

**2001 Jr2 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-AB1)**

Received: **03/27/2002**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Democratic Caucus**

By/Representing: **Engel**

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

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**

Extra Copies: **TNF, ARG**

Submit via email: **NO**

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**Pre Topic:**

SCC:.....Engel - CN8823,

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**Topic:**

Jake braking

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**Instructions:**

See Attached

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**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>
/?	phurley 04/02/2002	gilfokm 04/02/2002		_____			
/1			kfollet 04/02/2002	_____	lrb_docadmin 04/02/2002		

FE Sent For:

<END>

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1?	phurley	1-4/2 king	kl 4/2	self 4/2			

FE Sent For:

<END>

PSH

I would like to submit the following items for consideration as budget amendments:

- ◆ A provision to require school districts with exclusive soda contracts to provide milk whenever and wherever soda is available. Senator Hansen and I introduced legislation on this issue (AB 678 and SB 339) This was introduced last week as AA 30 to ASA 1. A copy is enclosed for your review.
- ◆ A provision to ban the sale and distribution of mercury thermometers. Senator Robson and I introduced this proposal earlier this year as AB 793 and SB 435. It was also introduced last week as AA 32 to ASA 1. I have also included a copy of this amendment.
- ◆ An amendment to provide two "No Jake Braking" signs at the exit ramps on Highway 94 in the City of Menomonie. This is a problem that was brought to my attention by a constituent. I have been working to resolve the issue with the DOT, but have not yet been successful.
- ◆ An amendment to provide a sales tax exemption for local youth athletic programs fees. I had hoped to introduce this provision as an amendment last week. Unfortunately, the draft did not arrive before session ended. I have enclosed a copy of the amendment.

CN  
8823

June 22  
state  
§ 346.94

Indiana Dave  
Chovey  
I shall not sign Bill  
prohibiting alcohol  
unless signs  
are erected

... of these items. If you would like to discuss any or all of these



# House Bill 1106

## ARCHIVE (2000)

03/29/2002 11:16:58 AM EST

Go To Bill:

Latest Information

Keyword

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DIGEST OF HB1106 (Updated February 22, 2000 2:46 PM - DI 84)

Use of brakes on the toll road. Requires the department of transportation to adopt rules to control the use of compression release engine brakes when a motor vehicle is using the Indiana toll road in Porter County. The rules must include the limitation of the use of the compression release engine brakes instead of the service brake system, except in the case of failure of the service brake system.

General

Assembly

Home Page

**Current Status:**

Section 2 effective 03/15/00

**Latest Printing (PDF)**

Session

Information

Complete Bill

Listing



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- Action List
- Introduced Bill
- Fiscal Impact Statement(s): 1(PDF), 2(PDF), 3(PDF), 4(PDF)
- Roll Call(s): No. 77(PDF), No. 360(PDF)
- Indiana Code Citations Affected
- House Committee Reports
  - Filed Committee Reports: 1106-1(PDF), 1106-1, 1106-1 (PDF)
  - Passed Committee Reports: 1106-1(PDF), 1106-1
- House Amendments
  - Filed: 1106-1, 1106-1(PDF), 1106-1
  - Passed: 1106-1(PDF), 1106-1
- House Bill
- Senate Committee Reports
  - Filed Committee Reports: 110604.001(PDF), 110604.001
  - Passed Committee Reports: 1106-1(PDF), 1106-1
- Senate Amendments
- Engrossed Act
- Conference Committee Reports
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Introduced Version

**HOUSE BILL No. 1106**

**DIGEST OF INTRODUCED BILL**

**Citations Affected:** IC 8-15-3-27 ; IC 9-19-3-9.

**Synopsis:** Use of brakes on the toll road. Requires the department of transportation to adopt rules for the regulation of controls for the operation of brakes on a trailer when a motor vehicle is using the Indiana toll road. Requires brakes on a motor vehicle to be adequate to control the movement of and to stop and hold to the limit of traction of a vehicle or combination of vehicles under all conditions of loading on any grade on which it is operated.

