action whatever and such

corporation shall forthwith discontinue the transaction or operation of its business in this state.

**86.23 Maintenance of drawbridges owned jointly.** All swing or drawbridges built or purchased by any city and town or by any other two municipalities, and so situated that a part thereof is in one municipality and a part in another, shall be operated and maintained at the joint expense of the municipalities which built or purchased them in proportion to the amount of the cost thereof borne by each. If either such municipality shall not provide for or pay its full share of such expense in any year the other may provide for or pay it, and upon paying the same may recover of the municipality in default its share of the same, with interest from the time of payment and costs of suit; provided, that no action to recover the same shall be brought until thirty days after demand of payment is made.

**86.25 Municipal cooperation as to highways improved with state or federal aid.** (1) Any county, city, village or town may by any lawful means provide funds to match or supplement state or federal aid for the construction, reconstruction or improvement, under ch. 84, of any highway, street or bridge which it is authorized to construct, reconstruct or improve, and to pay such funds to the highway commission or state treasury as provided in s. 84.03 (1) (b).

(1m) If lands or interests in lands necessary for an improvement under ch. 84 are acquired by a county or local municipality specifically for such improvement, the highway commission may reimburse such county or local municipality therefor from funds available for such improvement.

(2) Any county, city, village or town, through its governing body or a committee which it may designate, may enter into agreements with the highway commission providing for the construction, reconstruction or improvement with state or federal aid, of highways, streets or bridges which such county, city, village or town is authorized to construct, reconstruct or improve, providing for the subsequent maintenance by such county, city, village or town of any such highway, street or bridge improved with state or federal aid which it has authority to maintain, and providing for the subsequent regulation as to the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings and traffic signals on any such highway, street or bridge improved with state or federal aid.

(3) Any city or village may levy special assessments pursuant to s. 66.60 not exceeding the cost to such city or village against the

**86.25 MISCELLANEOUS HIGHWAY PROVISIONS**

property benefited thereby to provide funds to match or supplement state or federal aid or both for the construction, reconstruction or improvement under ch. 84, or under any other statute of any highway or street which it is authorized to construct, reconstruct or improve, and any city or village is authorized to pay the proceeds of such assessments, certificates or special assessment bonds issued to finance said improvement to the highway commission or state treasury as provided in s. 84.03 (1) (b).

(4) Sections 61.55, 62.15 and 66.29 shall not apply to funds provided or agreements made pursuant to this section.

**86.26 Town road standards.** The following uniform minimum geometric design standards as recommended by the highway advisory committee in consultation with officers of the county highway committeemen's association, the county highway commissioners association and the Wisconsin towns association are established for improvements on town roads initiated after January 1, 1964:

Annual Average 24-hour Traffic (ADT)	Minimum Design Standards
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- (1) Local service, intermittent traffic
  - (a) Right of way ..... 3 rods
  - (b) Roadway width..... 20 feet
  - (c) Surface width..... 16 feet
  - (d) Bridge design load ..... H-15
  - (e) Bridge width ..... 24 feet
- (2) Under 100 ADT
  - (a) Right of way ..... 3 rods
  - (b) Roadway width..... 24 feet
  - (c) Surface width..... 18 feet
  - (d) Maximum grades ..... 9%-11%
  - (e) Bridge design load ..... H-15
  - (f) Bridge width..... 24 feet
- (3) 100 to 250 ADT
  - (a) Right of way ..... 4 rods
  - (b) Roadway width..... 26 feet
  - (c) Surface width..... 20 feet
  - (d) Maximum grades ..... 8%-11%
  - (e) Bridge design load ..... H-15
  - (f) Bridge width..... 26 feet
- (4) 251 to 400 ADT
  - (a) Right of way ..... 4 rods
  - (b) Roadway width..... 32 feet
  - (c) Surface width..... 22 feet
  - (d) Maximum grades ..... 6%-8%
  - (e) Curvature ..... 6°-12.5°
  - (f) Bridge design load ..... H-20
  - (g) Bridge width ..... 30 feet
- (5) 401 to 1,000 ADT
  - (a) Right of way ..... 4 rods
  - (b) Roadway width..... 34 feet
  - (c) Surface width..... 22 feet
  - (d) Maximum grades ..... 5%-8%
  - (e) Curvature ..... 5°-12.5°

