CHAPTER 346
RULES OF THE ROAD

SUBCHAPTER I
GENERAL PROVISIONS
346.01 Words and phrases defined.
346.02 Applicability of chapter.
346.03 Applicability of rules of the road to authorized emergency vehicles.
346.04 Obedience to traffic officers, signs and signals; fleeing from officer.

SUBCHAPTER II
DRIVING, MEETING, OVERTAKING AND PASSING
346.05 Vehicles to be driven on right side of roadway; exceptions.
346.06 Meeting of vehicles.
346.07 Overtaking and passing on the left.
346.072 Passing stopped emergency vehicles, tow trucks and highway machinery equipment.
346.075 Overtaking and passing bicycles, electric personal assistive mobility devices, and motor buses.
346.08 When overtaking and passing on the right permitted.
346.09 Limitations on overtaking on left or driving on left side of roadway.
346.10 When passing at a railroad crossing, intersection, bridge, viaduct or tunnel prohibited.
346.11 Passing or meeting frightened animal.
346.12 Driving through safety zones prohibited.
346.13 Driving on roadways lanced for traffic.
346.14 Distance between vehicles.
346.15 Driving on divided highway.
346.16 Use of controlled-access highways, expressways and freeways.
346.17 Penalty for violating sections 346.04 to 346.16.
346.175 Vehicle owner’s liability for fleeing a traffic officer.
346.177 Railroad crossing improvement assessment for vehicles illegally passing at railroad crossings.

SUBCHAPTER III
RIGHT−OF−WAY
346.18 General rules of right-of-way.
346.19 What to do on approach of emergency vehicle.
346.195 Owner’s liability for vehicle failing to yield the right-of-way to an authorized emergency vehicle.
346.20 Right-of-way of funeral processions and military convays.
346.205 Owner’s liability for vehicle failing to yield the right-of-way to a funeral procession.
346.21 Right-of-way of livestock.
346.22 Penalty for violating sections 346.18 to 346.21.

SUBCHAPTER IV
RESPECTIVE RIGHTS AND DUTIES OF DRIVERS, PEDESTRIANS, BIICYCLISTS, AND RIDERS OF ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES
346.23 Crossing controlled intersection or crosswalk.
346.24 Crossing at uncontrolled intersection or crosswalk.
346.25 Crossing at place other than crosswalk.
346.26 Blind pedestrian on highway.
346.27 Persons working on highway.
346.28 Pedestrians to walk on left side of highway; pedestrians, bicyclists, and riders of electric personal assistive mobility devices on sidewalks.
346.29 When standing or loitering in roadway or highway prohibited.
346.30 Penalty for violating sections 346.23 to 346.29.

SUBCHAPTER V
TURNING AND STOPPING AND REQUIRED SIGNALS
346.31 Required position and method of turning at intersections.
346.32 Required position for turning into private road or driveway.
346.33 Where turns prohibited, exception.
346.34 Turning movements and required signals on turning and stopping.
346.35 Method of giving signals on turning and stopping.
346.36 Penalty for violating sections 346.31 to 346.35.

SUBCHAPTER VI
TRAFFIC SIGNS, SIGNALS AND MARKINGS
346.37 Traffic-control signal legend.
346.38 Pedestrian control signals.
346.39 Flashing signals.
346.40 Whistle signals.
346.41 Display of unauthorized signs and signals prohibited.
346.42 Interference with signs and signals prohibited.
346.43 Penalty for violating sections 346.37 to 346.42.

SUBCHAPTER VII
REQUIRED STOPS
346.44 All vehicles to stop at signal indicating approach of train.
346.45 Certain vehicles to stop at railroad crossings.
346.455 Vehicles to stop at fire stations.
346.457 Owner’s liability for vehicle illegally passing fire truck.
346.46 Vehicles to stop at stop signs and school crossings.
346.465 Owner’s liability for vehicle illegally controlling school crossing.
346.47 When vehicles using alley or nonhighway access to stop.
346.475 Human service vehicles; loading or unloading children with disabilities.
346.48 Vehicles to stop for school buses displaying flashing lights.
346.485 Owner’s liability for vehicle illegally passing school bus.
346.49 Penalty for violating ss. 346.44 to 346.485.
346.495 Railroad crossing improvement assessment.

SUBCHAPTER VIII
RESTRICTIONS ON STOPPING AND PARKING
346.50 Exceptions to stopping and parking restrictions.
346.503 Parking spaces for vehicles displaying special registration plates or special identification cards.
346.505 Stopping, standing or parking prohibited in parking spaces reserved for vehicles displaying special registration plates or special identification cards.
346.51 Stopping, standing or parking outside of business or residence districts.
346.52 Stopping prohibited in certain specified places.
346.53 Parking prohibited in certain specified places.
346.54 How to park and stop on streets.
346.55 Other restrictions on parking and stopping.
346.56 Penalty for violating sections 346.503 to 346.55.

SUBCHAPTER IX
SPEED RESTRICTIONS
346.57 Speed restrictions.
346.58 Special speed restrictions for certain vehicles.
346.59 Minimum speed regulation.
346.595 Motorcycles and mopeds.
346.60 Penalty for violating sections 346.57 to 346.595.

SUBCHAPTER X
RECKLESS AND DRUNKEN DRIVING
346.61 Applicability of sections relating to reckless and drunken driving.
346.62 Reckless driving.
346.63 Operating under influence of intoxicant or other drug.
346.635 Report arrest or out-of-service order to department.
346.637 Driver awareness program.
346.64 Employment of drunken operators.
346.65 Penalty for violating sections 346.62 to 346.64.
346.655 Driver improvement surcharge.

SUBCHAPTER XI
ACCIDENTS AND ACCIDENT REPORTS
346.66 Applicability of sections relating to accidents and accident reporting.
346.665 Definition.
346.67 Duty upon striking person or attended or occupied vehicle.
346.68 Duty upon striking unattended vehicle.
346.69 Duty upon striking property on or adjacent to highway.
346.70 Duty to report accident.
346.71 Coroners or medical examiners to report; require blood specimen.
346.72 Garages to keep record of repairs of accident damage.
346.73 Accident reports not to be used in trial.
346.74 Penalty for violating sections 346.67 to 346.73.

SUBCHAPTER XII
BICYCLES, ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES, AND PLAY VEHICLES
346.77 Responsibility of parent or guardian for violation of bicycle and play vehicle regulations.
346.78 Play vehicles not to be used on roadway.
346.79 Special rules applicable to bicycles.
346.80 Riding bicycle or electric personal assistive mobility device on roadway.
346.803 Riding bicycle or electric personal assistive mobility device on bicycle way.
346.804 Riding bicycle on sidewalk.
346.805 Riding electric personal assistive mobility device on sidewalk.
346.82 Penalty for violating sections 346.77 to 346.805.

SUBCHAPTER XIII
MISCELLANEOUS RULES
346.87 Limitations on backing.
346.88 Obstruction of operator’s view or driving mechanism.
346.89 Inattentive driving.
346.90 Following emergency vehicle.
346.91 Crossing fire hose.
346.915 Following snowplows.
346.92 Illegal riding.
346.922 Transporting children in cargo areas of motor trucks.
346.925 Operation of agricultural machinery by youthful operators.
346.93 Intoxicants in vehicle; underage persons.
346.935 Intoxicants in motor vehicles.
346.94 Miscellaneous prohibited acts.
346.945 Vehicle owner’s liability for radios or other electric sound amplification devices.
346.95 Penalty for violating sections 346.87 to 346.94.
SUBCHAPTER I

GENERAL PROVISIONS

346.01 Words and phrases defined. (1) Words and phrases defined in s. 340.01 are used in the same sense in this chapter unless a different definition is specifically provided.

(2) In this chapter, notwithstanding s. 340.01 (42), “owner” means, with respect to a vehicle that is registered, or is required to be registered, by a lessee of the vehicle under ch. 341, the lessee of the vehicle for purposes of vehicle owner liability under ss. 346.175, 346.195, 346.205, 346.457, 346.465, 346.485, 346.505 (3) and 346.945.

History: 1997 s. 27.

346.02 Applicability of chapter. (1) Applies primarily upon highways. This chapter 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 this chapter grants or applies to the operator of a vehicle, except those provisions of this chapter which by their very nature would have no application.

(4) Applicability to persons riding bicycles and motor bicycles. (a) Subject to the special provisions applicable to bicycles, every person riding a bicycle upon a roadway or shoulder of a highway is granted all the rights and is subject to all the duties which this chapter 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. For purposes of this chapter, provisions which apply to bicycles also apply to motor bicycles, except as otherwise expressly provided.

(b) Provisions which apply to the operation of bicycles in crosswalks under ss. 346.23, 346.24, 346.37 (1) (a) 2., (c) 2 and (d) 2. and 346.38 do not apply to motor bicycles.

(5) Applicability to public officers and employees. The provisions of this chapter 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), 346.06 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 signal posting. No provision of this chapter 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 this chapter 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 this chapter grants or applies to such persons, except those provisions of this chapter 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) and (9).

(11) Applicability to all–terrain vehicles. The operator of an all–terrain vehicle on a roadway is 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, 346.71, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92 (1) and 346.94 (1) and (9) but is not subject to any other provision of this chapter.

(12) Applicability to electric personal assistive mobility devices. An electric personal assistive mobility device shall be considered a vehicle for purposes of ss. 346.04 to 346.10, 346.12, 346.13, 346.15, 346.16, 346.18, 346.19, 346.20, 346.23 to 346.28, 346.31 to 346.35, 346.37 to 346.40, 346.44, 346.46, 346.47, 346.48, 346.50 to 346.53, 346.57, 346.59, 346.62, 346.65 (5m), 346.67 to 346.70, 346.78, 346.80, 346.87, 346.88, 346.89, 346.91, and 346.94 (4), (5), (9), and (10), except those provisions which by their express terms apply only to motor vehicles or which by their very nature would have no application to electric personal assistive mobility devices.


Discussion of state, county and tribal jurisdiction to regulate traffic on streets in housing projects that have been built and are maintained by Winnebago Tribe on tribal lands. 58 Atty. Gen. 122.

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 the vehicle is giving visual signal by means of at least one flashing, oscillating or rotating red light except that the visual signal given by a police vehicle may be by means of a blue light and a red light which are flashing, oscillating or rotating, except as otherwise provided in sub. (4m). 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) or (4m).
RULES OF THE ROAD

346.06

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 visible or audible signal to stop his or her vehicle from a traffic officer or marked police vehicle, shall knowingly resist the traffic officer by failing to stop his or her vehicle as promptly as safety reasonably permits.

NOTE: Sub. (2) is created eff. 2−1−03 by 2001 Wis. Act 109.

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 side 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 under construction or repair; or (d) When overtaking and passing pedestrian, animals or obstructions on the right−hand side 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.

(1m) Notwithstanding sub. (1), any person operating a bicycle equipped with red and blue lights operating on the left−hand side of the roadway; or as close as practicable to the right−hand edge 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, and except as provided in s. 346.072.

(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, and except as provided in s. 346.072.

NOTE: Sub. (3) is created eff. 2−1−03 by 2001 Wis. Act 109.

346.06

Meeting of vehicles. Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having for not more than one line of traffic in each direction each operator shall give to the other at least one—

Wisconsin Statutes Archive.
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. 346.075 (2) and 346.08 to 346.11:

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

History: 1971 c. 208; 1985 a. 301 s. 4; 1991 a. 316; 1997 a. 32.

346.072 Passing stopped emergency vehicles, tow trucks and highway machinery equipment. (1) If an authorized emergency vehicle giving visual signal, a tow truck flashing red lamps, or any road machinery or motor vehicle used in highway construction or maintenance displaying the lights specified in s. 347.23 (1) (a) or (b) or, with respect to a motor vehicle, displaying the lights specified in s. 347.26 (7), is parked or standing on or within 12 feet of a roadway, the operator of a motor vehicle approaching such vehicle or machinery shall proceed with due regard for all other traffic and shall do either of the following:

(a) Move the motor vehicle into a lane that is not the lane nearest the parked or standing vehicle or machinery and continue traveling in that lane until safely clear of the vehicle or machinery. This paragraph applies only if the roadway has at least two lanes for traffic proceeding in the direction of the approaching motor vehicle and if the approaching motor vehicle may change lanes safely and without interfering with any vehicular traffic.

(b) Slow the motor vehicle, maintaining a safe speed for traffic conditions, and operate the motor vehicle at a reduced speed until completely past the vehicle or machinery. This paragraph applies only if the roadway has only one lane for traffic proceeding in the direction of the approaching motor vehicle or if the approaching motor vehicle may not change lanes safely and without interfering with any vehicular traffic.

(2) In addition to any penalty imposed under s. 346.17 (2), any person violating this section shall have his or her operating privilege suspended as provided in s. 343.30 (1)(o).

History: 2001 a. 15.

346.075 Overtaking and passing bicycles, electric personal assistive mobility devices, and motor buses. (1) The operator of a motor vehicle overtaking a bicycle or electric personal assistive mobility device 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 or electric personal assistive mobility device, and shall maintain clearance until safely past the overtaken bicycle or electric personal assistive mobility device.

(2) Except as provided in s. 346.48, if the operator of a motor vehicle overtakes a motor bus which is stopped at an intersection on the right side of the roadway and is receiving or discharging passengers, the operator shall pass at a safe distance to the left of the motor bus and shall not turn to the right in front of the motor bus at that intersection.


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 the operator 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.

History: 1991 a. 316.

A driver may not pass on the right using any part of the shoulder. Kaufman v. Postle, 2001 WI App 86, 243 Wis. 2d 45, 626 N.W.2d 10.

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, intersection, bridge, viaduct or tunnel prohibited. (1) The operator of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction when approaching within 100 feet of or traversing 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 when approaching within 100 feet of or traversing 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 is designated in the direction of travel by a traffic control signal, stop sign, yield sign or sign that warns traffic of existing or potentially hazardous conditions on or adjacent to the roadway.

(4) The operator of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction when the view is
obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel 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 so overtake and pass. 


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 the 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. 

History: 1991 a. 316.

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 the operator 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.

History: 1991 a. 316.

In calculating the time required to safely execute deviation from traffic lane or turn at intersection driver must consider condition of highway. Thompson v. Howe, 77 Wis. 2d 441, 253 N.W.2d 59 (1977).

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. (a) 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 do all of the following:

1. Keep the vehicle he or she 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.

2. Leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger.

(b) 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.


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. (a) Except as provided in par. (b), no pedestrian or person riding a bicycle or other nonmotorized vehicle and no person operating a moped or motor bicycle may go upon any expressway or freeway when official signs have been erected prohibiting such person from using the expressway or freeway.

