

CHAPTER 346

RULES OF THE ROAD

	GENERAL PROVISIONS		
346.01	Words and phrases defined.	346.46	Vehicles to stop at stop signs and school crossings
346.02	Applicability of chapter.	346.47	When vehicles using alley or nonhighway access to stop
346.03	Applicability of rules of the road to authorized emergency vehicles.	346.48	Vehicles to stop for school busses loading or unloading children.
346.04	Obedience to traffic officers, signs and signals; fleeing from officer.	346.49	Penalty for violating sections 346.44 to 346.48.
	DRIVING, MEETING, OVERTAKING AND PASSING		RESTRICTIONS ON STOPPING AND PARKING
346.05	Vehicles to be driven on right side of roadway; exceptions.	346.50	Exceptions to stopping and parking restrictions.
346.06	Meeting of vehicles.	346.505	Stopping, standing or parking prohibited in places reserved for handicapped.
346.07	Overtaking and passing on the left.	346.51	Stopping, standing or parking outside of business or residence districts.
346.075	Overtaking and passing bicycles.	346.52	Stopping prohibited in certain specified places.
346.08	When overtaking and passing on the right permitted.	346.53	Parking prohibited in certain specified places.
346.09	Limitations on overtaking on left or driving on left side of roadway.	346.54	How to park and stop on streets.
346.10	When passing at a railroad crossing or intersection prohibited.	346.55	Other restrictions on parking and stopping.
346.11	Passing or meeting frightened animal.	346.56	Penalty for violating sections 346.505 to 346.55.
346.12	Driving through safety zones prohibited.		SPEED RESTRICTIONS
346.13	Driving on roadways laned for traffic.	346.57	Speed restrictions.
346.14	Distance between vehicles.	346.58	Special speed restrictions for certain vehicles.
346.15	Driving on divided highway.	346.59	Minimum speed regulation.
346.16	Use of controlled-access highways, expressways and freeways.	346.595	Motor-driven cycles.
346.17	Penalty for violating sections 346.04 to 346.16.	346.60	Penalty for violating sections 346.57 to 346.595.
	RIGHT OF WAY		RECKLESS AND DRUNKEN DRIVING
346.18	General rules of right of way.	346.61	Applicability of sections relating to reckless and drunken driving.
346.19	What to do on approach of emergency vehicle.	346.62	Reckless driving.
346.20	Right of way of funeral processions and military convoys.	346.63	Operating under influence of intoxicant.
346.21	Right of way of livestock.	346.64	Employment of drunken operators.
346.22	Penalty for violating sections 346.18 to 346.21.	346.65	Penalty for violating sections 346.62 to 346.64.
	RESPECTIVE RIGHTS AND DUTIES OF DRIVERS AND PEDESTRIANS		ACCIDENTS AND ACCIDENT REPORTS
346.23	Crossing controlled intersection or crosswalk.	346.66	Applicability of sections relating to accidents and accident reporting.
346.24	Crossing at uncontrolled intersection or crosswalk.	346.67	Duty upon striking person or attended or occupied vehicle.
346.25	Crossing at place other than crosswalk.	346.68	Duty upon striking unattended vehicle.
346.26	Blind pedestrian on highway.	346.69	Duty upon striking property on or adjacent to highway.
346.27	Persons working on highway.	346.70	Duty to report accident.
346.28	Pedestrians to walk on left side of highway; pedestrians on sidewalks.	346.71	Coroners or medical examiners to report; require blood specimen.
346.29	When standing or loitering in roadway or highway prohibited.	346.72	Garages to keep record of repairs of accident damage.
346.30	Penalty for violating sections 346.23 to 346.29.	346.73	Accident reports not to be used in trial.
	TURNING AND STOPPING AND REQUIRED SIGNALS	346.74	Penalty for violating sections 346.67 to 346.73.
346.31	Required position and method of turning at intersections.		BICYCLES AND PLAY VEHICLES
346.32	Required position for turning into private road or driveway.	346.77	Responsibility of parent or guardian for violation of bicycle and play vehicle regulations.
346.33	Where turns prohibited, exception.	346.78	Play vehicles not to be used on roadway.
346.34	Turning movements and required signals on turning and stopping.	346.79	Special rules applicable to bicycles.
346.35	Method of giving signals on turning and stopping.	346.80	Riding bicycle on roadway.
346.36	Penalty for violating sections 346.31 to 346.35.	346.802	Riding bicycle on bicycle lane.
	TRAFFIC SIGNS, SIGNALS AND MARKINGS	346.803	Riding bicycle on bicycle way.
346.37	Traffic-control signal legend.	346.804	Riding bicycle on sidewalk.
346.38	Pedestrian control signals.	346.81	Lamps and other equipment on bicycles.
346.39	Flashing signals.	346.82	Penalty for violating sections 346.77 to 346.81.
346.40	Whistle signals.		MISCELLANEOUS RULES
346.41	Display of unauthorized signs and signals prohibited.	346.87	Limitations on backing.
346.42	Interference with signs and signals prohibited.	346.88	Obstruction of operator's view or driving mechanism.
346.43	Penalty for violating sections 346.37 to 346.42.	346.89	Inattentive driving.
	REQUIRED STOPS	346.90	Following emergency vehicle.
346.44	All vehicles to stop at signal indicating approach of train.	346.91	Crossing fire hose.
346.45	Certain vehicles to stop at railroad crossings.	346.92	Illegal riding.
		346.93	Intoxicants in vehicle carrying minor.
		346.935	Drinking in motor vehicles on highway.
		346.94	Miscellaneous prohibited acts.
		346.95	Penalty for violating sections 346.87 to 346.94.
		346.96	Transportation in automobiles and station wagons.
		346.97	Transportation of handicapped persons.

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.

(9) APPLICABILITY TO URBAN MASS TRANSIT SYSTEMS. Every person operating an urban mass transportation vehicle or using related facilities is granted all the rights and is subject to all the duties which ch. 346 grants or applies to such persons, except those provisions of ch. 346 which by their very nature would have no application.

(10) APPLICABILITY TO SNOWMOBILES. The operator of a snowmobile upon a roadway shall in addition to the provisions of ch. 350 be subject to ss. 346.04, 346.06, 346.11, 346.14 (1), 346.18, 346.19, 346.20, 346.21, 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50 (1) (b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92 (1) and 346.94 (1), (6), (6m) and (9).