- (f) Bridge design load ..... H-20
- (g) Bridge width ..... 30 feet
- (6) 1,001 to 2,400 ADT
  - (a) Right of way ..... 4 rods
  - (b) Roadway width..... 44 feet
  - (c) Surface width..... 24 feet
  - (d) Maximum grades ..... 5%-7%
  - (e) Curvature ..... 4.5°-7.5°
  - (f) Bridge design load ..... H-20
  - (g) Bridge width ..... 44 feet-30 feet
- (7) Over 2,400 ..... State trunk standards

**86.31 Local roads and streets allotment; marking school zones.**

(1) From the appropriation made by s. 20.395 (1) (qa) the highway commission shall allot annually, on March 10, to the towns, villages and cities of the state, for the improvement of public roads and streets within their respective limits which are open and used for travel, and which are not state or county trunk highways or connecting streets, the following sums:

(a) Each town and village shall receive for each mile of such road or street, the sum of \$65;

(b) Each city shall receive for each mile of such road or street, based on its population (according to the last federal census, including a special federal census taken of such city), a sum as follows:

<b>POPULATION</b>	
Not more than 10,000	\$130
10,001 to 35,000	\$260
35,001 to 150,000	\$390
150,001 or more	\$520

(c) Whenever it appears to the satisfaction of the highway commission that, since the taking of the last federal census, any city has increased or decreased its population beyond or below 10,000, 35,000 or 150,000, the payments to be made to such city pursuant to this subsection shall be made on the same basis as if such increased or decreased population had appeared from the last federal census.

(cc) If any city under par. (b) has lost population as a result of the 1960 or the 1970 federal census the sums under par. (b) shall not be reduced until data for the next following federal census is available when such sums shall be paid thereafter according to par. (b).

(d) The amounts allotted to cities, towns and villages under this subsection shall be paid into the respective treasuries. The sums allotted may be used for snow clearance, ice prevention and dust alleviation purposes. Funds under this section may be expended on existing public roads and streets and on any other public roads and streets which the towns are authorized to construct, improve or maintain. The amounts allotted to the towns and villages shall be expended by the town and village officers,

subject to the supervision and approval of the county highway committee, but the town and village boards may authorize the work to be done by the county. If the work is done by the county, the amount allotted for towns and villages shall be paid into the county treasury. The amounts allotted to towns, together with such other amounts as the towns or counties may appropriate or obligate for improvements or construction on town roads, shall be expended in conformance with the minimum design standards for construction established pursuant to s. 86.26, except that in areas covered by a recorded plat pursuant to ch. 236 the platted width of right of way shall be the accepted minimum width in lieu of the right of way widths specified in s. 86.26. Before beginning any improvement the towns shall submit project statements therefor to the county highway committee for review and recommendation and thereafter the county highway committee shall make such inspections of town road construction and improvements as it deems necessary to secure compliance with minimum design standards hereinbefore referred to. Construction and improvements as used in this paragraph shall not be deemed to include normal routine maintenance.

(e) The board of every town and village, and the council of every city, shall annually not later than September 15, and in cities of the first class not later than December 15, file with the highway commission and with the county clerk, a certified plat of such towns, villages or city showing thereon the roads and streets and their mileage to be open and used for travel as of the succeeding January 1, which may be used by the highway commission in making computations of highway aids and allotments. In computing the mileage, the lengths included in road and street intersections shall not be included more than once. One-half of the mileage of roads or streets on boundary lines shall be considered as lying in each town, village or city.

(2) (a) On or before December 1 each year the county highway committee shall file with the highway commission a report for each town within the county certifying whether any and all amounts expended or obligated for improvement or construction on town roads has been in conformance with uniform minimum design standards for town roads established pursuant to s. 86.26. A copy of the certification shall be sent to the town clerk. The certification shall be on forms prescribed by the highway commission. If any town has not complied with the approved standards the certification for that town shall so state setting forth the noncomplying improvements. When any noncomplying improvements have subsequently been made to comply with the

standards, the county highway committee shall so certify to the highway commission. If on June 30 of any year there are any improvements which were certified as noncomplying in the preceding December 1 certification and which have not been made to comply as subsequently certified by the highway committee, 20% of the final payment of the allotment for that year under s. 20.395 (1) (qb) 2 shall be withheld by the state to the credit of the town. At any time that all prior noncomplying improvements have been made to comply, as certified by the county highway committee, the amounts previously withheld shall be paid to the town, except that any amounts withheld because of noncomplying improvements and which have been held to the credit of a town for a period of 3 years after the June 30 withholding, shall no longer be held to the credit of that town, but shall be added to and distributed as revenues under s. 20.395 (intro.) in the ensuing fiscal year. This paragraph shall not apply to any town road improvement or construction which was begun prior to January 1, 1964.

(b) The payments provided under sub. (1) shall not be made until such time as the town clerk or chairman, or city or village clerk has filed with the highway commission his certification stating that the town, city or village has complied with the provisions of s. 118.08 requiring the marking of school zones and that such markings are presently in good condition. Such certification shall set forth the names of the schools within the municipality where markings have been made and are being maintained. If it shall be found that the municipality has omitted to properly mark any school zones within its boundaries, \$25 shall be deducted from the money payable under sub. (1) for each school omitted.

(3) Islands of Wisconsin consisting of one or more towns shall receive all state aids regularly payable to towns for town highways and in addition thereto shall receive such highway aids for the number of miles equal to the distance between an island port and the closest mainland port where such distance is regularly traveled by a licensed ferry transporting persons, cars, trucks, busses and other mechanized equipment. Such additional aids are given for the purpose of maintenance and construction of public docks, parking areas at docks as well as approaches and ramps leading to the docks and for the maintenance, clearing and marking of traveled ways over frozen waters between the islands and the mainland.

History: 1971 c. 125 s. 522 (1); 1971 c. 135; 1973 c. 333 s. 201w; 1975 c. 39 s. 734; 1975 c. 200.

**86.315 County forest road aids.** From the appropriation made by s. 20.395 (1) (qa), the commission shall annually, on March 10, pay to the counties having county forests established under ch. 28, for the improvement of public roads within such county forests which are open and used for travel, and which are not state or county trunk highways nor town roads, the following sum:

(1) Each county having such roads which are designated in the comprehensive county forest land use plan as approved by the county board and the department of natural resources shall receive for each mile of such road, the sum of \$100.

(2) The amounts allotted under this section shall be paid into the county forest road fund and be administered by the committee designated to administer the county forest program, and may be used for the maintenance, brush control, snow plowing and rebuilding of such roads.

(3) Minimum standards for such roads shall comply with s. 86.26 (1) (b) and (c) to qualify for aids under this section.

(4) The committee designated to administer the county forest program shall annually not later than September 15, file with the commission and the county clerk, a certified plat of such county forests showing thereon the roads and their mileage to be open and used for travel as of the succeeding January 1, which may be used by the commission in making computations of these road aids. In computing the mileage, the lengths included in road intersections shall not be included more than once.

History: 1971 c. 40 s. 93; 1973 c. 333 s. 201w.

**86.32 Connecting streets allotment.** Annually on January 1, for the ensuing calendar year, from the appropriation made by s. 20.395 (1) (qf), the highway commission shall allot to each city and village a sum computed at \$500 per mile of connecting streets within its limits. The allotments may be used for maintenance, repair, construction, snow and ice removal and control, cleaning, drainage, and traffic regulations on such connecting streets, and may be accumulated for such purposes. The funds shall be held to the credit of such cities and villages, and paid to the treasurers thereof upon presentation to and approval by the highway commission of certified statements, itemized as required by the highway commission, setting forth the amounts expended on connecting streets; provided the maintenance thereof is satisfactory to the highway commission.

History: 1973 c. 333 s. 201w; 1975 c. 224 s. 146

**86.33 Swing or lift bridges allotment.** From the appropriation made by s. 20.395 (1)

(qa), the highway commission shall allot to cities of the 1st, 2nd and 3rd class, for the maintenance and operation of free, swing or lift bridges located on connecting streets in such cities, not to exceed \$130,000. Such allotment shall be distributed by the highway commission on February 15 of each year and shall be apportioned pro rata upon the basis of, but not exceeding, the necessary and actual expenditures by each city. Each city shall annually, on or before January 31, submit a written report to the highway commission showing the actual expenditures during the previous calendar year for the maintenance and operation of such bridges.

History: 1973 c. 333 s. 201w.

**86.331 Contracts with county.** Any city or village may arrange to have any work on connecting streets or swing or lift bridges for which an allotment is made under s. 86.32 or 86.33 performed by the county.