(b) A pedestrian or other person under par. (a) or (am) may go upon a portion of a hiking trail, cross−country ski trail, bridle trail or bicycle trail incorporated into the highway right−of−way and crossing the highway if the portion of the trail is constructed under s. 84.06 (11).


Cross-reference: See s. 59.84 (2) (j) for additional restrictions on the use of expressways in Milwaukee County.

346.17 Penalty for violating sections 346.04 to 346.16.

1. Except as provided in sub. (5), any person violating s. 346.04 (1) or (2), 346.06, 346.12 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), 346.072, 346.08, 346.09, 346.10 (2) to (4), 346.11, 346.13 (2) or 346.14 to 346.16 may be required to forfeit not less than $30 nor more than $300.

2m) Any person violating s. 346.10 (1) shall forfeit not less than $60 nor more than $600.

2t) Any person violating s. 346.04 (2) may be fined not more than $10,000 or imprisoned for not more than 9 months or both.

NOTE: Sub. (2t) is created eff. 2−1−03 by 2001 Wis. Act 109.

3. (a) Except as provided in par. (b), (c) or (d), any person violating s. 346.04 (3) is guilty of a Class I felony.

(b) If the violation results in bodily harm, as defined in s. 939.22 (4), to another, or causes damage to the property of another, as defined in s. 939.22 (28), the person is guilty of a Class H felony.

(c) If the violation results in great bodily harm, as defined in s. 939.22 (14), to another, the person is guilty of a Class F felony.

(d) If the violation results in the death of another, the person is guilty of a Class E felony.

NOTE: Sub. (3) is shown as amended eff. 2−1−03 by 2001 Wis. Act 109, Prior to 2−1−03 it reads:
(3) (a) Except as provided in par. (b), (c) or (d), any person violating s. 346.04 (3) shall be fined not less than $600 nor more than $1,000 and may be imprisoned for not more than 3 years.

(b) If the violation results in bodily harm, as defined in s. 939.22 (4), to another, or causes damage to the property of another, as defined in s. 939.22 (28), the person shall be fined not less than $1,000 nor more than $10,000 and may be imprisoned for not more than 3 years.

(c) If the violation results in great bodily harm, as defined in s. 939.22 (14), to another, the person shall be fined not less than $1,100 nor more than $10,000 and may be imprisoned for not more than 3 years.

(d) If the violation results in the death of another, the person shall be fined not less than $1,100 nor more than $10,000 and may be imprisoned for not more than 7 years and 6 months.

(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.

(5) If an operator of a vehicle violates s. 346.04 (1) or (2) where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic, any applicable minimum and maximum forfeiture specified in sub. (1) for the violation shall be doubled.


346.175 Vehicle owner's liability for fleeing a traffic officer. (1) Subject to s. 346.01 (2), the owner of a vehicle involved in a violation of s. 346.04 (2t) or (3) for fleeing a traffic officer shall be presumed liable for the violation as provided in this section.

NOTE: Par. (a) is shown as amended eff. 2−1−03 by 2001 Wis. Act 109. Prior to 2−1−03 it reads:

(a) Subject to s. 346.01 (2), the owner of a vehicle involved in a violation of s. 346.04 (3) for fleeing a traffic officer shall be presumed liable for the violation as provided in this section.

(b) Notwithstanding par. (a), no owner of a vehicle involved in a violation of s. 346.04 (2t) or (3) for fleeing a traffic officer may be convicted under this section if the person operating the vehicle or having the vehicle under his or her control at the time of the violation has been convicted for the violation under this section or under s. 346.04 (2t) or (3).

NOTE: Par. (b) is shown as amended eff. 2−1−03 by 2001 Wis. Act 109. Prior to 2−1−03 it reads:

(b) Notwithstanding par. (a), no owner of a vehicle involved in a violation of s. 346.04 (3) for fleeing a traffic officer may be convicted under this section if the person operating the vehicle or having the vehicle under his or her control at the time of the violation has been convicted for the violation under this section or under s. 346.04 (3).

(2) A traffic officer may proceed under sub. (3) instead of pursuing the operator of a motor vehicle who flees after being given a visual or audible signal by the officer or marked police vehicle.

(3) (a) Within 72 hours after observing the violation, the traffic officer shall investigate the violation and may prepare a uniform traffic citation under s. 345.11 for the violation and, within 96 hours after observing the violation, any traffic officer employed by the authority issuing the citation may personally serve it upon the owner of the vehicle.

(b) If with reasonable diligence the owner cannot be served under par. (a) or (b) or if the owner lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner’s last−known address. Service under this paragraph shall be performed by posting the certified mail within 96 hours after the violation was observed.

(c) If with reasonable diligence the owner cannot be served under par. (a) or (b) or if the owner lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner’s last−known address. Service under this paragraph shall be performed by posting the certified mail within 96 hours after the violation was observed.

(4) Defenses to the imposition of liability under this section include:

Wisconsin Statutes Archive.

346.177 Railroad crossing improvement assessment for vehicles illegally passing at railroad crossings. (1) Whenever a court imposes a forfeiture under s. 346.17 (2m)
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, 346.20 or 346.46 (1), 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 or she 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 (2) (a), (b) or (c) 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. Uncontrolled "T" INTERSECTION. At an intersection where traffic is not controlled by an official traffic control device or by a traffic officer, the operator of a vehicle approaching the intersection on a highway which terminates at the intersection shall yield the right−of−way to any vehicle approaching the intersection on a highway which continues through the intersection.

(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 the operator 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 there 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.

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.

346.195 Owner's liability for vehicle failing to yield the right−of−way to an authorized emergency vehicle. (1) Subject to s. 346.01 (2), the owner of a vehicle involved in a violation of s. 346.19 (1) for failing to yield the right−of−way to an authorized emergency vehicle shall be liable for the violation as provided in this section.

(2) The operator of an authorized emergency vehicle who observes a violation of s. 346.19 (1) for failing to yield the right−of−way to an authorized emergency vehicle may prepare a written report indicating that a violation has occurred. If possible, the report shall contain the following information:

   (a) The time and the approximate location at which the violation occurred.
   (b) The license number and color of the vehicle involved in the violation.
   (c) Identification of the vehicle as an automobile, motor truck, motor bus, motorcycle or other type of vehicle.

(3) Within 24 hours after observing the violation, the operator of the authorized emergency vehicle may deliver the report to a traffic officer of the county or municipality in which the violation occurred. A report that does not contain all the information in sub. (2) shall, nevertheless, be delivered and shall be maintained by the county or municipality for statistical purposes.

(4) (a) Within 48 hours after receiving a report containing all the information in sub. (2) and after investigating the violation, the traffic officer may prepare a uniform traffic citation under s. 345.11 and may personally serve it upon the owner of the vehicle. (b) If with reasonable diligence the owner cannot be served under par. (a), service may be made by leaving a copy of the citation at the owner’s usual place of abode within this state in the presence of a competent member of the family at least 14 years of age, who shall be informed of the contents thereof.

(5) (a) Except as provided in par. (b), it shall be no defense to a violation of this section that the owner was not operating the vehicle at the time of the violation. (b) The following are defenses to a violation of this section:

   1. That a report that the vehicle was stolen was given to a traffic officer before the violation occurred or within a reasonable time after the violation occurred.

History: 1979 c. 210; 1987 a. 25, 28; 1991 a. 316; 1993 a. 490. A driver who makes a left turn that results in an accident is not always guilty of moving with greater speed than the other driver, the comparison is for the jury. Pacco v. Rausch, 51 Wis. 2d 513, 187 N.W.2d 138 (1971).
2. That the owner of the vehicle provides a traffic officer with the name and address of the person operating the vehicle at the time of the violation and the person so named admits operating the vehicle at the time of the violation. In such case, the person operating the vehicle and not the owner shall be charged under this section.

3. That the vehicle is owned by a lessee of vehicles and at the time of the violation the vehicle was in the possession of a lessee, and the lessee provides a traffic officer with the information required under s. 343.46 (3). In such case, the lessee and not the lessee shall be charged under this section.

4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.) but including the persons specified in s. 340.01 (11) (a) to (d), and at the time of the violation the vehicle was being operated by any person on a trial run, and the dealer provides a traffic officer with the name, address and operator’s license number of the person operating the vehicle. In such case, the person operating the vehicle, and not the dealer, shall be charged under this section.

History: 1995 a. 121; 1997 a. 27; 1999 a. 80.

346.20 Right−of−way of funeral processions and military convoys. (1) Except as provided in par. (4), the operator of a vehicle not in a funeral procession or military convoy shall yield the right−of−way at an intersection to vehicles in a funeral procession or military convoy when vehicles comprising such procession have their headlights lighted.

(2) The operator of a vehicle not in a funeral procession shall not drive the 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.

(4) (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.

History: 1977 c. 43; 1991 a. 73, 316; 1993 a. 490.

346.205 Owner’s liability for vehicle failing to yield the right−of−way to a funeral procession. (1) Subject to s. 346.01 (2), the owner of a vehicle involved in a violation of s. 346.20 (1) for failing to yield the right−of−way to a funeral procession shall be liable for the violation as provided in this section.

(2) The operator of a lead vehicle or a motorcycle escort in a funeral procession who observes a violation of s. 346.20 (1) for failing to yield the right−of−way to a funeral procession may provide a written report indicating that a violation has occurred. If possible, the report shall contain the following information:

(a) The time and the approximate location at which the violation occurred.

(b) The license number and color of the vehicle involved in the violation.

(c) Identification of the vehicle as an automobile, motor truck, motor bus, motorcycle or other type of vehicle.

(3) Within 24 hours after observing the violation, the operator of the lead vehicle or motorcycle escort may deliver the report to a traffic officer of the county or municipality in which the violation occurred. A report that does not contain all the information in sub. (2) shall nevertheless be delivered and shall be maintained by the county or municipality for statistical purposes.

(4) (a) Within 48 hours after receiving a report containing all the information in sub. (2), the traffic officer may prepare a uniform traffic citation under s. 345.11 and may personally serve it upon the owner of the vehicle.

(b) If with reasonable diligence the owner cannot be served under par. (a), service may be made by leaving a copy of the citation at the owner’s usual place of abode within this state in the presence of a competent member of the family at least 14 years of age, who shall be informed of the contents thereof.

(c) If with reasonable diligence the owner cannot be served under par. (a) or (b) or if the owner lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner’s last−known address.

(5) (a) Except as provided in par. (b), it shall be no defense to a violation of this section that the owner was not operating the vehicle at the time of the violation.

(b) The following are defenses to a violation of this section:

1. That a report that the vehicle was stolen was given to a traffic officer before the violation occurred or within a reasonable time after the violation occurred.

2. If the owner of the vehicle provides a traffic officer with the name and address of the person operating the vehicle at the time of the violation and the person so named admits operating the vehicle at the time of the violation, then the person operating the vehicle and not the owner shall be charged under this section.

3. If the vehicle is owned by a lessee of vehicles and at the time of the violation the vehicle was in the possession of a lessee, and the lessee provides a traffic officer with the information required under s. 343.46 (3), then the lessee and not the lessee shall be charged under this section.

4. If the vehicle is owned by a dealer as defined in s. 340.01 (11) (intro.) but including the persons specified in s. 340.01 (11) (a) to (d), and at the time of the violation the vehicle was being operated by any person on a trial run, and if the dealer provides a traffic officer with the name, address and operator’s license number of the person operating the vehicle, then the person operating the vehicle, and not the dealer, shall be charged under this section.


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.

History: 1993 a. 490.

346.22 Penalty for violating sections 346.18 to 346.21. (1) (a) Except as provided in par. (b), any person violating s. 346.18 or 346.20 (1) 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.

(b) If an operator of a vehicle violates s. 346.18 (6) where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic, any applicable minimum and maximum forfeiture specified in par. (a) for the violation shall be doubled.

(2) Any person violating s. 346.19 or 346.20 (4) (a) may be required to forfeit not less than $30 nor more than $300.

(3) Any person violating s. 346.20 (2), (3) or (4) (b) or (c) 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.
RULES OF THE ROAD 346.29

(3m) A vehicle owner or other person found liable under s. 346.195 may be required to forfeit not less than $30 nor more than $300. Imposition of liability under s. 346.195 shall not result in suspension or revocation of a person’s operating license under s. 343.30, and shall not result in demerit points being recorded on a person’s driving record under s. 343.32 (2) (a).

(4) A vehicle owner or other person found liable under s. 346.205 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. Imposition of liability under s. 346.205 shall not result in suspension or revocation of a person’s operating license under s. 343.30, nor shall it result in demerit points being recorded on a person’s driving record under s. 343.32 (2) (a).


SUBCHAPTER IV
RESPECTIVE RIGHTS AND DUTIES OF DRIVERS, PEDESTRIANS, BICYCLISTS, AND RIDERS OF ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES

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, or to a person who is riding a bicycle or electric personal assistive mobility device in a manner which is consistent with the safe use of the crosswalk by pedestrians, who has started to cross the highway on a green or “Walk” signal and in all other cases pedestrians, bicyclists, and riders of electric personal assistive mobility devices 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, bicyclist, or rider of an electric personal assistive mobility device 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, bicyclist, or rider of an electric personal assistive mobility device 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 favor of the pedestrian, bicyclist, or rider of an electric personal assistive mobility device.

History: 1979 c. 36; 1983 a. 69; 2001 a. 93.

The duties of drivers and pedestrians under ss. 346.23 and 346.24 are discussed and compared. Schoenauer v. Wendinger, 49 Wis. 2d 415, 182 N.W.2d 441 (1971).

Pedestrians have the right-of-way on a green light only where there are no pedestrian control signals. City of Hartford v. Godfrey, 52 Wis. 2d 215, 286 N.W.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, or to a person riding a bicycle or electric personal assistive mobility device in a manner which is consistent with the safe use of the crosswalk by pedestrians, who is crossing the highway within a marked or unmarked crosswalk.

(2) No pedestrian, bicyclist, or rider of an electric personal assistive mobility device shall suddenly leave a curb or other place of safety and walk, run, or ride 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, bicyclist, or rider of an electric personal assistive mobility device to cross the roadway, the operator of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

History: 1985 a. 69; 2001 a. 90.

The duties of drivers and pedestrians under ss. 346.23 and 346.24 are discussed and compared. Schoenauer v. Wendinger, 49 Wis. 2d 415, 182 N.W.2d 441 (1971).

346.25 Crossing at place other than crosswalk. Every pedestrian, bicyclist, or rider of an electric personal assistive mobility device 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.

History: 1985 a. 69; 2001 a. 90.

Section 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 & Suburban Transport Corp. 56 Wis. 2d 231, 201 N.W.2d 745 (1972).

This section does not apply to bicyclists operating on the roadway and only applies to bicyclists acting as pedestrians by operating on sidewalks and within crosswalks. Chernetski v. American Family Mutual Insurance Co. 183 Wis. 2d 68, 515 N.W.2d 283 (Ct. App. 1994).