History: 1971 c. 125, 277.

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.

Intent to elude unmarked police car is difficult to prove since many authorized non-police emergency vehicles resemble such cars; violation of 346.19 is intrinsic to violation of 346.04 (3) [and is easier to prove in such cases]. 65 Atty. Gen. 27.

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.

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. This subsection shall not apply on a highway having 2 or more lanes available for traffic in the same direction, except when reasonably necessary to warn the operator of the vehicle about to be passed.

(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

346.07 RULES OF THE ROAD

3816

of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

History: 1971 c. 208

The necessity of an audible warning prior to passing a vehicle applies only to a vehicle passing on the left, since the vehicle given the warning is required by the statute to yield to the right. *Bode v. Buchman*, 68 W (2d) 276, 228 NW (2d) 718.

346.075 Overtaking and passing bicycles. The operator of a motor vehicle overtaking a bicycle proceeding in the same direction shall exercise due care, leaving a safe distance, but in no case less than 3 feet clearance when passing the bicycle and shall maintain clearance until safely past the overtaken bicycle.

History: 1973 c. 182; 1977 c. 208

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.

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 a 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.

In calculating time required to safely execute deviation from traffic lane or turn at intersection driver must consider condition of highway. See note to 895.045, citing *Thompson v. Howe*, 77 W (2d) 441, 253 NW (2d) 59.

Driver of front car had no duty to take precautionary action regarding car with headlights lit rapidly approaching from rear where approaching driver did not sound horn or flash lights. *Krainz v. Strle*, 81 W (2d) 26, 259 NW (2d) 707.

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.

Sub. (1) not only imposes a duty upon the tailgating driver to the driver of the preceding vehicle, but to all other cars and persons who are causally affected by the negligence of tailgating. *Northland Ins. Co. v. Avis Rent-A-Car*, 62 W (2d) 643, 215 NW (2d) 439.

See note to 346.13, citing *Krainz v. Strle*, 81 W (2d) 26, 259 NW (2d) 707.

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 crossover 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.

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.

Cross Reference: 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

346.17 RULES OF THE ROAD

3818

or 346.13 (1) or (3) may be required to forfeit 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 ss. 346.05, 346.07 (2) or (3), 346.08 to 346.11, 346.13 (2) or 346.14 to 346.16 may be required to forfeit not less than \$20 nor more than \$200.

(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.

(4) Any person violating s. 346.075 may be required to forfeit not less than \$25 nor more than \$200 for the first offense and not less than \$50 nor more than \$500 for the 2nd or subsequent violation within 4 years.

History: 1971 c. 278; 1973 c. 182; 1977 c. 208

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 NONHIGHWAY 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.** (a) 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 the vehicle.

(b) The operator of any vehicle crossing a sidewalk or entering an alley or driveway from a highway shall yield the right-of-way to any pedestrian, vehicle or conveyance on the sidewalk or in the alley or driveway.

History: 1979 c. 210

A driver who makes a left turn which results in an accident is not always guilty of more negligence than the other driver; the comparison is for the jury *Pucci v Rausch*, 51 W (2d) 513, 187 NW (2d) 138

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.

See note to 346.04, citing 65 Atty. Gen. 27.

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 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.

History: 1977 c. 43.

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 required to forfeit 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 required to forfeit not less than \$20 nor more \$200.

(3) Any person violating s. 346.20 (1) (b) or (c), (2), (3) or 346.21 may be required to forfeit 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: 1971 c. 278.

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 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. No operator of a vehicle proceeding ahead on a green signal may begin a turn at a controlled intersection or crosswalk when a pedestrian crossing in the crosswalk on a green or

"Walk" signal would be endangered or interfered with in any way. 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 has started to cross the roadway either from the near curb or shoulder or from the center dividing strip or a safety zone with the green or "Walk" signal in the pedestrian's favor.

History: 1979 c. 36.

Duties of driver and pedestrian under 346.23 and 346.24 discussed and compared. Schoenauer v. Wendinger, 49 W (2d) 415, 182 NW (2d) 441.

Pedestrians have right-of-way on green light only where there are no pedestrian control signals. City of Hartford v. Godfrey, 92 W (2d) 815, 286 NW (2d) 10 (Ct. App. 1979)

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.

See note to 346.23, citing Schoenauer v. Wendinger, 49 W (2d) 415, 182 NW (2d) 441.

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.

891.44 provides an exception to this section and the standard instruction is not to be given when the pedestrian is a child under 7. Thoreson v. Milwaukee & S. Transport Corp. 56 W (2d) 231, 201 NW (2d) 745.

346.26 Blind pedestrian on highway.

(1) An operator of a vehicle shall stop the vehicle before approaching closer than 10 feet to a pedestrian who is 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 or who is using a dog guide and shall take such precautions as may be necessary to avoid accident or injury to the pedestrian. The fact that the pedestrian may be violating any of the laws applicable to pedestrians does

not relieve the operator of a vehicle from the duties imposed 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 or not using a dog guide 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 or to use a dog guide 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.

History: 1977 c 302

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.

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 required to forfeit 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 required to forfeit 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 required to forfeit not less than \$20 nor more than \$200.

(3) Any person violating s. 346.26 may be required to forfeit not less than \$25 nor more than \$200 for the first offense and may be required to forfeit not less than \$50 nor more than \$500 for the 2nd or subsequent conviction within a year.

History: 1971 c 278.

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.

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, exception. (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, except where the highway is a divided highway and where the turn is made at an opening or crossover established by the authority in charge of the maintenance of the highway.

(c) In mid-block on any through highway in a residence district, except where the highway is a divided highway and where the turn is made at an opening or crossover established by the authority in charge of the maintenance of the highway.

(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: 1971 c. 203.

346.34 Turning movements and required signals on turning and stopping. (1) TURNING. (a) No person may:

1. Turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in s. 346.31.

2. 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.

3. 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.

(b) In the event any other traffic may be affected by such movement, no person may so turn any vehicle without giving an appropriate signal in the manner provided in s. 346.35. When given by the operator of a vehicle other than a bicycle, such signal shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning. The operator of a bicycle shall give such signal continuously during not less than the last 50 feet traveled before turning.