**Effective:** Upon passage; July 1, 2000.

**Cheney**

January 10, 2000, read first time and referred to Committee on Roads and Transportation.

Introduced

Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana

Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

## HOUSE BILL No. 1106

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

SOURCE: IC 8-15-3-27; (00)IN1106.1.1. --> SECTION 1. IC 8-15-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 27. (a) **As used in this section, "service brake" means the primary system or mechanism designed to retard or stop a motor vehicle.**

(b) Notwithstanding IC 9, the department may adopt rules under IC 4-22-2 for the following:

(1) Establishing weight and size limitations for vehicles using a tollway, subject to the following:

(A) The operator of any vehicle exceeding any of the maximum allowable dimensions or weights must apply to the department in writing for an application for a special hauling permit. The application must be received at least seven (7) days before the time of desired entry. A permit, if granted, shall be given to the applicant in duplicate, properly completed, and numbered. The driver of the vehicle must have a copy to present to the toll attendant on duty at the point of entry to the tollway.

(B) The department shall assess a fee for issuing a special hauling permit. In assessing the fee, the department shall take into consideration the following factors:

(i) The administrative cost of issuing the permit.

(ii) The potential damage the vehicle represents to the project.

(iii) The potential safety hazard the vehicle represents.

(2) Establishing the speed at which a vehicle may be driven on a tollway, including a minimum speed and a maximum speed not in excess of the maximum provided in IC 9 for the interstate defense network of dual highways.

(3) Designating one-way traffic lanes on a tollway.

(4) Determining the manner of operation of vehicles entering and leaving traffic lanes on a tollway.

(5) Determining the regulation of U-turns, of crossing or entering medians, of stopping, parking, or standing, and of passing vehicles on a tollway.

(6) Determining the establishment and enforcement of traffic control signs and signals for vehicles in traffic lanes, acceleration and deceleration lanes, toll plazas, and interchanges on a tollway.

(7) Determining the limitation of entry to and exit from a tollway to designated entrances and exits.

(8) Determining the limitation on use of a tollway by pedestrians and aircraft and by vehicles of a type specified in the rules.

(9) Regulating commercial activity on tollways, including the following:

(A) The offering or display of goods or services for sale.

(B) The posting, distributing, or displaying of signs, advertisements, or other printed or written material.

(C) The operation of a mobile or stationary public address system.

(c) **Notwithstanding IC 9, the department shall adopt rules under IC 4-22-2 for determining the**

**regulation of controls for the operation of brakes on a trailer when a motor vehicle is using the Indiana toll road. These rules must include the prohibition of the use of the additional control instead of the service brake system whenever a motor vehicle is equipped with an additional control to operate the brakes on a trailer, except in the case of failure of the service brake system.**

SOURCE: IC 9-19-3-9; (00)IN1106.1.2. --> SECTION 2. IC 9-19-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. All brakes must:

(1) be maintained in good working order;

---

(2) be adequate to control the movement of and to stop and hold to the limit of traction of a vehicle or combination of vehicles under all conditions of loading on any grade on which it is operated; and

(3) ~~must~~ be adjusted so as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

SOURCE: ; (00)IN1106.1.3. --> SECTION 3. [EFFECTIVE UPON PASSAGE] (a)

**Notwithstanding IC 8-15-3-27 , as amended by this act, the department of transportation shall carry out the duties imposed upon it by IC 8-15-3-27 , as amended by this act, under interim written guidelines approved by the commissioner.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 8-15-3-27 , as amended by this act.

(2) December 31, 2000.

SOURCE: ; (00)IN1106.1.4. --> SECTION 4. An emergency is declared for this act.

## Not Found

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## Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

**HOUSE ENROLLED ACT No. 1106**

AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

SOURCE: IC 8-15-3-27; (00)HE1106.1.1. --> SECTION 1. IC 8-15-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 27. (a) **As used in this section, "compression release engine brake" means a hydraulically operated device that converts a power producing diesel engine into a power absorbing retarding mechanism.**

(b) Notwithstanding IC 9, the department may adopt rules under IC 4-22-2 for the following:

(1) Establishing weight and size limitations for vehicles using a tollway, subject to the following:

(A) The operator of any vehicle exceeding any of the maximum allowable dimensions or weights must apply to the department in writing for an application for a special hauling permit. The application must be received at least seven (7) days before the time of desired entry. A permit, if granted, shall be given to the applicant in duplicate, properly completed, and numbered. The driver of the vehicle must have a copy to present to the toll attendant on duty at the point of entry to the tollway.