**86.34 Highway disaster fund.** (1) When any public highway, street, alley or bridge not on the state trunk highway system is damaged by flood, the county highway committee, or the governing body of the municipality having jurisdiction over the maintenance thereof, may adopt a petition for aid pursuant to this section and file a certified copy thereof with the highway commission. To be eligible for aid such petition shall be filed not later than 2 months after the occurrence of the flood damage. All such petitions shall state the dates on which the flood damage occurred and as nearly as practical state the location, nature and extent of the damage.

(2) The highway commission shall make such investigation as it deems necessary and within 6 months from the date of filing the petition shall make its findings and determination as to the granting of aid, the amount thereof, and the conditions under which it is granted. In making its determination the highway commission shall cause an estimate to be made of the cost of repairing or replacing the facilities damaged or destroyed by the flood to standards and efficiency similar to those previously existing, and also an estimate of the cost of reconstructing to a higher type or improving any such facilities if determined to be warranted and advisable. The amount of aid to be granted shall be the total of such estimates of repair or replacement to standards similar to those previously existing, plus one-half of the estimated increased cost of the reconstruction to a higher type or the improvement of any of the facilities, and less one-fourth of the last annual allotment (preceding the date of the highway commission's finding) to the county under ss. 20.395 (1) (qb) and 83.10 (1), in the case of

county trunk highways, or less one-fourth of the last annual allotment to the town, village or city under ss. 20.395 (1) (qb) and 86.31, in the case of highways under their jurisdiction. The highway commission may revise any of its estimates on the basis of additional facts. The county, town, village or city shall pay the remainder of the cost not allowed as aid, but this shall not invalidate any other provision of the statutes whereby the cost may be shared by the county and the town, village or city.

(3) Aid allotted under sub. (2) shall be held to the credit of the county, town, city or village for not more than 2 years or for such extended period as the highway commission may grant, and, except as otherwise provided herein and in sub. (4), shall be paid to the treasurer thereof upon presentation to and approval by the highway commission of certified statements setting forth the cost of the construction, reconstruction, repair or improvement of the facilities determined in the highway commission's finding to be eligible for aid. The certified statement shall set forth separately the amount expended on each such facility. Except as provided in sub. (4), the aid to be paid shall be the summation of the amounts expended on each facility for repair or replacement to standards similar to those previously existing and the highway commission's original or revised estimate of such repair or replacement of any of the facilities which are reconstructed to a higher type or improved, plus one-half of the increased cost, as determined or estimated by the highway commission, of the reconstruction to a higher type or the improvement of any of the facilities, and less one-fourth of the annual allotment referred to in sub. (2).

(4) From the appropriation made by s. 20.395 (1) (qa) there shall be set aside annually on July 1 the amount required to replace the net amounts paid, allotted, or determined to be payable from the funds previously set aside for the purposes of this section, to reestablish an unencumbered sum of \$500,000, to be used for

the purposes of this section. Whenever the aid allotted or determined to be payable exceeds the cash balance of the funds set aside for this purpose, no further payments shall be made until the following June 30, on which date all amounts allotted or determined to be payable shall be reduced pro rata to the amount of the balance available.

(5) Any town, city or village may, and at the discretion of the highway commission shall, arrange to have such work for which aid is granted performed by the county, and in such case, on order of the town, city or village, the aid from the state for such work shall be paid to the county.

History: 1971 c. 125 s. 522 (1); 1973 c. 333 s. 201w.

**86.35 Distribution of privilege highway tax.** From the appropriation made by s. 20.395 (1) (qd), the department of transportation shall pay annually beginning October 15, to the state treasurer a privilege highway tax in the amount set forth in this section. Such amount shall be entered in the municipal and county shared tax account and distributed under subch. I of ch. 79. The amount for each fiscal year of the biennium shall be determined by the department of transportation prior to publication of the biennial budget act by estimating and allocating an amount equal to 11% of the estimated net registration and title fees to be derived from vehicles registered under s. 341.25 (1) (c), (d) or (e) and 20% of the estimated net registration and title fees to be derived from all other vehicles registered under ch. 341, excluding the estimated fees to be collected from nonresidents pursuant to reciprocity agreements. The department of transportation shall not, after publication of the biennial budget act, reestimate any amounts determined under this section for that biennium.

History: 1971 c. 125; 1973 c. 90, 333.

The highway commission pays the privilege highway tax directly to the state treasurer without making adjustments for mistakes in past years. 61 Atty. Gen. 199.