(2) **STOPPING.** No person may 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. This subsection does not apply to the operator of a bicycle approaching an official stop sign or traffic control signal.

History: 1973 c. 182.

Where conditions do not allow the full 100 feet for signaling a turn, such as a parked bus in the right lane, a driver is not negligent giving the signal for a lesser distance. *Tuschel v. Haasch*, 46 W (2d) 130, 174 NW (2d) 497.

See note to 895.045, citing *Thompson v. Howe*, 77 W (2d) 441, 253 NW (2d) 59.

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:

346.35 RULES OF THE ROAD

3822

(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.

346.36 Penalty for violating sections

346.31 to 346.35. (1) Unless otherwise provided in sub. (2), any person violating ss. 346.31 to 346.35 may be required to forfeit 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 operator of a bicycle violating ss. 346.31 to 346.35 may be required to forfeit not more than \$20.

History: 1971 c. 278; 1977 c. 208.

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.

3. Vehicular traffic facing a red signal at an intersection may, after stopping as required under subd. 1, cautiously enter the intersection to make a right turn into the nearest lawfully available lane for traffic moving to the right or to turn left from a one-way highway into the

nearest lawfully available lane of a one-way highway on which vehicular traffic travels to the left. No turn may be made on a red signal if lanes of moving traffic are crossed or if a sign at the intersection prohibits a turn. In making a turn on a red signal vehicular traffic shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(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: 1975 c. 23; 1979 c. 152.

346.38 Pedestrian control signals. Whenever special pedestrian control signals exhibiting the words "Walk" 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 or other vehicular crossing in the direction of the signal and the operators of all vehicles shall yield the right-of-way to the pedestrian.

(2) **DON'T WALK.** No pedestrian may start to cross the roadway or other vehicular crossing in the direction of a "Don't Walk" signal, but any pedestrian who has partially completed crossing on the "Walk" signal may proceed to a sidewalk or safety zone while a "Don't Walk" signal is showing.

History: 1975 c. 229, 421; 1979 c. 36.

See note to 346.23, citing *City of Hartford v. Godfrey*, 92 W (2d) 815, 286 NW (2d) 10 (Ct. App. 1979)

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.

Duty of care under (2) discussed. *Sabinasz v. Milw. & Suburban Tr. Corp.* 71 W (2d) 218, 238 NW (2d) 99.

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.

(3) No person shall, after January 1, 1970, place or maintain, or allow to be displayed any red or amber reflector within the limits of the highway boundaries at or near the entrance to a private road or driveway. The use of blue

reflectors is permitted provided there is no disapproval by the highway authority in charge of maintenance of the highway.

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) (a) Any pedestrian violating s. 346.37 or 346.38 may be required to forfeit 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.

(b) 1. Unless otherwise provided in subd. 2, any operator of a vehicle violating ss. 346.37 to 346.39 may be required to forfeit 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 operator of a bicycle violating s. 346.37 or 346.39 may be required to forfeit not more than \$20.

(2) Any person violating s. 346.42 may be required to forfeit not less than \$20 nor more than \$200.

(3) Any person violating s. 346.41 may be required to forfeit not less than \$25 nor more than \$200 for the first offense and may be required to forfeit not less than \$50 nor more than \$500 for the 2nd or subsequent conviction within a year.

History: 1971 c. 278, 336; 1973 c. 182.

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 railroad crossings. (1) Except as provided in sub. (3), the operator of any of the following vehicles

346.45 RULES OF THE ROAD

3824

before crossing at grade any track of a railroad, shall stop such vehicle within 50 feet, but not less than 15 feet from the nearest rail of such railroad:

- (a) Every motor bus transporting passengers.
- (am) Every vehicle painted and displaying markings in accordance with s. 347.44 (1).
- (b) Every motor vehicle transporting any quantity of chlorine.
- (c) Every motor vehicle which, in accordance with sub. (4), is required to be marked or placarded with one of the following markings:
 1. Explosives A.
 2. Explosives B.
 3. Poison.
 4. Flammable.
 5. Oxidizers.
 6. Compressed gas.
 7. Corrosives.
 8. Flammable gas.
 9. Radioactive.
 10. Dangerous.
- (d) Every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any liquid having a flashpoint below 200° Fahrenheit, as determined by the test method approved for that product by the American society for testing and materials.

(e) Every cargo tank motor vehicle transporting a commodity which at the time of loading has a temperature above its flashpoint as determined by the same standard method of testing as prescribed in par. (d).

(2) The operator of every vehicle required to stop before crossing any track shall listen and look in both directions along the track for any approaching train, and shall not proceed until such precautions have been taken and until the operator has ascertained that the course is clear. Wherever an auxiliary lane is provided for stopping at a railroad, operators of vehicles required to stop shall use such lane for stopping.

(3) A stop need not be made at:

- (a) A railroad grade crossing when a police officer or crossing flagman directs traffic to proceed.
- (b) A railroad grade crossing when an official traffic control signal permits traffic to proceed.
- (c) An abandoned railroad grade crossing with a sign indicating the rail line is abandoned.
- (d) A railroad grade crossing which is marked with a sign in accordance with s. 195.285 (3). Such signs shall be erected by the maintaining authority only upon order of the transportation commission as set forth in s. 195.285.

(4) The department shall adopt rules for the marking and placarding of vehicles being used

to transport hazardous materials which are potentially dangerous to life and property, which rules shall be in accordance with the regulations of the U.S. department of transportation.

History: 1973 c. 12; 1975 c. 41, 63, 199; 1977 c. 29 s. 1654 (6) (b), (9) (f); 1977 c. 410.

346.46 Vehicles to stop at stop signs and school crossings. (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.

(2m) Every operator of a motor vehicle approaching a school crossing which is controlled by an adult school crossing guard appointed under s. 349.215 shall follow the directions of the school crossing guard. If directed by the school crossing guard to stop, the operator shall stop the vehicle not less than 10 feet nor more than 30 feet from the school crossing and shall remain stopped until the school crossing guard directs the operator to proceed.

(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. 349.07 (6) 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: 1977 c. 116 s. 16; 1979 c. 344.

346.47 When vehicles using alley or non-highway 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.

(3) The operator of a vehicle about to cross or enter a highway from a point of access other than another highway is not required to stop in compliance with sub. (1) if a traffic control officer or official traffic control device directs or permits otherwise.