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 the operator is notified of their presence by flagmen or warning signs.


346.28 Pedestrians to walk on left side of highway; pedestrians, bicyclists, and riders of electric personal assistive mobility devices on sidewalks. (1) Any pedestrian traveling along and upon a highway other than upon a sidewalk shall travel on and along the left side of the highway and upon meeting a vehicle shall, if practicable, move to the extreme outer limit of the traveled portion of the highway.

(2) Operators of vehicles shall yield the right-of-way to pedestrians, bicyclists, and riders of electric personal assistive mobility devices on sidewalks as required by s. 346.47.

History: 1985 a. 69; 1987 a. 259; 2001 a. 90.

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) (a) 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. (b) 1. Unless otherwise provided in subd. 2., 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 operator of a bicycle or electric personal assistive mobility device violating s. 346.23, 346.24 or 346.25 may be required to forfeit not more than $20. (2) Unless otherwise provided in sub. (1) (b) 2., any person violating s. 346.24 (1) or (3) may be required to forfeit not less than $30 nor more than $300. (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. (4) Any person violating s. 346.27 may be required to forfeit not less than $60 nor more than $600. History: 1971 c. 278; 1983 a. 27; 1985 a. 69; 1993 a. 198; 2001 a. 90.

SUBCHAPTER V

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 to such section 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 furthest 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 the 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 the vehicle into an intersection at which turns are prohibited by sub. (1) (a) for the purpose of turning the 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; 1991 a. 316.

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 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 or electric personal assistive mobility device, such signal shall be given continuously during not less than the last 50 feet traveled by the vehicle before turning. The operator of a bicycle or electric personal assistive mobility device shall give such signal continuously during not less than the last 50 feet traveled before turning. A signal by the hand and arm need not be given continuously if the hand is needed in the control or operation of the bicycle or electric personal assistive mobility device. (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; 1995 a. 138; 2001 a. 90.
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:

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 or electric personal assistive mobility device violating ss. 346.31 to 346.35 may be required to forfeit not more than $20.

History: 1971 c. 278; 1977 c. 208; 2001 a. 90.

SUBCHAPTER VI

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, and persons who are riding bicycles or electric personal assistive mobility devices in a manner which is consistent with the safe use of the crosswalk by 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, bicyclist, or rider of an electric personal assistive mobility device facing such signal shall enter the roadway unless he or she 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, bicyclists, and riders of electric personal assistive mobility devices 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 the arrow but shall yield the right-of-way to pedestrians, bicyclists, and riders of electric personal assistive mobility devices 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, bicyclist, or rider of electric personal assistive mobility device facing such signal shall enter the roadway unless he or she can do so safely and without interfering with any vehicular traffic.

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 or a person riding a bicycle or electric personal assistive mobility device in a manner which is consistent with the safe use of the crossing by pedestrians, 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, bicyclist, or electric personal assistive mobility device rider.

2. Don’t Walk. No pedestrian, bicyclist, or rider of an electric personal assistive mobility device may start to cross the roadway or other vehicular crossing in the direction of a “Don’t Walk” signal, but any pedestrian, bicyclist, or rider of an electric personal assistive mobility device 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.


Pedestrians have the right-of-way on a green light only where there are no pedestrian control signals. City of Hartford v. Godfrey, 92 Wis. 2d 815, 286 N.W.2d 10 (Cl. 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. Sub. (2) imposes a greater duty of care on a driver proceeding through an intersection with a flashing yellow light than on a driver proceeding where an intersection is not so controlled. Sabins v. Milwaukee & Suburban Transport Corp. 71 Wis. 2d 218, 238 N.W.2d 99 (1975).

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 intersec-
346.40 RULES OF THE ROAD

tion 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 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.

History: 1981 c. 42.

Cross Reference: See also s. Trans 200.04, Wis. adm. code.

346.42 Interference with signs and signals prohibited. No person may intentionally damage, deface, move, or obstruct an official traffic sign or signal or neighborhood watch sign under s. 60.23 (17m) or 66.0429 (2) or intentionally interfere with the effective operation of such sign or signal.

History: 1985 a. 194; 1987 a. 205; 1999 a. 150 s. 672.

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. or 3., any operator of a vehicle violating s. 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 or electric personal assistive mobility device violating s. 346.37, 346.38 or 346.39 may be required to forfeit not more than $20.

3. If an operator of a vehicle violates s. 346.37 or 346.39 where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic, any applicable minimum and maximum forfeiture specified in subd. 1. for the violation shall be doubled.

(2) Any person violating s. 346.42 may be required to forfeit not less than $30 nor more than $300.

(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.


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 employee 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 the operator 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.

History: 1991 a. 316.

346.45 Certain vehicles to stop at railroad crossings. (1) Except as provided in sub. (3), the operator of any of the following vehicles 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.

(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.


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 office of the commissioner of railroads 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; 1981 c. 347 s. 80 (2); 1993 a. 16, 123.

346.455 Vehicles to stop at fire station. (1) The operator of a motor vehicle approaching an authorized emergency vehicle shall stop not less than 30 feet from that vehicle and shall remain stopped, if all of the following apply:

(a) The authorized emergency vehicle is about to be or is being driven backwards into a driveway entrance to a fire station.

(b) The authorized emergency vehicle is giving visual signal by means of at least one flashing, oscillating or rotating red light or by a member of the fire department or fire patrol standing on the roadway in a position that is visible to approaching traffic and directing traffic to stop.

(2) The operator of a motor vehicle required to stop under sub. (1) shall remain stopped until a member of the fire department or fire patrol directs the operator to proceed or until the visual signal under sub. (1) (b) is terminated and all members of the fire department or fire patrol have left the roadway.

History: 1995 a. 424.

346.457 Owner’s liability for vehicle illegally passing fire truck. (1) Subject to s. 346.01 (2), the owner of a vehicle involved in a violation of s. 346.455 (1) or (2) shall be liable for the violation as provided in this subsection.

(2) A member of the fire department or fire patrol who observes a violation of s. 346.455 (1) or (2) may prepare a written report indicating that a violation has occurred. The report shall contain the following information:

(a) The time and location at which the violation occurred.

(b) The license number and color of the vehicle involved in the violation.

(c) Identification of the vehicle as an automobile, motor truck, motor bus, motorcycle or other type of vehicle.

(3) Within 24 hours after observing the violation, the member of the fire department or fire patrol may deliver the report to a traffic officer of the political subdivision in which the violation occurred. A report which does not contain all of the information in sub. (2) may nevertheless be delivered and shall be maintained by the political subdivision for statistical purposes.

(4) (a) Within 48 hours after receiving a report containing all of the information in sub. (2) and after conducting an investigation, the traffic officer may prepare a uniform traffic citation under s. 345.11 for the violation and may personally serve it upon the owner of the vehicle.

(b) If with reasonable diligence the owner of the vehicle cannot be served under par. (a) or if the owner lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner’s last-known address.

(5) (a) Except as provided in par. (b), it is not a defense to a violation of s. 346.455 (1) or (2) that the owner of the vehicle was not in control of the vehicle at the time of the violation.

(b) The following are defenses to a violation of s. 346.455 (1) or (2):

1. That a report that the vehicle was stolen was given to a traffic officer before the violation occurred or within a reasonable time after the violation occurred.

2. That the owner of the vehicle provides a traffic officer with the name and address of the person who was in control of the vehicle at the time of the violation and the person so named admits having the vehicle under his or her control at the time of the violation.

In such a case, that person and not the owner shall be charged with the violation.

3. That the vehicle is owned by a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee, and the lessor provides a traffic officer with the information required under s. 343.46 (3). In such a case, the lessee and not the lessor shall be charged with the violation.

4. That the vehicle is owned by a dealer as defined in s. 340.01 (11) (intro.) but including the persons specified in s. 340.01 (11) (a) (to) (d), and at the time of the violation the vehicle was under the control of a person on a trial run and the dealer provides a traffic officer with the name, address and operator’s license number of that person. In such a case, that person and not the dealer shall be charged with the violation.


346.46 Vehicles to stop at signs and school crossings. (1) Except when directed to proceed by a traffic officer or traffic control signal, every operator of a vehicle approaching an official stop sign or an intersection shall cause such vehicle to stop before entering the intersection and shall yield the right-of-way to other vehicles which have entered or are approaching the intersection upon a highway which is not controlled by an official stop sign or traffic 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 the vehicle immediately before crossing such line.

(b) If there is no clearly marked stop line, the operator shall stop the 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, the operator shall, before entering the intersection, stop the vehicle at such point as will enable the operator 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. 120.13 (31) or 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 the 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 each 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, 1985 a. s. 3202 (43); 1987 a. 25; 1989 a. 359; 1991 a. 316.

A violation of sub. (1) constitutes negligence per se, but a violation may be excused through the application of the emergency doctrine, which provides that a person faced with an emergency that the person did not create is not negligent for failing to avoid the threatened disaster if compelled to act instantly. Totsky v. Riteway Bus Service, Inc. 2000 WI 29, 233 Wis. 2d 371, 607 N.W.2d 637.

346.465 Owner’s liability for vehicle illegally crossing controlled school crossing. (1) Subject to s. 346.01 (2), the owner of a vehicle involved in a violation of s. 346.46 (2m) shall be liable for the violation as provided in this section.
346.465 RULES OF THE ROAD

(2) An adult school crossing guard who observes a violation of s. 346.46 (2m) may prepare a written report indicating that a violation has occurred. If possible, the report shall contain the following information:

(a) The time and the approximate location at which the violation occurred.

(b) The license number and color of the vehicle involved in the violation.

(c) Identification of the vehicle as an automobile, motor truck, motor bus, motorcycle or other type of vehicle.

(3) Within 24 hours after observing the violation, the school crossing guard may deliver the report to a traffic officer of the county or municipality in which the violation occurred. A report which does not contain all the information in sub. (2) shall nevertheless be delivered and shall be maintained by the county or municipality for statistical purposes.

(4) (a) Within 48 hours after receiving a report containing all the information in sub. (2), the traffic officer may prepare a uniform traffic citation under s. 345.11 and may personally serve it upon the owner of the vehicle.

(b) If with reasonable diligence the owner cannot be served under par. (a), service may be made by leaving a copy of the citation at the owner's usual place of abode within this state in the presence of a competent member of the family at least 14 years of age, who shall be informed of the contents thereof.

(c) If with reasonable diligence the owner cannot be served under par. (a) or (b) or if the owner lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner’s last-known address.

(5) (a) Except as provided in par. (b), it shall be no defense to a violation of this section that the owner was not operating the vehicle at the time of the violation.

(b) The following are defenses to a violation of this section:

1. That a report that the vehicle was stolen was given to a traffic officer before the violation occurred or within a reasonable time after the violation occurred.

2. If the vehicle is owned by a lessee of vehicles and at the time of the violation the person so named admits operating the vehicle at the time of the violation, then the person operating the vehicle and not the owner shall be charged under this section.

3. If the vehicle is owned by a dealer as defined in s. 340.01 (11) (intro.) but including the persons specified in s. 340.01 (11) (a) to (d), and at the time of the violation the vehicle was being operated by any person on a trial run, and if the dealer provides a traffic officer with the name, address and operator's license number of the person operating the vehicle, then the vehicle shall remain unconcealed and the flashing red signals may be used.

346.475 Human service vehicles; loading or unloading children with disabilities. No person who operates a human service vehicle may stop to load or unload passengers who are children with disabilities unless the vehicle is equipped as provided under s. 346.47 (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.

346.48 Vehicles to stop for school buses displaying flashing lights. (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 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 (1).

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

(c) When a school bus is being used on a highway for purposes other than those specified in s. 340.01 (56) (a) and (am), 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.

(3) If the operator of a motor vehicle overtakes a school bus which is stopped and is loading or unloading pupils or other authorized passengers at an intersection on the right side of a roadway in a business or residence district in which the display of the flash-
ing red warning lights on the school bus is not permitted, the operator shall pass at a safe distance to the left of the 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.

Cross-reference: See s. 349.21, which authorizes towns, cities, villages, and counties to provide for the use of flashing red lights by school buses in certain residential or business districts.

346.485 Owner’s liability for vehicle illegally passing school bus. (1) Subject to s. 346.01 (2), the owner of a vehicle involved in a violation of s. 346.48 (1) shall be liable for the violation as provided in this section.

(2) The operator of a school bus who observes a violation of s. 346.48 (1) may prepare a written report indicating that a violation has occurred. If possible, the report shall contain the following information:

(a) The time and the approximate location at which the violation occurred.

(b) The license number and color of the vehicle involved in the violation.

(c) Identification of the vehicle as an automobile, motor truck, motor bus, motorcycle or other type of vehicle.

(3) Within 24 hours after observing the violation, the school bus operator may deliver the report to a traffic officer of the county or municipality in which the violation occurred. A report which does not contain all the information in sub. (2) shall nevertheless be delivered and shall be maintained by the county or municipality for statistical purposes.

(4) (a) Within 48 hours after receiving a report containing all the information in sub. (2), the traffic officer may prepare a uniform traffic citation under s. 345.11 and may personally serve it upon the owner of the vehicle.

(b) If with reasonable diligence the owner cannot be served under par. (a), service may be made by leaving a copy of the citation at the owner’s usual place of abode within this state in the presence of a competent member of the family at least 14 years of age, who shall be informed of the contents thereof.

(c) If with reasonable diligence the owner cannot be served under par. (a) or (b) or if the owner lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner’s last-known address.

(5) (a) Except as provided in par. (b), it shall be no defense to a violation of this section that the owner was not operating the vehicle at the time of the violation.

(b) The following are defenses to a violation of this section:

1. That a report that the vehicle was stolen was given to a traffic officer before the violation occurred or within a reasonable time after the violation occurred.

1m. If the owner of the vehicle provides a traffic officer with the name and address of the person operating the vehicle at the time of the violation and the person so named admits operating the vehicle at the time of the violation, then the person operating the vehicle and not the owner shall be charged under this section.

2. If the vehicle is owned by a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee, and the lessor provides a traffic officer with the information required under s. 343.46 (3), then the lessee and not the lessor shall be charged under this section.

3. If the vehicle is owned by a dealer as defined in s. 340.01 (11) (intro.) but including the persons specified in s. 340.01 (11) (a) to (d), and at the time of the violation the vehicle was being operated by any person on a trial run, and if the dealer provides a traffic officer with the name, address and operator’s license number of the person operating the vehicle, then the person operating the vehicle, and not the dealer, shall be charged under this section.


346.49 Penalty for violating ss. 346.44 to 346.485. (1) (a) Unless otherwise provided in par. (b) or (c), any person violating s. 346.46 (1), (2m) or (4) 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 or electric personal assistive mobility device violating s. 346.46 (1), (2m) or (4) may be required to forfeit not more than $20.

(c) If an operator of a vehicle violates s. 346.46 (1) where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic, any applicable minimum and maximum forfeiture specified in par. (a) for the violation shall be doubled.

(1g) (a) Unless otherwise provided in par. (b), any person violating s. 346.46 (3) shall forfeit not less than $40 nor more than $80 for the first offense and not less than $100 nor more than $200 for the 2nd or subsequent conviction within a year.

(b) Any operator of a bicycle or electric personal assistive mobility device violating s. 346.46 (3) shall forfeit not more than $40.

(1m) A vehicle owner or other person found liable under s. 346.465 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. Imposition of liability under s. 346.465 shall not result in suspension or revocation of a person’s operating license under s. 343.30, nor shall it result in demerit points being recorded on a person’s driving record under s. 343.32 (2) (a).

(2) Any person violating s. 346.455 or 346.48 may be required to forfeit not less than $30 nor more than $300.

(2m) (a) Unless otherwise provided in par. (b), any person violating s. 346.44 may be required to forfeit not more than $1,000.

(b) Any operator of a bicycle or electric personal assistive mobility device violating s. 346.44 may be required to forfeit not more than $40.

(3) A vehicle owner or other person found liable under s. 346.485 or 346.457 may be required to forfeit not less than $30 nor more than $300. Imposition of liability under s. 346.485 or 346.457 shall not result in suspension or revocation of a person’s operating license under s. 343.30, nor shall it result in demerit points being recorded on a person’s driving record under s. 343.32 (2) (a).

(4) Any person violating s. 346.475 may be required to forfeit not less than $50 nor more than $200.


346.495 Railroad crossing improvement assessment.

(1) If a court imposes a forfeiture under s. 346.49 (1g) or (2m) (a), (am) or (b) for a violation of s. 346.44, 346.45 or 346.46 (3), the court shall also impose a railroad crossing improvement assessment equal to 50% of the amount of the forfeiture.

(2) If a forfeiture is suspended in whole or in part, the railroad crossing improvement assessment shall be reduced in proportion to the suspension.

(3) If any deposit is made for an offense to which this section applies, the person making the deposit shall also deposit a sufficient amount to include the railroad crossing improvement assessment under this section. If the deposit is forfeited, the amount of the railroad crossing improvement assessment shall be transmitted to the state treasurer under sub. (4). If the deposit is returned, the amount of the railroad crossing improvement assessment shall also be returned.

(4) The clerk of the circuit court shall collect and transmit to the county treasurer the railroad crossing improvement assessment as required under s. 59.40 (2) (m). The county treasurer shall then pay the state treasurer as provided in s. 59.25 (3) (f) 2. The state treasurer shall deposit all amounts received under this sub-

Wisconsin Statutes Archive.
section in the transportation fund to be appropriated under s. 20.395 (2) (g).


SUBCHAPTER VIII

RESTRICTIONS ON STOPPING AND PARKING

346.50 Exceptions to stopping and parking restric-
tions. (1) The prohibitions against stopping or leaving a vehicle stand contained in ss. 346.51 to 346.54 and 346.55 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 (5), a telecommunications carrier, as defined in s. 196.01 (8m), or a rural electric cooperative 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 cooperative 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.

(1m) In subs. (2) and (2a), the terms “municipal” and “municipally” include county.

(2) Except as provided in sub. (3m), a motor vehicle bearing a special registration plate issued under s. 341.14 (1) or (1r) (a) to a disabled veteran or on his or her behalf 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 or on whose behalf the special plates were issued and to qualified operators acting under the disabled veteran’s express direction with the disabled veteran present.

(2a) Except as provided in sub. (3m), a motor vehicle bearing special registration plates issued under s. 341.14 (1a), (1e), (1m), (1q) or (1r) (a) or a motor vehicle, other than a motorcycle, upon which a special identification card was issued and to qualified operators acting under the disabled veteran’s express direction with the disabled veteran present.

(3) Except as provided in sub. (3m), a vehicle bearing special registration plates issued under s. 341.14 (1), (1a), (1e), (1m), (1q) or (1r) (a) 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 persons listed under subs. (2) and (2a) (a) to (m).

(3m) (a) In this subsection, “motor vehicle used by a physically disabled person” has the meaning given in s. 346.503 (1).

(b) The city council of a 1st or 2nd class city may enact an ordinance imposing a 3−hour or less limitation on parking of a motor vehicle used by a physically disabled person upon any portion of a street, highway or parking facility reserved for persons with physical disabilities by official traffic signs indicating the restriction. Parking privileges granted by this subsection are limited to the number of spaces reserved by the city for use by a motor vehicle used by a physically disabled person, and no time limitation may be imposed on a reserved space in a parking facility unless an adjacent space without any such time limitation is reserved for use by a motor vehicle used by a physically disabled person. The ordinance shall require that the disabled parking council or, if applicable, the disabled parking enforcement assistance council give advice and make a recommendation on the location of such reserved spaces.
3. The official traffic sign for such reserved spaces shall include information on the applicable time limitation for use by a motor vehicle used by a physically disabled person.

4. The ordinance may not impose a penalty for a violation of the ordinance that is greater than the penalty for violation of any ordinance of the city imposing time limitations on parking upon any portion of a street, highway or parking facility.

5. The ordinance shall require the city to submit a report by December 31 of each odd-numbered year to the council on physical disabilities under s. 46.29 (1) (fm) on implementation and administration of the ordinance, including an evaluation of the effectiveness of time limitations imposed by the ordinance.

With respect to spaces reserved by the city for use by a motor vehicle used by a physically disabled person upon any portion of a street, highway or parking facility, the report shall include the total number of spaces; the total number of spaces in a parking facility and the number of those spaces that are subject to a time limitation, and the duration of any such limitation; and the total number of spaces upon a street or highway and the number of those spaces that are subject to a time limitation, and the duration of any such limitation.


346.503 Parking spaces for vehicles displaying special registration plates or special identification cards.

(1) In this section, “motor vehicle used by a physically disabled person” means a motor vehicle bearing special registration plates issued under s. 341.14 (1), (1a), (1e), (1m), (1q) or (1h) (a) or a motor vehicle, other than a motorcycle, upon which a special identification card issued under s. 343.51 is displayed or a motor vehicle registered in another jurisdiction and displaying a registration plate, card or emblem issued by the other jurisdiction which designates the vehicle as a vehicle used by a physically disabled person.

(1m) (a) The owner or lessee of any public building or place of employment and the owner or lessee of any parking facility which offers parking to the public shall reserve at least the following number of spaces for use by a motor vehicle used by a physically disabled person:
1. At least one space for a facility offering 26 to 49 spaces.
2. At least 2% of all spaces for a facility offering 50 to 1,000 spaces.
3. At least one percent, in addition to that specified in subd. 2., of each 1,000 spaces over the first 1,000 for a facility offering more than 1,000 spaces.
(b) Parking spaces reserved under this subsection shall be at least 12 feet wide.
(c) Parking spaces reserved under this subsection shall be located as close as possible to an entrance of the parking facility and to an entrance of a public building or place of employment which allows a physically disabled person to enter and leave without assistance. Parking spaces reserved under this subsection in a parking ramp shall be located as close as possible to the main entrance of the parking ramp, to an adjacent public walk, or to an elevator which allows a physically disabled person to enter and leave without assistance.
(d) If the state or any other employer maintains a parking facility restricted to use by employees, the employer shall, at the request of a physically disabled employee, reserve a parking space for the employee as provided by pars. (b) and (c) for use by a motor vehicle used by a physically disabled person.
(e) Instead of complying with the requirements under par. (a), a nonprofit organization as defined under s. 108.02 (19), an institution of higher education as defined under s. 108.02 (18) or a government unit as defined under s. 108.02 (17) which owns more than one parking facility which offers parking to the public may reserve at least 2% of the total number of parking spaces in its facilities. A nonprofit organization, institution of higher education or government unit which reserves parking space under this paragraph shall reserve at least one parking space in each facility for use by a motor vehicle used by any physically disabled person. If the number of spaces so reserved in a facility is fewer than would be reserved under par. (a), upon request of a physically disabled person the nonprofit organization, institution of higher education or government unit shall reserve one additional space in the facility for use by a motor vehicle used by any physically disabled person.
(f) The owner or lessee of a parking facility which is ancillary to a building and restricted wholly or in part to use by tenants of the building shall, at the request of a physically disabled tenant, reserve a parking space in the facility as provided by pars. (b) and (c) for use by a motor vehicle used by the physically disabled tenant.
(g) This subsection does not affect the authority under s. 101.13 of the department of commerce to require by rule the reservation of parking spaces for use by a motor vehicle used by a physically disabled person.

(2) The owner or lessee subject to the requirements of sub. (1m) shall post official traffic signs indicating that the spaces are reserved.

(2e) The owner or lessee subject to the requirements of sub. (1m) shall keep the parking spaces reserved for vehicles designated under sub. (1m) or (2m) clear of snow and ice in a timely manner and make other reasonable efforts to ensure that the spaces are available for use by a motor vehicle used by a physically disabled person.

(2m) In addition to the requirements of sub. (1m), the owner or lessee of a parking facility not open to the public and the owner or lessee of a parking facility which offers parking for 25 or fewer motor vehicles to the public may reserve one or more spaces as provided under sub. (1m) (b) and (c) for use by a motor vehicle used by a physically disabled person. An owner or lessee reserving spaces under this subsection shall post official traffic signs indicating that the spaces are reserved.

(3) The official traffic sign shall include the international symbol for barrier−free environments and a statement to inform the public that the parking space is reserved for vehicles designated under sub. (1m) or (2m).

(4) The department, after consulting with the department of commerce, shall promulgate rules governing the design, size and installation of the official traffic signs required under sub. (2) or (2m).

(5) (b) A member of a disabled parking enforcement assistance council under s. 349.145 who observes a violation of this section may prepare a written report indicating that a violation has occurred. The report shall contain the time and location at which the violation occurred and any other relevant information relating to the violation.

(c) Within 24 hours after observing the violation, the member may deliver the report to a traffic officer of the political subdivision in which the violation occurred. A report which does not contain all of the information in par. (b) shall nevertheless be delivered and shall be maintained by the political subdivision for statistical purposes.

(d) 1. Within 48 hours after receiving a report containing all of the information in par. (b) and after conducting an investigation, the traffic officer may prepare a uniform traffic citation under s. 345.11 for the violation and may personally serve it upon the owner or lessee.
2. If with reasonable diligence the owner or lessee cannot be served under subd. 1. or if the owner or lessee lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner’s or lessee’s last known address.

Cross Reference: See also trans. 200.07, Wis. adm. code.

346.505 Stopping, standing or parking prohibited in parking spaces reserved for vehicles displaying special registration plates or special identification cards.
registration plates or special identification cards.  
(1) The legislature finds that parking facilities which are open to use by the public without a permit, whether publicly or privately owned, are public places. By enacting this section the legislature intends to ensure that people who are physically disabled have clear and reasonable access to public places. The legislature therefore, urges the police, sheriff’s and traffic departments of every unit of government and each authorized department of the state to enforce this section vigorously and see that all violations of this section are promptly prosecuted.  

(2) (a) Except for a motor vehicle used by a physically disabled person as defined under s. 346.503 (1), 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, by official traffic signs indicating the restriction, for vehicles displaying special registration plates issued under s. 341.14 (1), (1a), (1e), (1m), (1q) or (1r) (a) or a special identification card issued under s. 343.51 or vehicles registered in another jurisdiction and displaying a registration plate, card or emblem issued by the other jurisdiction which designates the vehicle as a vehicle used by a physically disabled person.  

(b) 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 so as to obstruct, block or otherwise limit the use of any portion of a street, highway or parking facility reserved, by official traffic signs indicating the restriction, for vehicles displaying special registration plates issued under s. 341.14 (1), (1a), (1e), (1m), (1q) or (1r) (a) or a special identification card issued under s. 343.51 or vehicles registered in another jurisdiction and displaying a registration plate, card or emblem issued by the other jurisdiction which designates the vehicle as a vehicle used by a physically disabled person.  

(c) Notwithstanding par. (b), 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 that is clearly marked as and intended to be an access aisle to provide entry to and exit from vehicles by persons with physical disabilities and which is immediately adjacent to any portion of a street, highway or parking facility reserved, by official traffic signs indicating the restriction, for vehicles displaying special registration plates issued under s. 341.14 (1), (1a), (1e), (1m), (1q) or (1r) (a) or a special identification card issued under s. 343.51 or vehicles registered in another jurisdiction and displaying a registration plate, card or emblem issued by the other jurisdiction which designates the vehicle as a vehicle used by a person with a physical disability.  

(3) (a) Subject to s. 346.01 (2), the owner of a vehicle involved in a violation of sub. (2) shall be liable for the violation as provided in this subsection.  

(b) A member of a disabled parking enforcement assistance council under s. 349.145 who observes a violation of sub. (2), or any person who observes a violation of sub. (2) (c), may prepare a written report indicating that a violation has occurred. The report shall contain the following information:  
1. The time and location at which the violation occurred.  
2. The license number and color of the vehicle involved in the violation.  
3. Identification of the vehicle as an automobile, motor truck, motor bus, motorcycle or other type of vehicle.  

(c) Within 24 hours after observing the violation, the member or other person may deliver the report to a traffic officer of the political subdivision in which the violation occurred. A report which does not contain all of the information in par. (b) shall nevertheless be delivered and shall be maintained by the political subdivision for statistical purposes.  

(d) 1. Within 48 hours after receiving a report containing all of the information in par. (b) and after conducting an investiga-

tion, the traffic officer may prepare a uniform traffic citation under s. 345.11 for the violation and may personally serve it upon the owner of the vehicle.  

2. If with reasonable diligence the owner cannot be served under subd. 1. or if the owner lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner’s last-known address.  

(e) 1. Except as provided in subd. 2., it shall be no defense to a violation of sub. (2) that the owner was not in control of the vehicle at the time of the violation.  

2. The following are defenses to a violation of sub. (2):  
   a. That a report that the vehicle was stolen was given to a traffic officer before the violation occurred or within a reasonable time after the violation occurred.  
   b. If the owner of the vehicle provides a traffic officer with the name and address of the person who was in control of the vehicle at the time of the violation and the person so named admits having the vehicle under his or her control at the time of the violation, that person and not the owner shall be charged with the violation.  
   c. If the vehicle is owned by a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee and the lessor provides a traffic officer with the information required under s. 343.46 (3), then the lessee and not the lessor shall be charged with the violation.  

3. If the vehicle is owned by a dealer as defined in s. 340.01 (11) (intro.) but including the persons specified in s. 340.01 (11) (a) to (d), and at the time of the violation the vehicle was under the control of any person on a trial run, and if the dealer provides a traffic officer with the name, address and operator’s license number of that person, then that person and not the dealer shall be charged with the violation.  

4. If the vehicle is owned by a dealer as defined in s. 340.01 (11) (intro.) but including the persons specified in s. 340.01 (11) (a) to (d), and at the time of the violation the vehicle was under the control of any person on a trial run, and if the dealer provides a traffic officer with the name, address and operator’s license number of that person, then that person and not the dealer shall be charged with the violation.  

5. Any person who observes a violation of sub. (2) and who is a member of the disabled parking enforcement assistance council under s. 349.145 who observes a violation of sub. (2), or any person who observes a violation of sub. (2) (c), may prepare a written report indicating that a violation has occurred. The report shall contain the following information:  
1. The time and location at which the violation occurred.  
2. The license number and color of the vehicle involved in the violation.  
3. Identification of the vehicle as an automobile, motor truck, motor bus, motorcycle or other type of vehicle.  

(c) Within 24 hours after observing the violation, the member or other person may deliver the report to a traffic officer of the political subdivision in which the violation occurred. A report which does not contain all of the information in par. (b) shall nevertheless be delivered and shall be maintained by the political subdivision for statistical purposes.  

(d) 1. Within 48 hours after receiving a report containing all of the information in par. (b) and after conducting an investiga-

Wisconsin Statutes Archive.
(d) On a sidewalk or sidewalk area, except when parking on the sidewalk or sidewalk area is clearly indicated by official traffic signs or markers or parking meters.

(e) Alongside or opposite any highway excavation or obstruction when stopping or standing at that place 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 a fire station 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.

(i) Within 25 feet of the nearest rail at a railroad crossing.

(1m) Notwithstanding sub. (1) (a) and (b), if snow accumulation at the operator at the usual bus passenger loading area makes it difficult to load or discharge bus passengers, the driver may stop a motor bus to load or discharge passengers on a crosswalk at an intersection where traffic is not controlled by a traffic control signal or a traffic officer.

(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, towns or cities when the village or town board or common council thereof by ordinance permits parking of any vehicle or of school buses only on the near side of specified highways adjacent to schoolhouses during specified hours, or to the parking of vehicles on the near side of highways adjacent to schoolhouses authorized by s. 349.13 (1j).


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.

History: 1999 a. 85.

The trial court erred in finding truck driver, who parked on a highway for the purpose of unloading sewage into a manhole, negligent as a matter of law and refusing to submit the question of practicality to the jury. Nelson v. Travelers Insurance Co. 80 Wis. 2d 272, 259 N.W.2d 48 (1977).

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 may be parked only as indicated by the signs or 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.

(cm) 1. In a parallel parking area, a Type 1 motorcycle may park at an angle. If parallel parking spaces are not indicated by markers, no Type 1 motorcycle may be parked within 2 feet of another vehicle. Where a parallel parking space is indicated by a marker or where angle parking is authorized, up to 3 Type 1 motorcycles may park in the space.

2. Up to 3 Type 1 motorcycles may be parked in a parking space where a parking meter has been installed unless the space is restricted by official traffic sign or marker to a single motorcycle. The operator of each Type 1 motorcycle parked in a single space regulated by a parking meter shall receive a citation for any violation of a time restriction.

(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.

(e) For the purpose of parking, mopeds and electric personal assistive mobility devices shall be considered bicycles. Where possible without impeding the flow of pedestrian traffic, a bicycle, moped, or electric personal assistive mobility device may be parked on a sidewalk. A bicycle, moped, or electric personal assistive mobility device 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.


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 ss. 167.31 (4) (co) and 346.54.

(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; 1981 c. 157; 1981 c. 255 ss. 9g, 9m, 13; 1983 a. 77; 1991 a. 77, 189; 1995 a. 422.

346.56 Penalty for violating sections 346.503 to 346.555. (1) (a) Except as provided in sub. (1g), any person violating s. 346.503 (1m) to (3) or a rule of the department under s. 346.503 (4) may be required to forfeit not less than $50 nor more than $200.

(b) No forfeiture may be assessed under par. (a) if within 30 days after the uniform traffic citation was issued the person provides proof that he or she has complied with the provision of s. 346.503 for which the citation was issued.

(1g) Any person violating s. 346.503 (2e) shall forfeit not less than $20 nor more than $40 for the first offense. For a 2nd or subsequent conviction within 3 years, a person shall forfeit not less than $50 nor more than $100.
RULES OF THE ROAD

346.56 RULES OF THE ROAD

(1m) 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. 346.51 or 346.55 (1) may be required to forfeit not less than $30 nor more than $300.

(4) Any person violating s. 346.505 (2) shall forfeit not less than $50 nor more than $300.


SUBCHAPTER IX
SPEED RESTRICTIONS

346.57 SPEED RESTRICTIONS. (1) DEFINITIONS. In this section:

(a) “Expressway” means a state trunk highway that, as determined by the department, has 4 or more lanes of traffic physically separated by a median or barrier that gives preference to through traffic by utilizing interchanges or limiting at-grade access to selected public roads and public driveways.

(b) “Freeway” means a state trunk highway that has 4 or more lanes of traffic physically separated by a median or barrier and that gives preference to through traffic by limiting access to interchanges only.

(c) “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.

(d) “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) Fifteen 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) Fifteen miles per hour when passing an intersection or other location properly marked with a “school crossing” sign of a type approved by the department when any of the following conditions exist:

1. Any child is present.

2. A school crossing guard is within a crosswalk at the intersection or the other location or, if no crosswalk exists, is in the roadway at the intersection or the other location.

3. A school crossing guard is placed in or removing from the roadway at or near the intersection or the other location a temporary sign or device that guides, warns, or regulates traffic.

(c) Fifteen 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) Fifteen miles per hour in any alley.

(e) Twenty-five 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.

2. A school crossing guard is within a crosswalk at the intersection or the other location or, if no crosswalk exists, is in the roadway at the intersection or the other location.

3. A school crossing guard is placed in or removing from the roadway at or near the intersection or the other location a temporary sign or device that guides, warns, or regulates traffic.

(c) Fifteen 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) Fifteen miles per hour in any alley.

(e) Twenty-five miles per hour on any highway within the corporate limits of a city or village unless modified by the authority in charge of the highway.

(f) Thirty-five miles per hour in any outlying district within the corporate limits of a city or village.

(g) Thirty-five miles per hour on any highway in a semiurban district outside the corporate limits of a city or village.

(gm) Sixty-five miles per hour on any freeway or expressway.

(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) Fifteen miles per hour on any street or town road, 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 or town roads concerned where persons traversing the same would enter such area from an area where a different speed limit is in effect.

(j) Thirty-five 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) Forty-five 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. (a) 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 paragraph 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.

Wisconsin Statutes Archive.
(b) The limit specified under sub. (4) (gm) is not effective unless official signs giving notice of the limit have been erected by the department.


While sub. (2) is related to sub. (3), it is not limited by sub. (3). Sub. (3) creates a greater duty in respect to speed than sub. (2) does. Thenes v. Milwaukee & Suburban Transport Corp. 56 Wis. 2d 231, 201 N.W.2d 745 (1972).

Judicial notice may be taken of the reliability of the underlying principles of radar that employs the Doppler effect to determine speed. A prima facie presumption of accuracy of moving radar will be accorded upon competent testimony of the operating officer of required facts. State v. Hanson, 85 Wis. 2d 233, 270 N.W.2d 212 (1978).

A prima face presumption of accuracy applies to stationary radar device. City of Wauwatosa v. Collett, 99 Wis. 2d 522, 299 N.W.2d 620 (Cl. App. 1980).

The application of the Hanson requirements is discussed. State v. Kramer, 99 Wis. 2d 700, 299 N.W.2d 882 (1981).

An act may claim the defense of legal justification if the conduct of a law enforcement officer causes the actor to reasonably to believe that violating the law is the only means of preventing bodily harm to the actor or another and causes the actor to violate the law. State v. Brown, 107 Wis. 2d 44, 318 N.W.2d 370 (1982).

This section does not impose absolute liability upon drivers to avoid accidents. Millonig v. Balken, 112 Wis. 2d 445, 334 N.W.2d 80 (1983).

The presumption of the accuracy of moving radar is discussed. The elements of the Hanson/Kramer criteria are explained. Washington County v. Ludelke, 135 Wis. 2d 131, 399 N.W.2d 906 (1987).

346.58 Special speed restrictions for certain vehicles.

(1) In this section:

(a) “Metal tire” means a tire the surface of which in contact with the highway is wholly or partially of metal or other hard, non-resilient material.

(b) “Solid rubber tire” means a tire made of rubber but not inflated with compressed air.

(2) In addition to complying with other speed restrictions imposed by law, no person may drive any vehicle equipped with metal tires or solid rubber tires at a speed in excess of 15 miles per hour.

History: 1973 c. 165; 1975 c. 297; 1983 a. 54; 1999 a. 85.

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 Motorcycles and mopeds. Whenever a motorcycle or a moped is operated the following rules apply:

(1) All motor vehicles including motorcycles 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, Type 1 motorcycles 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 motorcycle or moped while in a side−saddle position.

(3) No passenger may ride a Type 1 motorcycle who, when properly seated, cannot rest the feet on assigned foot rests or pegs. No passenger may ride on a moped.

(3m) No more than 2 persons may ride on a motorcycle having 2 wheels in tandem during operation unless a sidecar has been attached to the motorcycle as provided in s. 340.01 (32) (a) 1. and the additional passengers are provided with adequate seating within the sidecar.

(4) No passenger shall ride in front of the operator on a motorcycle.

(5) The headlamps on motorcycles shall be lighted whenever the motorcycle is in operation. Motorcycles may be operated to the nearest repair facility for headlamp repair in the event of mechanical or electrical headlamp failure except during hours of darkness. 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.


The provision requiring headlamps to be lighted is constitutional. City of Kenosha v. Dosemagen, 54 Wis. 2d 269, 195 N.W.2d 462 (1972).

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 nor less than $50 nor more than $100 for the 2nd or subsequent conviction within a year.

(2) Except as provided in sub. (3m) or (5), any person violating s. 346.57 (4) (d) to (g) or (h) or (5) or 346.58 may be required to forfeit not less than $30 nor more than $300.

(3) Except as provided in sub. (3m) or (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.

(3m) (a) If an operator of a vehicle violates s. 346.57 (2), (3), (4) (d) to (h) or (5) where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic, any applicable minimum and maximum forfeiture specified in sub. (2) or (3) for the violation shall be doubled.

(b) If an operator of a vehicle violates s. 346.57 (2) to (5) when children are present in a zone designated by “school” warning signs as provided in s. 118.08 (1), any applicable minimum and maximum forfeiture specified in sub. (2) or (3) for the violation shall be doubled.

(4) Any person violating s. 346.595 may be required to forfeit not less than $30 nor more than $300.

(5) Any operator of a bicycle or electric personal assistive mobility device who violates s. 346.57 may be required to forfeit not more than $20.

(b) Any operator of a bicycle or electric personal assistive mobility device who violates s. 346.59 may be required to forfeit not more than $10.


The provision under sub. (4) is not unconstitutionally irrational. State v. King, 187 Wis. 2d 547, 523 N.W.2d 159 (Cl. App. 1994).

SUBCHAPTER X

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, all premises provided by employers to employees for the use of their motor vehicles and all premises provided to tenants of rental housing in buildings of 4 or more units for the 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. Sections 346.62 to 346.64 do not apply to private parking areas at farms or single−family residences.

History: 1995 a. 127.
346.61 RULES OF THE ROAD

Privately owned parking lot was not included under this section. City of Kenosha v. Phillips, 142 Wis. 2d 549, 419 N.W.2d 236 (1988).

A parking lot for patrons of a business is held out for the use of the public under this section. City of LaCross v. Richling, 178 Wis. 2d 856, 505 N.W.2d 448 (Ct. App. 1993).

346.62 Reckless driving. (1) In this section:

(a) “Bodily harm” has the meaning designated in s. 939.22 (4).

(b) “Great bodily harm” has the meaning designated in s. 939.22 (4). (c) “Negligent” has the meaning designated in s. 939.25 (2).

(d) “Vehicle” has the meaning designated in s. 939.22 (44), except that for purposes of sub. (2m) “vehicle” has the meaning given in s. 340.01 (74).

(2) No person may endanger the safety of any person or property by the negligent operation of a vehicle.

(2m) No person may recklessly endanger the safety of any person by driving a vehicle on or across a railroad crossing in violation of s. 346.44 (1) or through, around or under any crossing gate or barrier at a railroad crossing in violation of s. 346.44 (2).

(3) No person may cause bodily harm to another by the negligent operation of a vehicle.

(4) No person may cause great bodily harm to another by the negligent operation of a vehicle.


Judicial Council Note, 1988: The revisions contained in subs. (2) and (3) are intended substantively, as is the substitution of a cross-reference to s. 939.25 (2) for the prior designation of a high degree of negligence. New sub. (4) carries forward the crime created by 1985 Wisconsin Act 293. [Bill 191−S]

The fact that defendant was an experienced stock car racer was not a defense to a sale of his record in violation of v. Phillips, 589 N.W.2d 668 (Wis. 2d 1999).

346.63 Operating under influence of intoxicant or other drug. (1) No person may drive or operate a motor vehicle while:

(a) Under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination of an intoxicant, a controlled substance and a controlled substance analog, under the influence of any other drug to a degree which renders the person incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving; or

(b) The person has a prohibited alcohol concentration.

(c) A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of par. (a) or (b) or both for acts arising out of the same incident or occurrence. If the person is charged with violating both pars. (a) and (b), the offenses shall be joined. If the person is found guilty of both pars. (a) and (b) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under ss. 343.30 (1q) and 343.305. Paragraphs (a) and (b) each require proof of a fact for conviction which the other does not require.

(2) (a) It is unlawful for any person to cause injury to another person by the operation of a vehicle while:

1. Under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination of an intoxicant, a controlled substance and a controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving; or

2. The person has a prohibited alcohol concentration.

(am) A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of par. (a) 1. or 2. or both for acts arising out of the same incident or occurrence. If the person is charged with violating par. (a) 1. and 2. in the complaint, the crimes shall be joined under s. 971.12. If the person is found guilty of par. (a) 1. and 2. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under ss. 343.30 (1q) and 343.305. Paragraph (a) 1. and 2. each require proof of a fact for conviction which the other does not require.

(b) In an action under this subsection, the defendant has a defense if he or she proves by a preponderance of the evidence that the injury would have occurred even if he or she had not been under the influence of an

Wisconsin Statutes Archive.
intoxicant, a controlled substance, a controlled substance analog or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or did not have an alcohol concentration described under par. (a).

(7) (a) No person may drive or operate or be on duty time with respect to a commercial motor vehicle under any of the following circumstances:
1. While having an alcohol concentration above 0.0.
2. Within 4 hours of having consumed or having been under the influence of an intoxicating beverage, regardless of its alcohol content.
3. While possessing an intoxicating beverage, regardless of its alcohol content. This subdivision does not apply to possession of an intoxicating beverage if the beverage is unopened and is manifested and transported as part of a shipment.

(b) A person may be charged with and a prosecutor may proceed upon complaints based on a violation of this subsection and sub. (1) (a) or (b) or both, or sub. (1) (a) or (5) (a), or both, for acts arising out of the same incident or occurrence. If the person is charged with violating this subsection and sub. (1) or (5), the proceedings shall be joined. If the person is found guilty of violating both this subsection and sub. (1) or (5) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions. The defendant shall be charged, (1) (a) and (5), each require proof of a fact for conviction which the others do not require. Each conviction shall be reported to the department and counted separately for purposes of suspension or revocation of the operator’s license and disqualification.


NOTE: For legislative intent see chapter 20, laws of 1981, section 2051 (13).

Cross Reference: See also ch. Trans 132, Wis. adm. code.

It is no defense that the defendant is an alcoholic. State v. Koller, 60 Wis. 2d 755 (1973).

Evidence that the defendant, found asleep in parked car, had driven to the parking place 14 minutes earlier, was sufficient to support a conviction for operating a car while intoxicated. Monroe County v. Kruse, 76 Wis. 2d 126, 250 N.W.2d 375 (1977).

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

The court properly instructed the jury that it could infer from a subsequent breathalyzer reading of 1.3% that the defendant was intoxicated at the time of the stop. Alcoholdetected and called. State v. Viek, 104 Wis. 2d 678, 312 N.W.2d 489 (1981).

A previous conviction for operating while intoxicated is a penalty enhancer, not an element of the crime. State v. McAllister, 107 Wis. 2d 532, 321 N.W.2d 865 (1982). See State v. Ludeking, 102 Wis. 2d 132, 336 N.W.2d 392 (Ct. App. 1985) as to operating with a prohibited blood alcohol count.

 Videotapes of sobriety tests were properly admitted to show the physical manifestation of the defendant driver’s intoxication. State v. Hafer, 110 Wis. 2d 381, 328 N.W.2d 894 (Ct. App. 1982).

Sub. (1) (b) is not unconstitutionally vague. State v. Muelenberg, 118 Wis. 2d 903, 348 N.W.2d 914 (Ct. App. 1984).

The trial court abused its discretion by excluding from evidence a blood alcohol chart produced by the department of transportation showing the amount of alcohol burned up over time. State v. Hine, 121 Wis. 2d 282, 360 N.W.2d 56 (Ct. App. 1984).

The definitions of “under the influence” in this section at s. 359.22 are equivalent. State v. Waalen, 130 Wis. 2d 18, 386 N.W.2d 47 (1986).

Sub. (1) (b) establishes a per se rule that it is a violation to operate a motor vehicle with a blood alcohol content, regardless of “participation in a motor vehicle.” The provision is constitutional. State v. McManus, 152 Wis. 2d 113, 447 N.W.2d 654 (1989).

First offender OMVWI prosecution is a civil offense, and jeopardy does not attach to prevent a subsequent criminal prosecution. State v. Lawton, 167 Wis. 2d 461, 482 N.W.2d 142 (Ct. App. 1992).

Because there is a privilege under s. 904.05 (4) (f) for chemical tests for intoxication, results of a test taken for diagnostic purposes are admissible in an OMVWI trial without patient approval. City of Muskego v. Godec, 167 Wis. 2d 536, 482 N.W.2d 79 (1992).

Dissipation of alcohol in the bloodstream constitutes a sufficient exigency to justify a warrantless blood draw when it is wrong to do it and a warrantless blood draw is available. State v. Bohling, 173 Wis. 2d 676, 494 N.W.2d 399 (1993).

When a municipal court found the defendant guilty of OWI and dismissed a blood alcohol count charge without finding guilt, the defendant’s appeal of the OWI conviction is appealable under s. 901.04 (3) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the officer shall notify the department of the arrest and of issuance of an out-of-service order under s. 343.305 (7) (b) or (9) as soon as practicable.


346.635 Report arrest or out-of-service order to department. Whenever a law enforcement officer arrests a person for a violation of s. 346.63 (1), (5) or (7), or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the officer shall notify the department of the arrest and issuance of an out-of-service order under s. 343.305 (7) (b) and (9) as soon as practicable.


346.637 Driver awareness program. The department shall conduct a campaign to educate drivers in this state concerning:}

Wisconsin Statutes Archive.
The laws relating to operating a motor vehicle and drinking alcohol, using controlled substances or controlled substance analogs, or using any combination of alcohol, controlled substances and controlled substance analogs.

The effects of alcohol, controlled substances or controlled substance analogs, or the use of them in any combination, on a person's ability to operate a motor vehicle.


Employment of drunken operators. (1) No person who owns or has direct control of a commercial motor vehicle or any vehicle operated upon a highway for the conveyance of passengers for hire shall employ as an operator of such vehicle and retain in the person's employment any person who is addicted to the excessive use of intoxicating liquor or to the use of a controlled substance or controlled substance analog under ch. 961. 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 the person's employ.

(2) Upon conviction of an operator of a commercial motor vehicle or any vehicle operated for the conveyance of passengers for hire, for driving or 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 commercial motor vehicle or 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 or any person during a period of disqualification under s. 343.315, unless s. 343.055 (2) applies. 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 the person's employ contrary to the provisions of this subsection.


Penalty for violating sections 346.62 to 346.64. (1) Except as provided in sub. (5m), any person who violates s. 346.62 (2):

(a) May be required to forfeit not less than $25 nor more than $200, except as provided in par. (b).

(b) May be fined not less than $50 nor more than $500 or imprisoned for not more than one year in the county jail or both if the total of convictions under s. 346.62 (2) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.62 (2) equals 2 or more in a 4-year period. The 4-year period shall be measured from the dates of the violations which resulted in the convictions.

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

(a) Shall forfeit not less than $150 nor more than $300, except as provided in pars. (b) to (f).

(b) Except as provided in par. (f), shall be fined not less than $350 nor more than $1,100 and imprisoned for not less than 5 days nor more than 6 months if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and other convictions counted under s. 343.307 (1), equals 2, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

(c) Except as provided in pars. (f) and (g), shall be fined not less than $600 nor more than $2,000 and imprisoned for not less than 30 days nor more than one year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and other convictions counted under s. 343.307 (1), equals 3, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

(d) Except as provided in pars. (f) and (g), shall be fined not less than $600 nor more than $2,000 and imprisoned for not less than 60 days nor more than one year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and other convictions counted under s. 343.307 (1), equals 4, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

(e) Except as provided in pars. (f) and (g), shall be fined not less than $600 nor more than $2,000 and imprisoned for not less than 6 months if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and other convictions counted under s. 343.307 (1), equals 5 or more, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

under sub. (2e), in lieu of paying the remaining amount of the fine. Each hour of community service performed in compliance with an order under this paragraph shall reduce the amount of the fine owed by an amount determined by the court.

(2m) In addition to the authority of the court under sub. (2g) and s. 975.03 (3) (a), the court may order a defendant subject to sub. (2), or a defendant subject to s. 975.03 (3) (a) who violated s. 346.63 (2), 940.09 (1) or 940.25, to visit a site that demonstrates the adverse effects on children of substance abuse or of operating a vehicle while under the influence of an intoxicant or other drug, including working at an alcoholism treatment facility approved under s. 51.45, an emergency room of a general hospital or a driver awareness program under s. 346.637. The court may order the person to pay a reasonable fee, based on the person’s ability to pay, to offset the cost of establishing, maintaining, and monitoring the community service work ordered under this paragraph. If the opportunities available to perform community service work are fewer in number than the number of defendants eligible under this subsection, the court shall, when making an order under this paragraph, give preference to defendants who were under 21 years of age at the time of the offense. All provisions of par. (am) apply to any community service work ordered under this paragraph.

(b) The court may order a person who desires to perform community service work under par. (a) or (ag), or under s. 975.03 (3) (a) if that person’s fine resulted from violating s. 346.63 (2), 940.09 (1) or 940.25, to participate in community service work that demonstrates the adverse effects of substance abuse or operating a vehicle while under the influence of an intoxicant or other drug, including working at an alcoholism treatment facility approved under s. 51.45, an emergency room of a general hospital or a driver awareness program under s. 346.637. The court may order the person to pay a reasonable fee, based on the person’s ability to pay, to offset the cost of establishing, maintaining, and monitoring the community service work ordered under this paragraph. If the opportunities available to perform community service work are fewer in number than the number of defendants eligible under this subsection, the court shall, when making an order under this paragraph, give preference to defendants who were under 21 years of age at the time of the offense. All provisions of par. (am) apply to any community service work ordered under this paragraph.

(c) If there was a minor passenger under 16 years of age in the motor vehicle or commercial motor vehicle at the time of the violation that gave rise to the conviction, the court may require a person ordered to perform community service work under par. (a) or (ag), or under s. 975.03 (3) (a) if that person’s fine resulted from violating s. 346.63 (2), (5) (a) or (6) (a), 940.09 (1) or 940.25, to participate in community service work that benefits children or that demonstrates the adverse effects on children of substance abuse or operating a vehicle while under the influence of an intoxicant or other drug. The court may order the person to pay a reasonable fee, based on the person’s ability to pay, to offset the cost of establishing, maintaining, and monitoring the community service work ordered under this paragraph.

(d) With respect to imprisonment under sub. (2) (b), the court shall ensure that the person is imprisoned for not less than 5 days or ordered to perform not less than 30 days of community service work under s. 975.03 (3) (a).

(e) Notwithstanding s. 975.03 (3) (b), an order under par. (a) or (ag) may only apply if agreed to by the organization or agency. The court shall ensure that the defendant is provided a written statement of the terms of the community service order and that the community service order is monitored. Any organization or agency acting in good faith to which a defendant is assigned pursuant to an order under this subsection has immunity from any civil liability in excess of $25,000 for acts or omissions by or impacting on the defendant. The issuance or possibility of the issuance of a community service order under this subsection does not entitle an indigent defendant who is subject to sub. (2) (a) to representation by counsel under ch. 977.

(2j) Any person violating s. 346.63 (5):

(a) Shall forfeit not less than $150 nor more than $300 except as provided in par. (b), (c) or (d).

(b) Except as provided in par. (d), shall be fined not less than $300 nor more than $1,000 and imprisoned for not less than 5 days nor more than 6 months if the number of prior convictions under ss. 940.09 (1) and 940.25 in the person’s lifetime, plus the total number of other convictions, suspension and revocations counted under s. 343.307 (2) within a 10-year period, equals 2.

(c) Except as provided in par. (d), shall be fined not less than $600 nor more than $2,000 and imprisoned for not less than 30 days nor more than one year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25 in the person’s lifetime, plus the total number of other convictions, suspensions and revocations counted under s. 343.307 (2), equals 3 or more.

(d) If there was a minor passenger under 16 years of age in the commercial motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (5), the applicable minimum and maximum forfeitures, fines or imprisonment under par. (a), (b) or (c) for the conviction are doubled. An offense under s. 346.63 (5) that subjects a person to a penalty under par. (c) when the defendant is under 16 years of age in the commercial motor vehicle is a felony and the place of imprisonment shall be determined under s. 973.02.

(2k) In imposing a sentence under sub. (2) for a violation of s. 346.63 (1) (b) or (5) or a local ordinance in conformity therewith, the court shall review the record and consider the aggravating and mitigating factors in the matter. If the level of the person’s blood alcohol level is known, the court shall consider that level as a factor in sentencing. The chief judge of each judicial administrative district shall adopt guidelines, under the chief judge’s authority to adopt local rules under SCR 70.34, for the consideration of aggravating and mitigating factors.

(b) The court shall consider a report submitted under s. 85.53 (2) (d) when imposing a sentence under sub. (2), (2q) or (3m).

(2q) Any person violating s. 346.63 (2m) shall forfeit $10. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (2m), the forfeiture is $20.

(2r) (a) In addition to the other penalties provided for violation of s. 346.63, a judge may order a defendant to pay restitution under s. 973.20.

(b) This subsection is applicable in actions concerning violations of local ordinances in conformity with s. 346.63.

(2u) (a) Any person violating s. 346.63 (7) shall forfeit $10.

(b) Upon his or her arrest for a violation of s. 346.63 (7), a person shall be issued an out-of-service order for a 24-hour period by the arresting officer under s. 343.305 (7) (b) or (9) (am).

(c) If a person arrested for a violation of s. 346.63 (7) refuses to take a test under s. 343.305, the refusal is a separate violation and the person is subject to revocation of the person’s operating privilege under s. 343.305 (10) (em).

(2w) In determining the number of prior convictions for purposes of sub. (2j), the court shall count convictions under ss. 940.09 (1) and 940.25 in the person’s lifetime, plus other suspensions, revocations and convictions counted under s. 343.307 (2). Revocations, suspensions and convictions arising out of the same
incident or occurrence shall be counted as one. The time period shall be measured from the dates of the refusals or violations which resulted in the revocation, suspension or convictions. If a person has a conviction under s. 940.09 (1) or 940.25 in the person’s lifetime, or another suspension, revocation or conviction for any offense that is counted under s. 343.307 (2), that suspension, revocation or conviction shall count as a prior suspension, revocation or conviction under this section.

(3) Except as provided in sub. (5m), any person violating s. 346.62 (3) shall be fined not less than $300 nor more than $2,000 and may be imprisoned for not less than 30 days nor more than one year in the county jail.

(3m) Any person violating s. 346.63 (2) or (6) shall be fined not less than $300 nor more than $2,000 and may be imprisoned for not less than 30 days nor more than one year in the county jail. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum and maximum fines or periods of imprisonment for the conviction are doubled and the place of imprisonment shall be determined under s. 973.02.

(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.

(4m) Except as provided in sub. (5m), any person violating s. 346.62 (2m) shall forfeit not less than $300 nor more than $1,000.

(4r) (a) If a court imposes a forfeiture under sub. (4m) for a violation of s. 346.62 (2m), the court shall also impose a railroad crossing improvement assessment equal to 50% of the amount of the forfeiture.

(b) If a forfeiture is suspended in whole or in part, the railroad crossing improvement assessment shall be reduced in proportion to the suspension.

(c) If any deposit is made for an offense to which this subsection applies, the person making the deposit shall also deposit a sufficient amount to include the railroad crossing improvement assessment under this subsection. If the deposit is forfeited, the amount of the railroad crossing improvement assessment shall be transmitted to the state treasurer under par. (d). If the deposit is returned, the amount of the railroad crossing improvement assessment shall also be returned.

(d) The clerk of the circuit court shall collect and transmit to the county treasurer the railroad crossing improvement assessment as required under s. 59.40 (2) (m). The county treasurer shall then pay the state treasurer as provided in s. 59.25 (3) (f) 2. The state treasurer shall deposit all amounts received under this paragraph in the transportation fund to be appropriated under s. 20.395 (2) (q).

(5) Except as provided in sub. (5m), any person violating s. 346.62 (4) is guilty of a Class I felony.

NOTE: Sub. (5) is shown as amended eff. 2−1−03 by 2001 Wis. Act 109. Prior to 2−1−03 it reads:

(5) Except as provided in sub. (5m), any person violating s. 346.62 (4) shall be fined not less than $500 nor more than $2,000 and may be imprisoned for not less than 90 days nor more than 2 years and 3 months.

(5m) If an operator of a vehicle violates s. 346.62 (2) to (4) where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic, any applicable minimum and maximum forfeiture or fine specified in sub. (1), (3), (4m) or (5) for the violation shall be doubled.

(6) (a) 1. The court may order a law enforcement officer to seize the motor vehicle used in the violation or improper refusal and owned by the person whose operating privilege is revoked under s. 343.305 (10) or who committed a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c), or (d), or 940.25 (1) (a), (b), (c), or (d) if the person whose operating privilege is revoked under s. 343.305 (10) or who is convicted of the violation has 2 or more prior suspensions, revocations, or convictions, counting convictions under ss. 940.09 (1) and 940.25 in the person’s lifetime, plus other convictions, suspensions, or revocations counted under s. 343.307 (1). The court may not order a motor vehicle seized if the court enters an order under s. 343.301 to immobilize the motor vehicle or equip the motor vehicle with an ignition interlock device or if seizure would result in undue hardship or extreme inconvenience or would endanger the health and safety of a person.

2m. A person who owns a motor vehicle subject to seizure under this paragraph shall surrender to the clerk of circuit court the certificate of title issued under ch. 342 for the motor vehicle that is subject to seizure. The person shall comply with this subdivision within 5 working days after receiving notification of this requirement from the district attorney. When a district attorney receives a copy of a notice of intent to revoke the operating privilege under s. 343.305 (9) (a) of a person who has 2 or more prior convictions, suspensions or revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person’s lifetime, plus other convictions, suspensions or revocations counted under s. 343.307 (1), or when a district attorney notifies the department of the filing of a criminal complaint against a person under s. 342.12 (4) (a), the district attorney shall notify the person of the requirement to surrender the certificate of title to the clerk of circuit court. The notification shall include the time limits for that surrender, the penalty for failure to comply with the requirement and the address of the clerk of circuit court. The clerk of circuit court shall promptly return the certificate of title surrendered to the clerk of circuit court under this subdivision after stamping the certificate of title with the notation “Per section 346.65 (6) of the Wisconsin statutes, ownership of this motor vehicle may not be transferred without prior court approval”. Any person failing to surrender a certificate of title as required under this subdivision shall forfeit not more than $500.

3. The court shall notify the department, in a form and manner prescribed by the department, that an order to seize a motor vehicle has been entered. The registration records of the department shall reflect that the order has been entered against the vehicle and remains unexecuted. Any law enforcement officer may execute that order and shall transfer any motor vehicle ordered seized to the law enforcement agency that was originally ordered to seize the vehicle based on the information provided by the department. The law enforcement agency shall notify the department when an order has been executed under this subdivision and the department shall amend its vehicle registration records to reflect that notification.

4. The following motor vehicles are not subject to seizure and forfeiture under this subsection:

a. A motor vehicle used by any person as a common carrier in the transaction of business as a common carrier unless the owner or other person in charge of the motor vehicle had knowledge of or consented to the commission of the violation or refusal.

b. A commercial motor vehicle used by any person unless the owner or other person in charge of the commercial motor vehicle had knowledge of or consented to the commission of the violation or refusal.

c. A rented or leased motor vehicle used by a person other than the owner of the motor vehicle unless the violation or refusal was committed with the knowledge or consent of the owner of the motor vehicle.

(b) Within 10 days after seizing a motor vehicle under par. (a), the law enforcement agency that seized the vehicle shall provide notice of the seizure by certified mail to the owner of the motor vehicle and to all lienholders of record. The notice shall set forth the year, make, model and serial number of the motor vehicle, where the motor vehicle is located, the reason for the seizure, and the forfeiture procedure if the vehicle was seized. When a motor vehicle is seized under this section, the law enforcement agency that seized the vehicle shall place the motor vehicle in a secure place subject to the order of the court.

(c) The district attorney of the county where the motor vehicle was seized, or where the owner improperly refused to take the test
under s. 343.305 or violated s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d), shall commence an action to forfeit the motor vehicle within 30 days after the motor vehicle is seized. The action shall name the owner of the motor vehicle and all lienholders of record as parties. The forfeiture action shall be commenced by filing a summons, complaint and affidavit of the law enforcement agency with the clerk of circuit court. Upon service of an answer, the action shall be set for hearing within 60 days after the service of the answer. If no answer is served or no issue of law or fact joined and the time for the joinder of issues has expired, the court may render a default judgment as provided in s. 806.02.

(d) At the hearing set under par. (c), the state has the burden of proving to a reasonable certainty by the greater weight of the credible evidence that the motor vehicle seized under par. (a) 1. is a motor vehicle used in the violation or the improper refusal and owned by a person who committed a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d) and that the person had 2 or more prior convictions, suspensions or revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus other convictions, suspensions or revocations counted under s. 343.307 (1). If the state fails to meet the burden of proof required under this paragraph, the motor vehicle shall be returned to the owner upon the payment of storage costs.

(e) If, upon default or after a hearing, the court determines that the motor vehicle is forfeited to the state, the law enforcement agency that seized the motor vehicle shall dispose of the motor vehicle by sealed bid or auction sale following the procedure under s. 342.40 (3) (c), except as provided in par. (em). The law enforcement agency that seized the motor vehicle shall distribute 50% of the proceeds of the sale in the following order:

1. To pay the costs of the sale and of the seizure and storage of the motor vehicle.
2. To pay the law enforcement agency that arrested the violator for the costs of the arrest, investigation and prosecution.
3. To pay the district attorney's costs of prosecution.
4. To pay the court costs related to the prosecution.

(em) If there is a perfected security interest in the motor vehicle, the law enforcement officer shall transfer the motor vehicle to the lienholder having the primary perfected security interest for sale following the procedure under s. 342.40 (3) (c). The lienholder shall distribute the proceeds of the sale in the following order:

1. To pay the primary lienholder for the amount of the lien, plus costs incurred in selling the vehicle.
2. To pay any other lienholder for the amount of the lien.
3. To pay any balance remaining to the law enforcement officer for distribution under pars. (e), (f) and (g).

(f) If a motor vehicle forfeited and sold under this subsection is owned in part by a person other than the person who committed the violation or refusal under par. (a), any moneys remaining from the sale, after making any payment to the lienholders under par. (em) and as provided in par. (e) 1. to 4., shall be paid to that person to the extent of the person's interest in the motor vehicle.

(g) Any balance remaining from the proceeds of the sale of the motor vehicle after the distribution under par. (f) shall be deposited in the school fund.

(h) After a determination is made that a motor vehicle seized is not subject to forfeiture, the agency having custody of the motor vehicle shall take reasonable steps to notify the owner or other person in charge of the motor vehicle of the location of the motor vehicle and of his or her right to take possession of the motor vehicle.

(k) Except as provided in par. (km), no person may transfer ownership of any motor vehicle that is subject to seizure under this subsection or make application for a new certificate of title under s. 342.18 for the motor vehicle unless the court determines that the transfer is in good faith and not for the purpose of or with the effect of defeating the purposes of this subsection. The department may cancel a title or refuse to issue a new certificate of title in the name of the transferee as owner to any person who violates this paragraph.

(km) If a person purchases a motor vehicle in good faith and without knowledge that the motor vehicle was subject to immobilization or seizure or to equipping with an ignition interlock device under this subsection and the department has no valid reason for not issuing a certificate of title other than the prohibition under par. (k), the department shall issue a new certificate of title in the name of the person requesting the new certificate of title if at the time of the purchase of the motor vehicle the certificate of title did not contain the notation stamped on the certificate of title by the clerk of circuit court under par. (a) 2m. and if the person submits the affidavit required under s. 342.12 (4) (c) 1. c.

(7) A person convicted under sub. (2) (b), (c), (d) or (e) or (2j) (b) or (c) shall be required to remain in the county jail for not less than a 48−consecutive−hour period.


Cross−reference: For suspension or revocation of operating privileges upon convictions for OWI see s. 343.30.

Penalty provisions of sub. (2) are mandatory and apply to subsequent violations committed prior to a conviction for the 1st offense. State v. Banks, 105 Wis. 2d 32, 313 N.W.2d 67 (1981).

When the accused was represented by counsel in proceedings leading to the 2nd conviction, but not the first, there was no violation of the right to counsel because the in rem conflagration for the 2nd conviction after the first one was a civil forfeiture case. State v. Novak, 107 Wis. 2d 31, 318 N.W.2d 364 (1982).

The state has exclusive jurisdiction over 2nd offense for drunk driving. It is criminal and may not be prosecuted as an ordinance violation. County of Walworth v. Rohr, 108 Wis. 2d 713, 324 N.W.2d 682 (1982).

Under sub. (3), a fine is mandatory but a jail sentence is discretionary. State v. McKenzie, 139 Wis. 2d 171, 407 N.W.2d 274 (Cl. App. 1987).

Probation with a condition of 30−days’ confinement in the county jail is inadequate to mandate the imprisonment required of sub. (2) (c). State v. Meddaugh, 148 Wis. 2d 204, 435 N.W.2d 269 (Cl. App. 1988).

A judgment entered in municipal court against a defendant for what is actually a second or subsequent offense is void. The state may proceed against the defendant criminally regardless of whether the judgment in municipal court is vacated. City of Kenosha v. Jensen, 184 Wis. 2d 91, 516 N.W.2d 4 (Cl. App. 1994).

The general requirements for establishing prior criminal offenses in s. 973.12 are not applicable to the penalty enhancement provisions for drunk driving offenses under sub. (2). There is no presumption of innocence accruing to the defendant as to prior convictions, but the accused must have an opportunity to challenge the existence of the prior offense. State v. Wideman, 206 Wis. 2d 90, 556 N.W.2d 737 (1996).

Sub. (2) is primarily a penalty enhancement statute. When a prior conviction is determined to be constitutionally defective, that conviction cannot be relied on for either charging or sentencing a present offense. State v. Foust, 214 Wis. 2d 567, 570 N.W.2d 905 (Cl. App. 1997).

Seizure and forfeiture under sub. (6) of a vehicle used in the commission of the crime is an in rem civil forfeiture to which the constitution's double jeopardy clause is inapplicable. State v. Konrath, 218 Wis. 2d 290, 577 N.W.2d 601 (1998).

The requirement under sub. (6) (k) that a court find a transfer to have been in good faith does not apply to security interests, but the creation of a security interest in a vehicle must be done in good faith in accordance with the Uniform Commercial Code. State v. Frankwick, 229 Wis. 2d 406, 599 N.W.2d 893 (Cl. App. 1999).

A trial court cannot excuse guilty pleas to both a second and a third offense OWI, and then apply the increased penalties of third offense OWI to the second offense conviction at sentencing. There must be a conviction before the graduated penalties can be used. State v. Skibinski, 2001 WI App 109, 244 Wis. 2d 629, 629 N.W. 12.

When a person is charged under s. 346.63 (1) with a 2nd offense, the charge may not be reduced to a first offense and the court may not sentence under s. 346.65 (2) (f) when the department must treat this as a 2nd offense for purposes of revocation. 69 Atty. Gen. 47.

An uncounseled civil forfeiture conviction may provide the basis for criminal penalties for a subsequent offense. Schindler v. Clerk of Circuit Court, 715 F.2d 341 (1983).


346.655 Driver improvement surcharge. (1) If a court imposes a fine or a forfeiture for a violation of s. 346.63 (1) or (5), or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall impose a driver improvement surcharge in an amount of $355 in addition to the fine or forfeiture, penalty assessment, jail assessment, crime laboratories and drug law enforce—
ment assessment, and, if required by s. 349.04, truck driver education assessment.

(2) (a) Except as provided in par. (b), the clerk of court shall collect and transmit the amount under sub. (1) to the county treasurer as provided in s. 59.40 (2) (m). The county treasurer shall then make payment of 38.5% of the amount to the state treasurer as provided in s. 59.25 (3) (f) 2.

(b) If the forfeiture is imposed by a municipal court, the court shall transmit the amount to the treasurer of the county, city, town, or village, and that treasurer shall make payment of 38.5% of the amount to the state treasurer as provided in s. 66.0114 (1) (b)(m). The treasurer of the city, town, or village shall transmit the remaining 61.5% of the amount to the treasurer of the county.

(3) All moneys collected from the driver improvement surcharge that are transmitted to the county treasurer under sub. (2) (a) or (b), except the amounts that the county treasurer is required to transmit to the state treasurer under sub. (2) (a) or (b), shall be retained by the county treasurer and disbursed to the county department under s. 51.42 for services under s. 51.42 for drivers referred through assessment.

(4) Any person who fails to pay a driver improvement surcharge imposed under sub. (1) is subject to s. 343.30 (1z).


Impoundment or suspension of a license under s. 345.47 (1) (a) and (b) does not eliminate the liability of a defendant for payment of a surcharge under s. 346.655. 73 Atty. Gen. 24.

SUBCHAPTER XI
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, all premises provided by employers to employees for the use of their motor vehicles and all premises provided to tenants of rental housing in buildings of 4 or more units for the 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. These sections do not apply to private parking areas at farms or single-family residences or to accidents involving only snowmobiles, all-terrain vehicles or vehicles propelled by human power or drawn by animals.


The test for whether a premises is held out to the public is whether on any given day, potentially any resident of the community with a driver’s license and access to a motor vehicle could use the premises in an authorized manner. State v. Carter, 329 Wis. 2d 200, 598 N.W.2d 619 (Cl. App. 1999).

346.665 Definition. In ss. 346.67 to 346.72, notwithstanding s. 340.01 (42), “owner” means, with respect to a vehicle that is registered, or required to be registered, by a lessee of the vehicle under ch. 341, the lessee of the vehicle.

History: 1997 a. 27.

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 the operator has fulfilled the following requirements:

(a) The operator shall give his or her name, address and the registration number of the vehicle he or she is driving to the person struck or to the operator or occupant of or person attending any vehicle collided with; and

(b) The operator shall, upon request and if available, exhibit his or her operator’s license to the person struck or to the operator or occupant of or person attending any vehicle collided with; and

(c) The operator 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.