(B) The department shall assess a fee for issuing a special hauling permit. In assessing the fee, the department shall take into consideration the following factors:

- (i) The administrative cost of issuing the permit.
- (ii) The potential damage the vehicle represents to the

project.

(iii) The potential safety hazard the vehicle represents.

(2) Establishing the speed at which a vehicle may be driven on a tollway, including a minimum speed and a maximum speed not in excess of the maximum provided in IC 9 for the interstate defense network of dual highways.

(3) Designating one-way traffic lanes on a tollway.

(4) Determining the manner of operation of vehicles entering and leaving traffic lanes on a tollway.

(5) Determining the regulation of U-turns, of crossing or entering medians, of stopping, parking, or standing, and of passing vehicles on a tollway.

(6) Determining the establishment and enforcement of traffic control signs and signals for vehicles in traffic lanes, acceleration and deceleration lanes, toll plazas, and interchanges on a tollway.



- (7) Determining the limitation of entry to and exit from a tollway to designated entrances and exits.
- (8) Determining the limitation on use of a tollway by pedestrians and aircraft and by vehicles of a type specified in the rules.
- (9) Regulating commercial activity on tollways, including the following:
  - (A) The offering or display of goods or services for sale.
  - (B) The posting, distributing, or displaying of signs, advertisements, or other printed or written material.
  - (C) The operation of a mobile or stationary public address system.

(c) **Notwithstanding IC 9, the department shall adopt rules under IC 4-22-2 to control the use of compression release engine brakes when a motor vehicle is using the Indiana toll road in a county having a population of more than one hundred twenty-five thousand (125,000) but less than one hundred twenty-nine thousand (129,000). These rules must include the limitation of the use of the compression release engine brakes instead of the service brake system, except in the case of failure of the service brake system.**

SOURCE: ; (00)HE1106.1.2. --> SECTION 2. [EFFECTIVE UPON PASSAGE] (a)  
**Notwithstanding IC 8-15-3-27, as amended by this act, the department of transportation shall carry out the duties imposed upon it by IC 8-15-3-27, as amended by this act, under interim written guidelines approved by the commissioner.**

(b) **This SECTION expires on the earlier of the following:**

- (1) **The date rules are adopted under IC 8-15-3-27, as**

**amended by this act.**

- (2) **December 31, 2000.**

SOURCE: ; (00)HE1106.1.3. --> SECTION 3. **An emergency is declared for this act.**

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HEA 1106\_ Concur

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Figure

Graphic file number 0 named seal1001.pcx with height 58 p and width 72 p Left aligned

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# Alderman urges engine brake ban

By RICK BARRETT of the Journal Sentinel staff

Last Updated: Feb. 18, 2001

The staccato sound of big trucks "jake" braking, or using engine compression to slow down, has come under fire from a City of Pewaukee alderman.

The distinctive sound might be music to a trucker's ears, but it's annoying to people who live near Capitol Drive, Highway 164 and other major roads, said Ald. David Swan.

"These trucks remind me of the days when some people thought that cars with loud mufflers were cool," Swan said.

The term "Jake Brake" is a registered trademark of Jacobs Vehicle Systems and refers to a type of engine brake used extensively on heavy-duty trucks.

The driver has a switch in the cab that activates the device and adjusts the engine compression to slow the vehicle. In doing so, it makes what some people describe as a lot of noise.

Swan said he had seen "No Jake Braking" signs in other communities, and he wants something similar in Pewaukee. He has proposed an ordinance to ban the use of engine brakes in the city.

"I am not against truckers, but I want something to quiet things down a bit," Swan said.

