

2001 SENATE BILL 423

February 5, 2002 – Introduced by Senators PLACHE and SCHULTZ, cosponsored by Representatives KREUSER and GUNDERSON, by request of William Neuhaus of Union Grove, Wisconsin. Referred to Committee on Insurance, Tourism, and Transportation.

1 **AN ACT** *to create* 86.035 of the statutes; **relating to:** mowing highway
2 rights-of-way and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, the department of transportation (DOT) is authorized to conduct maintenance activities within the right-of-way of any highway under its jurisdiction (highway right-of-way). These maintenance activities include mowing grass and weeds within the highway right-of-way.

This bill imposes certain limitations on DOT's authority to mow grass and weeds in highway rights-of-way. The bill permits DOT to mow highway rights-of-way only from July 1 until September 15 of each year. DOT may not mow highway rights-of-way to a height of less than six inches. DOT also may not mow highway rights-of-way beyond the closer of 12 feet from the outer edge of the shoulder of the roadway or the bottom of any ditch adjacent to the shoulder of the roadway, except that DOT may mow grass and weeds that obstruct the vision of a driver or that otherwise pose a risk to the safety of persons using the highway. The bill further requires DOT to conduct mowing operations in a manner that, to the greatest extent possible, avoids causing damage to turf and desirable vegetation. The bill also contains exceptions to the foregoing limitations on DOT mowing authority for: areas to be used in connection with the establishment or maintenance of permanent vegetative cover or a native plant community; newly seeded grassy areas; areas designated by rule by DOT as having specific vegetation management plans; and, as established by rule, noxious weeds and nuisance weeds. The bill further provides that DOT must establish by rule procedures for mowing grass and weeds in highway rights-of-way.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 86.035 of the statutes is created to read:

2 **86.035 Mowing highway rights-of-way. (1)** The department may mow
3 grass and weeds located in the right-of-way of any highway under its jurisdiction
4 only from July 1 until September 15 of each year. The department may not mow the
5 right-of-way on any such highway to a height of less than 6 inches.

6 **(2)** The department shall conduct all mowing operations in the right-of-way
7 of any highway under its jurisdiction in a manner that, to the greatest extent
8 possible, avoids causing damage to turf and desirable vegetation.

9 **(3)** (a) Subject to par. (b), the department may not mow grass or weeds in the
10 right-of-way of any highway under its jurisdiction beyond the closer of:

11 1. Twelve feet from the outer edge of the shoulder of the roadway, or if no
12 shoulder exists, from the outer edge of the roadway.

13 2. The bottom of any ditch adjacent to the shoulder of the roadway, or if no
14 shoulder exists, adjacent to the roadway.

15 (b) The department may mow grass and weeds that obstruct the vision of an
16 operator of a motor vehicle for a distance along the highway or to an intersection, not
17 to exceed 300 feet, or that otherwise pose a risk to the safety of persons using the
18 highway.

19 **(4)** Notwithstanding subs. (1) and (3), the department may do any of the
20 following:

