

**1999 DRAFTING REQUEST**

**Bill**

Received: **02/15/2000**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Miller (608) 266-5342**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **nilsepe**

May Contact:

Alt. Drafters:

Subject: **Transportation - traffic laws**

Extra Copies: **TNF**

**Pre Topic:**

No specific pre topic given

**Topic:**

Stop for school buses on private roads and driveways

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Resuired</u>
I?	nilsepe 03/02/2000	csicilia 03/02/2000		_____			
/1			hhagen 03/02/2000	_____	lrb_docadmin 03/02/2000	lrb_docadmin 03/03/2000	

FE Sent For:

*N/A*

<END>

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**Pre Topic:**

No specific pre topic given

**Topic:**

Rules of road apply to certain private roads

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

<END>

From: Miller, Mark  
Sent: Wednesday, February 09, 2000 4:30 PM  
To: Nilsen, Paul  
Subject: Traffic enforcement on private roads

Mr. Nilsen,

Thank you for researching the question from Joe Maassen regarding the authority for local law enforcement to enforce traffic regulations on private property.

I am not comfortable extending the law to apply to all private roads. I talked with the #2s with the Dane County Sheriff and the Madison Police Chief to determine the kinds of private property that should be considered.

They identified three kinds of development with private roads:

1. Mobile home parks
2. "Gated" communities
3. Condominium developments
4. Golf Course residential development (this latter often allows for golf carts to share the streets with automobiles.)

These typically are characterized by roads without curb or sidewalk, but not necessarily.

They suggested a density or driveway spacing criteria, but I think it makes more sense to grant authority over all shared private roads with more than "x" housing units (say 8, for example). Owners of more than 75% of the housing units may elect to remove their private shared road(s) from local law enforcement authority.3

Let me know if you think this is workable or whether we should consider a different approach.

MM

I Message-----

From: Nilsen, Paul  
Sent: Friday, February 04, 2000 5:34 PM  
To: Maassen, Joe  
cc: Rep.Miller  
Subject: RE: Rep. Miller contact, School Buses

I agree that s. 346.48 (1) does not apply to "private roads and driveways", and applies only to "highways". Whether the roads in the particular mobile home park at issue are 'highways' or 'private roads' is a question of fact.

The easiest fix would be to: 1) amend s. 346.48 (1) to include 'private roads and driveways' (you could further limit that by specifying "private roads and driveways in mobile home parks, as defined in s. 66.058(1) (e)", or "licensed under s. 66.058", etc.); or 2) delete the references to roads or streets in s. 346.48 (1) and have the stop requirement apply anytime the bus is stopped with lights flashing.

Mark Miller  
48th Assembly District  
Capitol, Room 3 North  
P.O. Box 8953  
Madison, WI 53708  
(608)266-5342, FAX (608)282-3648  
[Rep.Miller@legis.state.wi.us](mailto:Rep.Miller@legis.state.wi.us)

## Nilsen, Paul

---

**From:** Miller, Mark  
**Sent:** Thursday, March 02, 2000 8:05 AM  
**To:** Nilsen, Paul  
**Subject:** RE: Private streets

Paul, You correctly anticipated the direction I would like to go. I'll look forward to your draft.  
MFM

-----Original Message-----

**From:** Nilsen, Paul  
**Sent:** Wednesday, March 01, 2000 1:53 PM  
**To:** Miller, Mark  
**Subject:** RE: Private streets

I can draft a bill to amend s. 346.48 to make the stop requirement applicable wherever a school bus stops with lights flashing. This would be done by deleting the bracketed material below. Or, I could draft a bill adding "private roads or driveways" to the bracketed material, so that the stop requirement would apply to buses stopped on streets, highways or private roads or driveways (and not apply any place a school bus might happen to be). The latter approach is better to the extent that it makes clear that law enforcement has authority over private roads and driveways on that narrow issue.

346.48 (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.