Menomonee Falls and at least a half-dozen other communities in Wisconsin have ordinances prohibiting truck drivers from using engine brakes.

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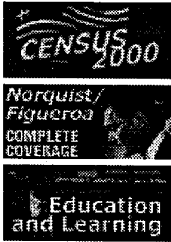


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But although Menomonee Falls passed its ordinance almost a year ago, the village hasn't written traffic citations to violators yet because it hasn't posted warning signs, said Police Sgt. Jim Bramm.

"What we are doing is giving verbal warnings, telling truck drivers they can't use their engine brakes here," he said.

The warning signs are a sensitive issue because Jacobs Vehicle Systems has threatened to sue communities for using the trademark name "Jake Brake" without the company's permission.

"The term we will have to use on our signs is 'engine brake,' " Bramm said.

Engine brakes are a safety feature and can stop a truck about 15 feet faster at 30 mph than just using regular brakes, according to trucking industry data. They also save truck owners money because they reduce wear on wheel brakes.

"Absolutely, they help," said Bill Wisecup, training director at Diesel Truck Driver Training School in Sun Prairie, near Madison.

Yet some truck drivers wrongly use engine brakes to compensate for poorly maintained wheel brakes, Wisecup and Bramm said.

Also, engine brakes were designed for use in mountainous regions where wheel brakes can become overheated on steep downhill roads. They aren't necessary in Wisconsin, according to Wisecup.

"You just don't need a jake brake in this state," he said. "And some truck drivers think it's cool to make a lot of noise with them, causing problems for everyone else."

Rather than banning engine brakes, local governments should crack down on poorly muffled trucks that are at the root of the problem, said Frank Stawski, attorney for Jacobs Vehicle Systems.

The sound from an engine brake can be quite loud on a poorly muffled truck, Stawski said.

"But the real problem here is the illegally modified or defective muffler, rather than the brake," he said.

Jacobs Vehicle Systems of Bloomfield, Conn., is concerned about the number of communities across the country that have enacted ordinances banning engine brakes, Stawski added.

"We don't believe communities should have the right to ban a legal product," he said. "It's almost as ludicrous as saying if a town doesn't like red trucks they should ban red trucks."

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State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBb2761/

PJH:...

January 2002 Special Session

SCC:.....Engel - CN8823, Jake braking

FIX

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FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT,

TO SENATE SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 215, line 7: after that line insert:

3 "SECTION 461j. 346.94<sup>19</sup> of the statutes is created to read:

4 346.94<sup>19</sup> ENGINE BRAKING. (a) In this subsection, "engine brake" means <sup>a</sup>

5 hydraulically operated device that converts a power-producing diesel engine into a  
6 power-absorbing<sup>v</sup>retarding<sup>v</sup> mechanism that is used to augment or replace the use of  
7 the primary brake system or mechanism on a motor vehicle.

8 (b) No operator of a motor vehicle may use engine brakes on the exit ramps from  
9 I 94 to STH 25 proceeding northerly in the city of Menomonie in Dunn County. The  
10 department shall erect a sign approaching each exit ramp on I 94 indicating the  
11 prohibition to give adequate warning to motorists. This paragraph is not effective

1 until official signs giving notice of the prohibition have been erected by the  
2 department.

3 (c) Paragraph (b) does not apply to any of the following:

4 1. The operator of an authorized emergency vehicle, when responding to an  
5 emergency call or when in pursuit of an actual or suspected violator of the law or  
6 when responding to but not upon returning from a fire alarm.

7 2. The use of engine brakes in an emergency situation that poses a significant  
8 risk of death or bodily harm.

9 **SECTION 461** ~~0~~ <sup>NO</sup> 346.95 (1) of the statutes is amended to read: <sup>SS.</sup>

10 346.95 (1) Any person violating s. 346.87, 346.88, 346.89 (2), 346.90 to 346.92  
11 or 346.94 (1), (9), (10), (11), (12) or ~~(14)~~ <sup>19</sup> (15) or ~~(16)~~ may be required to forfeit not less  
12 than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than  
13 \$100 for the 2nd or subsequent conviction within a year.”