History: 1975 c. 229

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. The operator of any school bus which approaches from the front or rear any school bus which has stopped and is displaying flashing red warning lights shall display its flashing red lights while stopped. 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, unless required otherwise by municipal ordinance enacted under s. 349.21.

(c) When a school bus is being used on a highway for purposes other than those specified in s. 340.01 (56) (a), 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; except that any time a motor vehicle is equipped as provided under ss. 347.25 (2) and 347.44 and is transporting children for any purpose, the school bus markings may remain unconcealed and the flashing red signals may be used as provided in this section and when so used, sub. (1) applies to operators of other motor vehicles.

History: 1973 c. 93; 1975 c. 18, 120, 429.

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) (a) Unless otherwise provided in par. (b), any person violating s. 346.46 or 346.47 may be required to forfeit 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.

(b) Any operator of a bicycle violating s. 346.46 may be required to forfeit not more than \$20.

(2) (a) Unless otherwise provided in par. (b), any person violating s. 346.44, 346.45 or 346.48 may be required to forfeit not less than \$20 nor more than \$200.

(b) Any operator of a bicycle violating s. 346.44 may be required to forfeit not more than \$20.

History: 1971 c. 278; 1973 c. 182.

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), (3) and (4) 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 or motor home bearing a special registration plate 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 leased, or both municipally owned and leased or a parking place owned or leased, or both owned and leased by 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 the disabled veteran's express direction with the disabled veteran present.

(2a) An automobile or motor home bearing special registration plates issued under s. 341.14 (1a), (1m) or (1q) or a motor vehicle upon which a special identification card issued under s. 343.51 is displayed is exempt from any ordinance imposing time limitations on parking in any street or highway zone and parking lot, whether municipally owned or leased, or both municipally owned and leased or a parking place owned or leased, or both owned and leased by 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 following:

(a) A person to whom plates were issued under s. 341.14 (1a).

(b) A qualified operator acting under the express direction of a person to whom plates were issued under s. 341.14 (1a) when such person is present.

(c) A person to whom plates were issued under s. 341.14 (1m) when the disabled person for whom the plates were issued is present.

(d) A person for whom plates were issued under s. 341.14 (1q).

(e) A qualified operator acting under the express direction of a person for whom plates were issued under s. 341.14 (1q) when such person is present.

(f) A person to whom a special identification card was issued under s. 343.51.

(g) A qualified operator acting under the express direction of a person to whom a special identification card was issued under s. 343.51 when such person is present.

(3) A vehicle bearing special registration plates issued under s. 341.14 (1), (1a), (1m) or (1q) or a motor vehicle upon which a special identification card issued under s. 343.51 is displayed is exempt from s. 346.505 or any ordinance in conformity therewith prohibiting parking, stopping or standing upon any portion of a street, highway or parking facility reserved for handicapped persons by official traffic signs, distinct markers or parking meters indicating the restriction. Stopping, standing and parking privileges granted by this subsection are limited to the persons listed under sub. (2) and (2a) (a) to (g).

(4) In subs. (2) and (2a), the terms "municipal" and "municipally" include county.

History: 1977 c. 29, 418; 1979 c. 55, 276, 288.

346.505 Stopping, standing or parking prohibited in places reserved for handicapped. No person may park, stop or leave standing any vehicle, whether attended or unattended and whether temporarily or otherwise, upon any portion of a street, highway or parking facility reserved for handicapped persons by official traffic signs, distinct markers or parking meters indicating the restriction.

History: 1977 c. 418; 1979 c. 276.

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.

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 may 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 the 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 villages or cities when the village board or common council thereof by ordinance permits parking of any vehicle or of school busses only on the near side of specified highways adjacent to schoolhouses during specified hours.

History: 1979 c 325

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.

Trial court erred in finding truck driver negligent as matter of law and refusing to submit question of practicality to jury where driver parked on highway for purpose of unloading sewage into manhole. *Nelson v. Travelers Ins. Co.* 80 W (2d) 272, 259 NW (2d) 48

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.

346.54 RULES OF THE ROAD

3828

(e) For the purpose of parking, mopeds as defined in s. 340.01 (29m) shall be considered bicycles. Where possible without impeding the flow of pedestrian traffic, a moped may be parked on a sidewalk. A moped may be parked in a bike rack or other similar area designated for bicycle parking.

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

History: 1977 c. 288

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 may leave or park any motor vehicle on private property without the consent of the owner or lessee of the property.

(4) Owners or lessees of public or private property may permit parking by certain persons and limit, restrict or prohibit parking as to other persons if the owner or lessee posts a sign on the property indicating for whom parking is permitted, limited, restricted or prohibited. No person may leave or park any motor vehicle on public or private property contrary to a sign posted thereon.

History: 1979 c. 276, 288

346.56 Penalty for violating sections 346.505 to 346.55. (1) Any person violating s. 346.52 to 346.54 or 346.55 (3) or (4) may be required to forfeit 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. 346.505, 346.51 or 346.55 (1) or (2) may be required to forfeit not less than \$20 nor more than \$200.

History: 1971 c. 278; 1977 c. 418; 1979 c. 288

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 department when children are present.

(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.

(em) 25 miles per hour on any service road within the corporate limits of a city or village unless modified by the authority in charge of the highway.

(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.

(i) 15 miles per hour on any city or village street, except a state trunk highway or connecting highway, 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 official traffic control devices 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.

(k) 45 miles per hour on any highway designated as a rustic road under s. 83.42.

(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 highways 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) and (k) 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), (g) or (k), 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.

History: 1973 c. 157; 1975 c. 192, 210; 1977 c. 29 s. 1654 (3), (8) (a); 1977 c. 30, 67, 116, 203, 272.

While (2) is related to (3), it is not limited by (3), and (3) creates a greater duty in respect to speed than (2) does. *Thoreson v. Milwaukee & S. Transport Corp.* 56 W (2d) 231, 201 NW (2d) 745.

Court establishes guidelines for prosecution of speeding citations issued on basis of moving speed radar device. *State v. Hanson*, 85 W (2d) 233, 270 NW (2d) 212 (1978).