School boards already have authority over routes. Section 121.56 provides "121.56 School bus routes. The school board of each district shall make and be responsible for all necessary provisions for the transportation of pupils, including establishment, administration and scheduling of school bus routes. Upon the request of any school board, the state superintendent shall provide advice and counsel on problems of school transportation. Any private school shall, upon the request of the public school officials, supply all necessary information and reports. The transportation of public and private school pupils shall be effectively coordinated to insure the safety and welfare of the pupils. Upon receipt of a signed order from the state superintendent, the school board shall discontinue any route specified by the state superintendent."

Given the timing, I will draft a bill for you this afternoon adding private roads and driveways to s. 346.48 (1). Then you will have something to work from (and schedule from). I will try to have a bill to you Friday. It's LRB-4554.

---

Attorney Paul E. Nilsen  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2307  
Tel: (608) 261-6926  
Fax: (608) 264-8522  
Email: Paul.Nilsen@legis.state.wi.us

-----Original Message-----

**From:** Miller, Mark

Sent: Wednesday, March 01, 2000 1:24 PM  
To: Nilsen, Paul  
Subject: Private streets

Paul,

Local law enforcement indicated they are not enthusiastic about taking on traffic enforcement on private roads as a general responsibility. private roads often are not designed to public road standards and may permit traffic that would not be permitted on public roads, e.g. golf carts. In addition, rural areas have a number of driveways that would not be suitable for traffic enforcement.

Therefore, I do not want to draft a bill that provides for general enforcement responsibility on shared private roads. As a minimum, I want enforcement responsibility for school bus safety. This could be provided through your suggestion that the school bus flashing light requirement be enforceable everywhere. Another option is to extend enforcement to any road traveled by a school bus carrying children and select certain violations that could be enforced, such as school bus flashing lights, failure to stop at a stop sign, and reckless driving. There may be others. I don't think police should be enforcing private speed limits, since all other speed limits are created through legislative action.

If we go with the most limited change, namely enforcement only of t school bus flashing lights, should there be accompanying language to clarify that school districts may refuse to include in their route any street in which local law enforcement cannot enforce the flashing light law.

Let me know what you see as the difficulties with the various approaches. I will want to draft a bill ASAP because the time for obtaining action is nearly over.

Mark

*Mark Miller*  
*48th Assembly District*  
*Capitol, Room 3 North*  
*P.O. Box 8953*  
*Madison, WZ 53708*  
*(608)266-5342, FAX (608)282-3648*  
*Rep. Miller@legis.state.wi.us*



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-45547

PEN.....

5004

*[Handwritten signature]*  
gs

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

gen cat.

1 A N ACT ~~relating to:~~ **relating to:** applicability to private roads and driveways of certain  
2 rules of the road governing passing school buses.

***Analysis by the Legislative Reference Bureau***

Current law requires motorists who approach a school bus that is stopped on a public road and is displaying flashing red lights to stop their approaching vehicle not less than 20 feet from the bus and to remain stopped until the bus resumes motion or the bus driver extinguishes the flashing red warning lights. A motorist who violates this requirement may be required to forfeit not less than \$30 nor more than **\$300**. The owner or lessee of a vehicle that violates these requirements may be held liable for the violation under this state's "owner liability" law, under which a school bus driver who observes a violation may report the violation to police.

This bill extends these stopping requirements to private roads and driveways. A "private road or driveway" is every way or place in private ownership and used for vehicular travel only by the owner and those having express or implied permission from the owner, and every road or driveway upon the grounds of public institutions other than public schools and institutions under the jurisdiction of the county board of supervisors. Under the bill, any motorist who approaches a school bus that is stopped on a public road or on a private road or driveway must stop the vehicle not less than 20 feet from the bus and must remain stopped until the bus resumes motion

or the bus driver extinguishes the flashing red warning lights. The "owner liability" law applies to violations committed on private roads or driveways.

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

1           SECTION 1. 346.48 (1) of the statutes is amended to read:

2           346.48 (1) The operator of a vehicle which approaches from the front or rear  
3 any school bus which has stopped on a street ~~or~~ highway or nprivate road or driveway  
4 when the bus is equipped according to s. 347.25 (2) and when it is displaying flashing  
5 red warning lights, shall stop the vehicle not less than 20 feet from the bus and shall  
6 remain stopped until the bus resumes motion or the operator extinguishes the  
7 flashing red warning lights. The operator of any school bus which approaches from  
8 the front or rear any school bus which has stopped and is displaying flashing red  
9 warning lights shall display its flashing red lights while stopped. This subsection  
10 does not apply to operators of vehicles proceeding in the opposite direction on a  
11 divided highway or private road or driveway.

History: 1973 c. 93; 1975 c. 18, 120, 429; 1985 a. 287,301; 1987 a 125.

12           SECTION 2. 346.48 (2) (a) of the statutes is amended to read:

13           346.48 (2) (a) Except as provided in par. (b) the operator of a school bus  
14 equipped with flashing red warning lights as specified in s. 347.25 (2) shall actuate  
15 such lights at least 100 feet before stopping to load or unload pupils or other  
16 authorized passengers, and shall not extinguish such lights until loading or  
17 unloading is completed and persons who must cross the highway or nprivate road or  
18 driveway are safely across. Where the curb and sidewalk are laid on one side of the  
19 road only, the operator shall use the flashing red warning lights when loading or  
20 unloading passengers from either side.

History: 1973 c. 93; 1975 c. 18, 120,429; 1985 a. 287,301; 1987 a. 125.



1           **SECTION 3.** 346.48 (2) (bm) of the statutes is amended to read:

2           346.48 (2) (bm) Except as provided in par. (b) 2. or unless prohibited by  
3           municipal ordinance enacted under s. 349.21 (2), a school bus operator shall use the  
4           flashing red warning lights as provided in par. (a) in a zone designated by "school"  
5           warning signs as provided in s. 118.08 (1) in which a street ~~or~~, highway or private  
6           road or driveway borders the grounds of a school when pupils or other authorized  
7           passengers are loaded or unloaded directly from or onto the school grounds or that  
8           portion of the right-of-way between the roadway and the school grounds.

History: 1973 c. 93; 1975 c. 18, 120, 429; 1985 a. 287,301; 1987 a. 125.

9           **SECTION 4.** 346.48 (2) (c) of the statutes is amended to read:

10           346.48 (2) (c) When a school bus is being used on a highway or private road or  
11           driveway for purposes other than those specified in s. 340.01 (56) (a) and (am), the  
12           flashing red warning lights shall not be used, and all markings on the front and rear  
13           of the bus indicating it is a school bus shall be removed or completely concealed;  
14           except that any time a motor vehicle is equipped as provided under ss. 347.25 (2) and  
15           347.44 and is transporting children for any purpose, the school bus markings may  
16           remain unconcealed and the flashing red signals may be used as provided in this  
17           section and when so used, sub. (1) applies to operators of other motor vehicles.

History: 1973 c. 93; 1975 c. 18, 120, 429; 1985 a. 287,301; 1987 a. 125.

18           **SECTION 5.** 346.48 (3) of the statutes is amended to read:

19           346.48 (3) If the operator of a motor vehicle overtakes a school bus which is  
20           stopped and is loading or unloading pupils or other authorized passengers at an  
21           intersection on the right side of a roadway or private road or driveway in a business  
22           or residence district in which the display of the flashing red warning lights on the

1 school bus is not permitted, the operator shall pass at a safe distance to the left of the  
2 school bus and shall not turn to the right in front of the school bus at that intersection. /

History: 1973 c. 93; 1975 c. 18, 120, 429; 1985 a. 287.301; 1987 a. 125.

3 **SECTION 6. Initial applicability.**

4 (1) This act first applies to motor vehicles operated on the first day of the fourth  
5 month beginning after publication.

6 (END)

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 03/02/2000

**To:** Representative Miller

**Relating to LRB drafting number:** LRB-4554

**Topic**

Stop for school buses on private roads and driveways

**Subject(s)**

Transportation - traffic laws

1. **JACKET** the draft for introduction



in the **Senate** or the Assembly  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-356 1. If you have any questions relating to the attached draft, please feel free to call me.

Paul E. Nilsen, Legislative Attorney  
Telephone: (608) 26 1-6926