History: 1971 c. 278; 1973 c. 182, 314, 336; 1975 c. 297, 320; 1977 c. 68; 1983 a. 56, 175, 538; 1989 a. 335 s. 89; 1991 a. 83; 1993 a. 260, 455; 1995 a. 194, 373, 420; 1999 a. 109.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb2761/rdn<sup>1</sup>

PJH: *king*

Please note that this draft uses the term "engine braking" rather than "jake braking." "Jake braking" is a registered trademark of Jacobs Vehicle Systems, which developed the types of brakes in question.

Please also note that this amendment may be challenged as a private or local law. Under article IV, section 18, of the Wisconsin Constitution, legislation that is specific to any person, place, or thing must be enacted as single-subject legislation unless the subject matter relates to a state responsibility of statewide dimension and its enactment will have direct and immediate effect on a specific statewide concern or interest.

Finally, please note that a number of local authorities have passed ordinances prohibiting the use of engine brakes. In my opinion, these ordinances are not "contrary to or inconsistent with" proposed s. 346.94 (1) and, therefore, do not violate s. 349.03 (1) (a).

(19)  
Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: [peggy.hurley@legis.state.wi.us](mailto:peggy.hurley@legis.state.wi.us)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb2761/1dn  
PJH:kmg:kjf

April 2, 2002

Please note that this draft uses the term "engine braking" rather than "jake braking." "Jake braking" is a registered trademark of Jacobs Vehicle Systems, which developed the types of brakes in question.

Please also note that this amendment may be challenged as a private or local law. Under article IV, section 18, of the Wisconsin Constitution, legislation that is specific to any person, place, or thing must be enacted as single-subject legislation unless the subject matter relates to a state responsibility of statewide dimension and its enactment will have direct and immediate effect on a specific statewide concern or interest.

Finally, please note that a number of local authorities have passed ordinances prohibiting the use of engine brakes. In my opinion, these ordinances are not "contrary to or inconsistent with" proposed s. 346.94 (19) and, therefore, do not violate s. 349.03 (1) (a).

Peggy Hurley  
Legislative Attorney  
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E-mail: [peggy.hurley@legis.state.wi.us](mailto:peggy.hurley@legis.state.wi.us)



State of Wisconsin  
2001 - 2002 LEGISLATURE  
January 2002 Special Session

LRBb2761/1  
PJH:kmg:kjf

SCC:.....Engel – CN8823, Jake braking

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS SENATE AMENDMENT ,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 1**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 215, line 7: after that line insert:

3 “SECTION 461j. 346.94 (19) of the statutes is created to read:

4 346.94 (19) ENGINE BRAKING. (a) In this subsection, “engine brake” means a  
5 hydraulically operated device that converts a power-producing diesel engine into a  
6 power-absorbing, retarding mechanism that is used to augment or replace the use  
7 of the primary brake system or mechanism on a motor vehicle.

8 (b) No operator of a motor vehicle may use engine brakes on the exit ramps from  
9 I 94 to STH 25 proceeding northerly in the city of Menomonie in Dunn County. The  
10 department shall erect a sign approaching each exit ramp on I 94 indicating the



1 prohibition to give adequate warning to motorists. This paragraph is not effective  
2 until official signs giving notice of the prohibition have been erected by the  
3 department.

4 (c) Paragraph (b) does not apply to any of the following:

5 1. The operator of an authorized emergency vehicle, when responding to an  
6 emergency call or when in pursuit of an actual or suspected violator of the law or  
7 when responding to but not upon returning from a fire alarm.

8 2. The use of engine brakes in an emergency situation that poses a significant  
9 risk of death or bodily harm.

10 **SECTION 461no.** 346.95 (1) of the statutes is amended to read:

11 346.95 (1) Any person violating s. ss. 346.87, 346.88, 346.89 (2), 346.90 to  
12 346.92 or 346.94 (1), (9), (10), (11), (12) ~~or~~ (15), or (19) may be required to forfeit not  
13 less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more  
14 than \$100 for the 2nd or subsequent conviction within a year.”.

15 (END)