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) 55 miles per hour except 45 miles per hour on town roads and county trunk highways for any vehicle registered as a truck, truck tractor or road tractor and operated either singly or in combination with other vehicles and having a gross weight of more than 10,000 pounds.

History: 1973 c. 165; 1975 c. 297.

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 a 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.

History: 1977 c. 100.

346.595 Motor-driven cycles. Whenever a motor-driven cycle or a moped is operated the following rules apply:

(1) All motor vehicles including motor-driven cycles and mopeds are entitled to the full use of a traffic lane and no vehicle may 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 consent of both drivers, motor-driven cycles may be operated not more than 2 abreast

in a single lane, but mopeds may be so operated only where the speed limit is 25 miles per hour or less.

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

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

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

(5) The headlamps on motor-driven cycles shall be lighted whenever the cycle is in operation. Mopeds shall observe the requirements for lighted headlamps and tail lamps under s. 347.06.

(6) On any road for which the speed limit is more than 25 miles per hour, mopeds shall be operated only when riding single-file in the extreme right-hand lane. No person may operate a moped on any restricted access highway.

History: 1977 c. 288.

The provision requiring headlamps to be lighted is constitutional. *Kenosha v. Dosemagen*, 54 W (2d) 269, 195 NW (2d) 462.

346.60 Penalty for violating sections

346.57 to 346.595. (1) Except as provided in sub. (5), any person violating s. 346.59 may be required to forfeit 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) Except as provided in sub. (5), any person violating s. 346.57 (4) (d) to (h) or (5) or 346.58 may be required to forfeit not less than \$20 nor more than \$200.

(3) Except as provided in sub. (5), any person violating s. 346.57 (2), (3) or (4) (a) to (c) may be required to forfeit not less than \$40 nor more than \$300 for the first offense and may be required to forfeit not less than \$80 nor more than \$600 for the 2nd or subsequent conviction within a year.

(4) Any person violating s. 346.595 may be required to forfeit not less than \$20 nor more than \$200.

(5) (a) Any operator of a bicycle who violates s. 346.57 may be required to forfeit not more than \$20.

(b) Any operator of a bicycle who violates s. 346.59 may be required to forfeit not more than \$10.

History: 1971 c. 278; 1973 c. 182, 218; 1973 c. 333 ss. 174p, 202 (12); 1973 c. 336; 1977 c. 30 ss. 6, 7

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.

The fact that defendant was an experienced stock car driver is not a defense to a charge of reckless driving. *State v. Passarelli*, 55 W (2d) 78, 197 NW (2d) 740.

346.63 Operating under influence of intoxicant. (1)

No person may drive or operate a motor vehicle while under the influence of an intoxicant or a controlled substance.

(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:

(a) "Drive" means the exercise of physical control over the speed and direction of a motor vehicle while it is in motion.

(b) "Operate" means the physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.

(4) A person whose blood contains 0.1% or more by weight of alcohol is under the influence of an intoxicant for purposes of this section. Notwithstanding s. 885.235 (1) (c), a chemical analysis of a person's blood, breath or urine which has been admitted into evidence and which shows that there was 0.1% or more by weight of alcohol in the person's blood is sufficient evidence, without corroborating physical evidence, on which to base a finding that the person's blood contained 0.1% or more by weight of alcohol.

History: 1971 c. 40 s. 93; 1971 c. 219; 1977 c. 193.

It is no defense that defendant is an alcoholic. *State v. Koller*, 60 W (2d) 755.

Evidence that defendant, found asleep in parked car at 12:53 a.m., had driven to the parking place 14 minutes earlier, was sufficient to support conviction for operating a car while

intoxicated "at or about 12:53 a.m." *Monroe County v. Kruse*, 76 W (2d) 126, 250 NW (2d) 375.

Intent to drive or move motor vehicle is not required to find accused guilty of operating vehicle while under influence of intoxicant. *Milwaukee County v. Proegler*, 95 W (2d) 614, 291 NW (2d) 608 (Ct. App. 1980).

Upon conviction for drunk driving, probation may be granted only pursuant to 972.13 (2) and 973.09. 60 Atty Gen 271.

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 controlled substance under ch. 161. 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.

History: 1971 c. 219.

346.65 Penalty for violating sections 346.62 to 346.64. (1) Any person violating s. 346.62 (1) may be required to forfeit not less than \$25 nor more than \$200 for the first offense and, for the 2nd or subsequent violation of s. 346.62 (1) within 4 years may be fined not less than \$50 nor more than \$500 or imprisoned not more than one year in county jail or both.

(2) (a) Any person violating s. 346.63 (1):

1. Shall forfeit not less than \$100 nor more than \$500, except as provided in subd. 2 or 3.

2. Shall be fined not less than \$250 nor more than \$1,000 and imprisoned not less than 5 days nor more than 6 months if the total of revocations under s. 343.305 and convictions for violation of s. 346.63 (1) or local ordinances in conformity therewith equals 2 within a 5-year period, except that revocations and convictions arising out of the same incident or occurrence shall be counted as one. The 5-year period shall be measured from the dates of the refusals or

violations which resulted in the revocations or convictions.

3. Shall be fined not less than \$500 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one year in the county jail if the total of revocations under s. 343.305 and convictions for violation of s. 346.63 (1) or local ordinances in conformity therewith equals 3 or more within a 5-year period, except that revocations and convictions arising out of the same incident or occurrence shall be counted as one. The 5-year period shall be measured from the dates of the refusals or violations which resulted in the revocations or convictions.

(b) Rehabilitation ordered and substantially complied with under s. 343.30 (1q) (a) or a final determination by a court that the person does not need assessment based on a report that the person has completed the court-ordered attendance at a school under s. 345.60 may:

1. When a forfeiture would otherwise be required under par. (a) 1, be in lieu of all but the first \$100 of the forfeiture.

2. When fine and imprisonment would otherwise be required under par. (a) 2, be in lieu of all or part of the imprisonment and all but the first \$250 of the fine.

(c) Rehabilitation ordered and substantially complied with under s. 343.30 (1q) (a) or a final determination by a court that the person does not need assessment based on a report that the person has completed the court-ordered attendance at a school under s. 345.60 may not be in lieu of any part of the imprisonment or fine ordered under par. (a) 3.

(3) Any person violating s. 346.62 (2) or 346.63 (2) may be fined not more than \$200 or imprisoned in county jail for not less than 30 days nor more than one year or both.

(4) Any person violating s. 346.64 may be fined not less than \$50 nor more than \$500 or imprisoned not more than 6 months or both.

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221.

NOTE: Chapter 193, laws of 1977, provided in section 18m that any local authority may enact a traffic regulation in strict conformity with (2) (a) 1, with a forfeiture of not more than \$500, to be retained entirely by the local unit of government.

Where person is charged under 346.63 (1) as second offense, charge may not be reduced to violation as first offense and court may not sentence under 346.65 (2) (a) 1. Department must treat this as second offense for purposes of revocation under 343.31 (1) (b). OAG 14-80.

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

346.66 RULES OF THE ROAD

3832

charged for the use thereof. Such sections do not apply to accidents involving only snowmobiles or vehicles propelled by human power or drawn by animals.

History: 1971 c 277

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.

Violation of this section is misdemeanor. State ex rel McDonald v. Douglas County Cir. Ct. 95 W (2d) 423, 290 NW (2d) 559 (Ct. App. 1980).

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.

Driver's knowledge of collision with unattended vehicle need not be proved under this section. 68 Atty. Gen. 274.

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, any damage to state or other government-owned property to an apparent extent of \$200 or more total damage to all property to an apparent extent of \$400 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 damage to all property" 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 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).

(3m) DUTY OF DEPARTMENT WITH RESPECT TO ACCIDENT REPORTS. (a) The department may require any operator, occupant or owner of a vehicle involved in an accident of which report must be made as provided in s. 346.70 to file supplemental reports whenever the original report is insufficient in the opinion of the department and may require witnesses of accidents to render reports to the department.

(b) The department shall tabulate and may analyze all accident reports and shall publish annually or at more frequent intervals statistical information based thereon as to the number and circumstances of traffic accidents.

(c) The department shall prepare and supply at its own expense to police departments, coroners, sheriffs and other suitable agencies or individuals, forms for accident reports required to be made to the department. The report forms shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, and the persons and vehicles involved.

(4) POLICE AND TRAFFIC AGENCIES TO REPORT. (a) Every law enforcement agency investigating or receiving a report of a traffic accident as described in sub. (1) shall forward a report of the accident to the department within 10 days after the date of the 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 secretary in sufficient quantities to meet the requirements of the department and the law enforcement agency.

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

1. The secretary, or the secretary's designee, as chairman.

2. A state traffic patrol officer appointed by the secretary.

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 secretary 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, including supplemental or additional reports, statements of witnesses, photographs and diagrams, retained by local authorities, the state traffic patrol or any other investigating law enforcement agency.

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

(h) Every law enforcement agency investigating or receiving a report of a traffic accident as described in sub. (1) shall forward a copy of the report of the accident to the county traffic safety commission or to the person designated to maintain spot maps under s. 83.013 (1) (a) in the county where the accident occurred when the accident occurred on a county or town road or on a city or village street where the population of the city or village is less than 5,000. For traffic accidents occurring within a city or village with a population of 5,000 or more, the law enforcement agency investigating or receiving a report shall forward a copy of the report of the accident to the city or village where the accident occurred.

(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: 1975 c. 240, 381; 1977 c. 29 ss. 1486, 1654 (7) (a), (c); 1977 c. 100; 1979 c. 99.

A county sheriff's department is not a consumer reporting agency subject to the fair credit reporting act for reports under (4). However, the federal trade commission has taken an opposite position. 63 Atty. Gen. 364.

346.71 Coroners or medical examiners to report; require blood specimen. (1) Every coroner or medical examiner shall on or before the 10th day of each month report in writing to the department the death of any person within the 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 or medical examiner

346.71 RULES OF THE ROAD

3834

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 medical examiner or by a physician so designated by the coroner or medical examiner or by a qualified person at the direction of such physician. All morticians shall obtain a release from the coroner or medical examiner 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 department of health and social services for analysis of the alcoholic content of such blood specimen. The coroner or medical examiner 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 department of health and social services. The department 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 department.

History: 1973 c. 272; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273

Under 346.71 (2), Stats. 1969, blood test records of the coroner are not confidential. The admissibility of such records is limited by 979.20 (3), 59 Atty. Gen. 226.

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 not to be used in trial. (2) Notwithstanding s. 346.70 (4) (f), written accident reports required to be filed with the department or with a county or municipal authority shall not be used as evidence in any judicial trial, civil or criminal, arising out of an accident, except that such reports may be used as evidence in any administrative proceeding conducted by the department. 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.

History: 1971 c. 253; 1977 c. 29 s. 1654 (7) (a).

346.74 Penalty for violating sections 346.67 to 346.73. (1) Any person violating s. 346.72 may be required to forfeit not less than \$20 nor more than \$40 for the first offense and may be required to forfeit 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 required to forfeit not less than \$40 nor more than \$200 for the first offense and may be required to forfeit not less than \$100 nor more than \$500 for the 2nd or subsequent conviction within a year.

(3) Any person violating s. 346.68 or 346.69 may be required to forfeit not more than \$200.

(4) Any person violating s. 346.70 (5) may be required to forfeit not less than \$25 nor more than \$50.

(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: 1971 c. 278; 1973 c. 218.

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, bicycle lane or bicycle way 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.

(5) No person may ride a moped upon a bicycle way.

History: 1973 c. 182; 1977 c. 288.

Discussion of number of persons who can operate a single bicycle. 61 Atty. Gen 360.

346.80 Riding bicycle on roadway. (1)

Unless preparing to make a left turn, every person operating a bicycle upon a roadway carrying 2-way traffic shall ride as near as practicable to the right edge of the unobstructed traveled roadway, including operators who are riding 2 abreast where permitted under sub.

(2) On one-way roadways, the operator of the bicycle shall ride as near as practicable to the right edge or left edge of the unobstructed traveled roadway, including operators who are riding 2 abreast where permitted under sub.

(2) Every person operating a bicycle upon a roadway shall exercise due care when passing a standing vehicle or one proceeding in the same direction, allowing a minimum of 3 feet between the bicycle and the vehicle.

(2) Persons riding bicycles upon a roadway shall ride single file on all roadways which have center lines or lane lines indicated by painting or other markings and in all unincorporated areas. On roadways not divided by painted or other marked center lines or lane lines, bicycle operators may ride 2 abreast in incorporated areas.

(4) No person may operate a bicycle or moped upon a roadway where a sign is erected indicating that bicycle or moped riding is prohibited.

(5) Every rider of a bicycle shall, upon entering on a highway, yield the right-of-way to motor vehicles.

History: 1973 c. 182; 1977 c. 208, 288; 1979 c. 197.

346.802 Riding bicycle on bicycle lane.

(1) (a) Unless 2-way traffic is authorized under par. (b), every person operating a bicycle upon a bicycle lane shall ride in the same direction in which vehicular traffic on the lane of the roadway nearest the bicycle lane is traveling.

(b) The governing body of any city, town, village or county may authorize 2-way traffic on any portion of a roadway which it has set aside as a bicycle lane. Appropriate traffic signs shall be installed on all bicycle lanes open to 2-way traffic.

(2) (a) Unless otherwise provided under par. (b), a person operating a bicycle may enter

or leave a bicycle lane only at intersections or at driveways adjoining the bicycle lane.

(b) A person may leave a bicycle lane at any point by dismounting from the bicycle and walking it out of the lane. A person may enter a bicycle lane at any point by walking his bicycle into the lane and then mounting it.

(3) Every person operating a bicycle upon a bicycle lane shall exercise due care and give an audible signal when passing a bicycle rider proceeding in the same direction.

(4) Every operator of a bicycle entering a bicycle lane shall yield the right-of-way to all bicycles in the bicycle lane. Upon leaving a bicycle lane, the operator of a bicycle shall yield the right-of-way to all vehicles and pedestrians.

History: 1973 c. 182.

346.803 Riding bicycle on bicycle way.

(1) Every person operating a bicycle upon a bicycle way shall:

(a) Exercise due care and give an audible signal when passing a bicycle rider or a pedestrian proceeding in the same direction.

(b) Obey each traffic signal or sign facing a roadway which runs parallel and adjacent to a bicycle way.

(2) Every person operating a bicycle upon a bicycle way open to 2-way traffic shall ride on the right side of the bicycle way.

(3) Every operator of a bicycle entering a bicycle way shall yield the right-of-way to all bicycles and pedestrians in the bicycle way.

History: 1973 c. 182.

346.804 Riding bicycle on sidewalk. When local authorities under s. 346.94 (1) permit bicycles on the sidewalk, every person operating a bicycle upon a sidewalk shall yield the right-of-way to any pedestrian and shall exercise due care and give an audible signal when passing a bicycle rider or pedestrian proceeding in the same direction.

History: 1973 c. 182.

346.81 Lamps and other equipment on bicycles. (1)

No person may operate a bicycle upon a highway, bicycle lane or bicycle way during hours of darkness unless such bicycle is equipped with or the operator is wearing a lamp emitting a white light visible from a distance of at least 500 feet to the front of such bicycle. Such bicycle shall also be equipped with a red reflector that has a diameter of at least 2 inches of surface area on the rear so mounted and maintained as to be visible from all distances from 50 to 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear

346.81 RULES OF THE ROAD

3836

may be used in addition to but not in lieu of the red reflector.

(2) No person may operate a bicycle upon a highway, bicycle lane or bicycle way unless it is equipped with a brake in good working condition, adequate to control the movement of and to stop the bicycle whenever necessary.

(3) No bicycle may be equipped with nor may any person riding upon a bicycle use any siren or compression whistle.

History: 1973 c. 182, 333; 1977 c. 208

346.82 Penalty for violating sections

346.77 to 346.81. (1) Any person violating ss. 346.77, 346.79 (1) to (3), 346.80 to 346.804 or 346.81 (2) may be required to forfeit not more than \$20.

(2) Any person violating s. 346.78 or 346.79 (4) may be required to forfeit 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.

(3) Any person violating s. 346.81 (1) may be required to forfeit not less than \$10 nor more than \$200.

History: 1971 c. 278; 1973 c. 182

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 nontransparent 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.

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 or her vehicle within the block where, or within 300 feet of the driveway entrance or similar point of access to a driveway or road on which, fire apparatus has stopped in response to an alarm. The personal vehicles of members of a volunteer fire department answering the alarm are considered on official business.

History: 1975 c. 253, 421.

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 18 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.

History: 1971 c. 213 s. 5.

This section discussed. 66 Atty. Gen. 215.

346.935 Drinking in motor vehicles on highway.

No person may drink from or open a container of fermented malt beverage or intoxicating liquor in a moving motor vehicle on a highway. This section does not apply to a motor bus.

History: 1975 c. 297 s. 16.

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.

(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.** Except as provided in sub. (8m), no person may 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.

(8m) **TRANSPORTING PERSONS IN FIFTH-WHEEL MOBILE HOMES.** (a) No person may operate a motor vehicle towing a fifth-wheel mobile home upon a highway when any person under the age of 12 years is in the fifth-wheel mobile home unless one person 16 years of age or older is also in the fifth-wheel mobile home.

(b) No person may operate a motor vehicle towing a fifth-wheel mobile home upon a highway with any person in such mobile home unless the fifth-wheel mobile home is equipped with a two-way communications system in proper working order and capable of providing voice communications between the operator of the towing vehicle and any occupant of the fifth-wheel mobile home.

(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.

(12) **DRIVING ON BICYCLE LANE OR BICYCLE WAY.** No operator of a motor vehicle may drive upon a bicycle lane or bicycle way except to enter a driveway or to enter or leave a parking space located adjacent to the bicycle lane or bicycle way. Persons operating a motor vehicle upon a bicycle lane or bicycle way shall yield the right-of-way to all bicycles within the bicycle lane or bicycle way.

(13) **ABANDONED MOTOR VEHICLES.** No person may cause a motor vehicle to be abandoned, within the meaning of s. 342.40 (1), on or along

346.94 RULES OF THE ROAD

3838

any highway or on any public or private property.

History: 1973 c. 182, 314; 1975 c. 320; 1977 c. 68

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), (9), (10), (11) or (12) may be required to forfeit 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 required to forfeit not less than \$20 nor more than \$400.

(2m) Any person violating s. 346.935 may be required to forfeit not more than \$100.

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

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

(5) Any person violating s. 346.94 (13) may be required to forfeit not more than \$200.

History: 1971 c. 278; 1973 c. 182, 314, 336; 1975 c. 297, 320; 1977 c. 68

346.96 Transportation in automobiles and station wagons. (1) DEFINITIONS. For the purposes of this section:

(a) "School" means the school board or other governing body in the case of a private school.

(b) "Vehicle" means an automobile or station wagon but not a motor vehicle that is designed or constructed as a van.

(2) GENERAL REQUIREMENTS. A vehicle may be used to transport 10 persons or less including the operator for the purposes specified in s. 340.01 (56) (a) 2 and 3 or to transport adults for the purposes specified in s. 340.01 (56) (a) 4 if the requirements in subs. (3) to (6) are met.

(3) INSURANCE. If the vehicle is owned or leased by a school or a school bus contractor, it shall comply with s. 121.53. If the vehicle is not owned or leased by a school or a school bus contractor it shall be insured by a policy providing property damage coverage with a limit of not less than \$5,000 and bodily injury liability coverage with limits of not less than \$15,000 for each person, and, subject to the limit for each person, a total limit of not less than \$40,000 for each accident.

(4) INSPECTION. If the vehicle is owned or leased by a school or a school bus contractor it shall be inspected annually by the department for compliance with s. 110.075 and ch. 347 and any equipment defects shall be corrected.

(5) OPERATOR REQUIREMENTS. If the vehicle is owned by a school or a school bus contractor or if the vehicle is operated by a school employee the school shall determine that the operator:

(a) Possesses a valid operator's license.

(b) Is between 18 and 70 years of age.

(c) Has sufficient use of both hands and the foot normally employed to operate the foot brake and foot accelerator. Such use may be substantiated by a medical opinion.

(d) Submits at least once every 3 years to the school a medical opinion in such form as the school may prescribe that the operator is not afflicted with or suffering from any mental or physical disability or disease such as to prevent the operator from exercising reasonable control over a motor vehicle. The examination report prescribed in s. 118.25 (2) and (4) may be used to satisfy this requirement.

(e) Has not been convicted of reckless driving under s. 346.62, operating a motor vehicle while under the influence of an intoxicant or of a controlled substance under s. 346.63 (1), or any of the offenses enumerated under s. 343.31 (1), within a 2-year period. Upon request of the operator or school, the department shall certify whether the operator meets this requirement.

(6) SEATING REQUIREMENTS. The vehicle may not transport more persons than can be seated on the permanently mounted seats without interfering with the operator.

History: 1977 c. 5; 1977 c. 193 s. 17; 1979 c. 221.

346.97 Transportation of handicapped persons. (1) INSURANCE.

(a) No motor vehicle may be used as provided under s. 340.01 (56) (b) 4 or 5 unless a policy of bodily injury and property damage liability insurance, issued by an insurer authorized to transact business in this state, is maintained thereon. The policy shall provide property damage liability coverage with a limit of not less than \$5,000. The policy also shall provide bodily injury liability coverage with limits of not less than \$75,000 for each person and, subject to such limit for each person, total limits as follows:

1. \$150,000 for each accident for each motor vehicle having a seating capacity of 7 passengers or less.

2. \$200,000 for each accident for each motor vehicle having a seating capacity of 8 to 15 passengers.

3. \$250,000 for each accident for each motor vehicle having a seating capacity of 16 to 24 passengers.

4. \$375,000 for each accident for each motor vehicle having a seating capacity of 25 to 36 passengers.

5. \$500,000 for each accident for each motor vehicle having a seating capacity of 37 to 49 passengers.

6. Not less than \$10,000 for each accident for each passenger seat accommodation for each motor vehicle having a seating capacity of 50 or more passengers.

(b) The department shall not issue registration plates for such a vehicle unless there is on file with the department a certificate of insurance showing that the vehicle is insured in compliance with par. (a). No such policy may be terminated prior to its expiration or canceled for any reason unless a notice thereof is filed with the department at least 30 days prior to the date of termination or cancellation. The department shall revoke the registration of a vehicle on which the insurance policy has been terminated or canceled, effective on the date of termination or cancellation.

(2) OPERATOR'S REQUIREMENTS. (a) No person may operate a motor vehicle as provided under s. 340.01 (56) (b) 4 or 5 unless the person has:

1. A valid chauffeur's license or a valid school bus operator's license if the vehicle is transporting only adults; or

2. A valid school bus operator's license if the vehicle is transporting minors or both minors and adults.

(b) Any person violating par. (a) may be required to forfeit not more than \$100.

(3) PROMULGATION OF RULES; INSPECTION. (a) The department shall adopt and enforce such rules as the department deems necessary in the interests of the safety of persons being transported to cover the design, construction, equipment, inspection and operation of vehicles used as provided under s. 340.01 (56) (b) 4 or 5. The safety standards adopted under this subsection shall be similar to the standards applicable

to school busses unless a school bus standard is inconsistent with the purposes for which transportation is provided. A motor vehicle used as provided under s. 340.01 (56) (b) 4 or 5 is not required to be equipped with a stop signal arm.

(b) Such vehicles shall be inspected at least annually by the department or a certified law enforcement officer for compliance with the requirements of s. 110.075, ch. 347 and any rules promulgated under this subsection.

(c) When any vehicle is found to be unsafe for operation, traffic officers or motor vehicle inspectors may order it removed from the highway and not operated, except for purposes of removal and repair, until it has been repaired pursuant to a repair order as provided in par. (d).

(d) If any vehicle is not in compliance with the requirements under par. (b) a repair order may be issued, in such form and containing such information as the department prescribes, to the owner or driver of the vehicle. The owner or driver shall thereupon obtain the required repairs.

(e) Any person violating this subsection, or rules promulgated pursuant thereto, may be required to forfeit not less than \$10 nor more than \$200.

(4) LOADING AND UNLOADING HANDICAPPED MINORS. (a) No person who operates a vehicle in the manner provided under s. 340.01 (56) (b) 5 may stop to load or unload passengers who are minors unless the vehicle is entirely off the traveled portion of the roadway in an area where stopping, standing or parking is not prohibited and the minors do not have to cross the roadway in order to be loaded or unloaded.

(b) Any person violating this subsection may be required to forfeit not less than \$10 nor more than \$200.

History: 1979 c. 221.