(2) Any stop required under sub. (1) shall be made without obstructing traffic more than is necessary.


Violation of this section is a felony. State ex rel. McDonald v. Douglas City Cry. Ct. 101 Wis. 2d 569, 302 N.W.2d 462 (1981).

Elements of the duty under this section are discussed. State v. Lloyd, 104 Wis. 2d 49, 309 N.W.2d 617 (Cl. App. 1983).

Failure to stop and render aid to multiple victims of a single accident may result in multiple charges without multiplicity defects arising. State v. Harteck, 146 Wis. 2d 188, 430 N.W.2d 361 (Cl. App. 1988).

"A person injured" in sub. (1) (c) includes a person who is fatally injured. A subsequent determination of instantaneous death does not absolve a person of the duty to investigate whether assistance is possible. State v. Swatek, 178 Wis. 2d 1, 302 N.W.2d 909 (Cl. App. 1993).

346.68 Duty upon striking unattended vehicle. The operator of any vehicle which collides with any vehicle which is unattended shall immediately stop and 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 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. Any such stop shall be made without obstructing traffic more than is necessary.

History: 1997 a. 258.

Driver’s knowledge of collision with unattended vehicle need not be proved under this section. 68 Att’y 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 the operator’s name and address and of the registration number of the vehicle the operator is driving and shall upon request and if available exhibit his or her operator’s license and shall make report of such accident when and as required in s. 346.70.

History: 1991 a. 316.

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, except a state or other government—owned vehicle, to an apparent extent of $200 or more or total damage to property owned by any one person or to a state or other government—owned vehicle to an apparent extent of $1,000 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 property owned by one person” 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. For purposes of this subsection if any property which is damaged is held in a form of joint or multiple ownership, the property shall be considered to be owned by one person.

(2) WRITTEN REPORT OF ACCIDENT. Unless a report is made under sub. (4) by a law enforcement agency, within 10 days after an accident of the type described in sub. (1), the operator of a vehicle involved in the 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. The report shall include information sufficient to enable the department to determine whether the requirements for deposit of security under s. 344.14 are applicable 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), the owner of the vehicle involved in the accident shall give the notice and make the report and the law enforcement officer shall do all of the following:

1. Verify the status and immunity, if any, of the driver claiming diplomatic immunity.
2. Within 10 days after the date of the accident, forward a copy of the report of the accident, at no charge, to the diplomatic security command center of the office of foreign missions, diplomatic motor vehicle office, within the federal department of state, to the department of natural resources and shall include the information specified by the department. The coroner or medical examiner of the county where the accident occurred in another jurisdiction, shall, immediately upon learning of the death, report it to the coroner or medical examiner of the county where the death occurs, if the accident occurred in another jurisdiction, shall, immediately upon learning of the death, report it to the coroner or medical examiner of the county where the death occurs, if the accident involved any other vehicle, the report shall be made to the department and shall include the information specified by that department. If the accident involved any other vehicle, the report shall be made to the department and shall include the information specified by the department. The coroner or medical examiner of the county where the death occurs, shall, immediately upon learning of the death, report it to the coroner or medical examiner of the county where the accident occurred, as provided in s. 979.01 (4). (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 an original written report of the accident or a report of the accident in an automated format to the department within 10 days after the date of the accident.

(b) The reports shall be made on a uniform traffic accident report form or in an automated format prescribed by the secretary. The uniform traffic accident report form shall be supplied by the secretary in sufficient quantities to meet the requirements of the department and the law enforcement agency.

(f) Notwithstanding s. 346.73, no 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 street where the population of the city, village or town 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.

(i) Whenever a law enforcement officer investigates or receives a report of a traffic accident subject to sub. (1), in which the operator of any vehicle involved in the accident displays a driver's license issued by the federal department of state or otherwise claims immunities or privileges under 22 USC 254a to 258a with respect to the operator's violation of any state traffic law or any local traffic law enacted by any local authority in accordance with s. 349.06, the officer shall do all of the following:

1. As soon as practicable, contact the diplomatic security command center of the office of foreign missions, diplomatic motor vehicle office, within the federal department of state, to verify the status and immunity, if any, of the driver claiming diplomatic immunity.
2. Within 10 days after the date of the accident, forward a copy of the report of the accident, at no charge, to the diplomatic security command center of the office of foreign missions, diplomatic motor vehicle office, within the federal department of state.

(5) **FALSIFYING REPORTS.** No person shall falsely make and file or transmit any accident report or knowingly make a false statement in any accident report which is filed or transmitted pursuant to this section.

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 any accident involving a motor vehicle occurring within the coroner's or medical examiner's jurisdiction resulting in the death of any person during the preceding calendar month. If the accident involved an all-terrain vehicle, the report shall be made to the department of natural resources and shall include the information specified by that department. If the accident involved any other motor vehicle, the report shall be made to the department and shall include the information specified by the department. The coroner or medical examiner of the county where the death occurs, if the accident occurred in another jurisdiction, shall, immediately upon learning of the death, report it to the coroner or medical examiner of the county where the accident occurred, as provided in s. 979.01 (4).

(2) In cases of death involving a motor vehicle in which the decedent was the operator of a motor vehicle, a pedestrian 14 years of age or older or a bicycle or electric personal assistive mobility device operator 14 years of age or older and who died within 6 hours of the time of the accident, the coroner or medical examiner of the county where the death occurred shall require that a blood specimen of at least 10 cc be withdrawn from the body of the decedent within 12 hours after his or her 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 the physician. All funeral directors shall obtain a release from the coroner or medical examiner of the county where the accident occurred as provided in s. 979.01 (4) 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 family services for analysis of the alcoholic content of the blood specimen. The coroner or medical examiner causing the blood specimen 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 family services. If the death involved a motor vehicle, the department shall keep a record of all such examinations to be used for statistical purposes only and the department shall disseminate and make public the cumulative results of the examinations without identifying the individuals involved. If the death involved an all-terrain vehicle, the department of natural resources shall keep a record of all such
examinations to be used for statistical purposes only and the department of natural resources shall disseminate and make public the cumulative results of the examinations without identifying the individuals involved.

(3) In a case of death involving a motor vehicle in which the accident and the death occur in different counties, the county where the death occurs may charge the county where the accident occurs a reasonable fee for withdrawing the blood specimen from the body of the decedent as required under sub. (2).

History: 1973 c. 272; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1983 a. 485; 1985 a. 29; 1987 a. 302; 1995 a. 27 s. 9126 (19); 2001 a. 90.

Coroners’ blood test records under sub. (2) are not confidential. Test results are presumptively accurate. Staples v. Glienke, 142 Wis. 2d 19, 416 N.W.2d 920 (Ct. App. 1987).

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. Notwithstanding s. 346.70 (4) (f), accident reports required to be filed with or transmitted to the department or 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); 1993 a. 437.

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 (1):

(a) Shall be fined not less than $300 nor more than $1,000 or imprisoned not more than 6 months or both if the accident did not involve death or injury to a person.

(b) May be fined not more than $10,000 or imprisoned for not more than 9 months nor more than 2 years or both if the accident involved injury to a person but the person did not suffer great bodily harm.

NOTE: Par. (b) is shown as amended eff. 2–1–03 by 2001 Wis. Act 109. Prior to 2–1–03 it reads:

(b) Shall be fined not less than $300 nor more than $5,000 or imprisoned not more than 6 months or both if the accident involved injury to a person but the person did not suffer great bodily harm.

(c) Is guilty of a Class I felony if the accident involved injury to a person and the person suffered great bodily harm.

NOTE: Par. (c) is shown as amended eff. 2–1–03 by 2001 Wis. Act 109. Prior to 2–1–03 it reads:

(c) Is guilty of a Class I felony if the accident involved injury to a person and the person suffered great bodily harm.

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 346.804 and 347.489.

History: 1983 a. 243 s. 66; 2001 a. 90.

346.78 Play vehicles not to be used on roadway. No person riding upon any play vehicle may attach the same or himself or herself 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) (a) Except as provided in par. (b), no bicycle may be used to carry or transport more persons at one time than the number for which it is designed.

(b) In addition to the operator, a bicycle otherwise designed to carry only the operator may be used to carry or transport a child seated in an auxiliary child’s seat or trailer designed for attachment to a bicycle if the seat or trailer is securely attached to the bicycle according to the directions of the manufacturer of the seat or trailer.

(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 herself or his or her bicycle to any vehicle upon a roadway.

(5) No person may ride a moped or motor bicycle with the power unit in operation upon a bicycle way.


When two persons ride on a single bicycle designed for one person to which an additional seat, but no footrests or handgrips, has been added, sub. (2) is violated. 61 Atty. Gen. 360.

346.80 Riding bicycle or electric personal assistive mobility device on roadway. (1) In this section, “substandard width lane” means a lane that is too narrow for a bicycle or electric personal assistive mobility device and a motor vehicle to travel safely side by side within the lane.

(2) (a) Any person operating a bicycle or electric personal assistive mobility device upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand edge or curb of the unobstructed traveled roadway, including operators who are riding 2 or more abreast where permitted under sub. (3), except:

1. When overtaking and passing another vehicle proceeding in the same direction.
2. When preparing for a left turn at an intersection or into a private road or driveway.

3. When reasonably necessary to avoid unsafe conditions, including fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards or substandard width lanes that make it unsafe to ride along the right-hand edge or curb.

(b) Notwithstanding par. (a), any person operating a bicycle or electric personal assistance mobility device upon a one-way highway having 2 or more lanes available for traffic may ride as near the left-hand edge or curb of the roadway as practicable.

(c) Any person operating a bicycle or electric personal assistance mobility device upon a roadway shall exercise due care when passing a standing or parked vehicle or a vehicle proceeding in the same direction, allowing a minimum of 3 feet between the bicycle or electric personal assistance mobility device and the vehicle, and shall give an audible signal when passing a bicycle or electric personal assistance mobility device rider proceeding in the same direction.

(3) (a) Persons riding bicycles or electric personal assistance mobility devices upon a roadway may ride 2 abreast if such operation does not impede the normal and reasonable movement of traffic. Bicycle or electric personal assistance mobility device operators riding 2 abreast on a 2-lane or more roadway shall ride within a single lane.

(b) Persons riding bicycles upon a roadway may not ride more than 2 abreast except upon any path, trail, lane or other way set aside for the exclusive use of bicycles and electric personal assistance mobility devices.

(4) No person may operate a bicycle, electric personal assistance mobility device, or moped upon a roadway where a sign is erected indicating that bicycle, electric personal assistance mobility device, or moped riding is prohibited.

(5) Except as provided in ss. 346.23, 346.24, 346.37, and 346.38, every rider of a bicycle or electric personal assistance mobility device shall, upon entering on a highway, yield the right-of-way to motor vehicles.


346.805 Riding electric personal assistance mobility device on sidewalk. Except as provided in ss. 346.94 (18) (a) 2., and 349.236 (1) (b), a person may operate an electric personal assistance mobility device upon any sidewalk. Every person operating an electric personal assistance mobility device upon a sidewalk shall yield the right-of-way to any pedestrian or bicyclist and shall exercise due care and give an audible signal when passing a bicycle or other electric personal assistance mobility device or a pedestrian proceeding in the same direction.

History: 2001 a. 90.

346.82 Penalty for violating sections 346.77 to 346.805. (1) Any person violating ss. 346.77, 346.79 (1) to (3), or 346.80 to 346.805 may be required to forfeit not more than $20.

(1) Any person violating ss. 346.77, 346.79 (1) to (3) or 346.80 to 346.804 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.


SUBCHAPTER XIII
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 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...
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 may drive a vehicle over any unprotected hose of a fire department when such hose is laid down on any street or private driveway to be used at any fire or alarm of fire.

History: 1985 a. 187.

346.915 Following snowplows. (1) In this section, “snowplow” means a vehicle that is operated by a person employed by or on behalf of an authority in charge of the maintenance of the highway to perform highway winter maintenance snow and ice removal, including plowing, salting, and sanding, during either a storm or cleanup following a storm and which is using lamps described in s. 347.26 (7).

(2) The operator of any vehicle that is not a snowplow may not follow a snowplow closer than 200 feet upon any highway having a posted speed limit of more than 35 miles per hour, if the snowplow is engaged in highway winter maintenance snow and ice removal, as described in sub. (1), and is using lamps described in s. 347.26 (7). This subsection does not apply when overtaking and passing a snowplow, but the fact that the operator of any vehicle upon a highway having a posted speed limit of more than 35 miles per hour follows the snowplow more closely than 200 feet for one mile or more or follows more closely than 200 feet when the snowplow is moving at the maximum speed limit is prima facie evidence that the operator of such following vehicle is violating this subsection. This subsection does not apply to a snowplow that is stopped or standing in the highway.

History: 2001 a. 34.

346.92 Illegal riding. (1) No person shall drive a vehicle when any person other than an employee engaged in the necessary discharge of the employee’s duty is upon any portion thereof not designed or intended for the use of passengers.

(2) No person other than an employee engaged in the necessary discharge of the employee’s 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.

History: 1991 a. 316.

346.922 Transporting children in cargo areas of motor trucks. (1) Notwithstanding s. 346.92, no person may operate upon a highway a motor truck having a gross weight of 10,000 pounds or less when any child under the age of 16 years is in an open cargo area of the motor truck.

(2) Subsection (1) does not apply to any of the following:

(a) A person operating a farm truck in conjunction with farm operations.

(b) A person operating a motor truck in a parade sanctioned by a local municipality.

(c) A person operating a motor truck for the purpose of transporting licensed deer hunters during the authorized deer hunting season with firearms.

History: 1995 a. 420.

346.925 Operation of agricultural machinery by youthful operators. (1) No person may direct or permit a child under the age of 16 years to operate a farm tractor or self-propelled implement of husbandry on the highway unless the child has been certified under s. 36.25 (32) (a) 2. as successfully completing a tractor and machinery operation safety training course that is equivalent to the requirements, other than age, specified under 29 CFR part 570.70 to 570.72.

(2) Subsection (1) does not apply to operation of a farm tractor or self-propelled implement of husbandry on the highway on a course that is perpendicular to the direction of the highway.


346.93 Intoxicants in vehicle; underage persons. (1) No underage person, as defined under s. 125.02 (20m), may knowingly possess, transport or have under his or her control any alcohol beverage in any motor vehicle unless the person is employed by a brewer, an alcohol beverage licensee, wholesaler, retailer, distributor, manufacturer or rectifier and is possessing, transporting or having such beverage in a motor vehicle under his or her control during his or her working hours and in the course of employment, as provided under s. 125.07 (4) (bm).

(2) In addition to any other penalty prescribed by law, any violation of this section by an underage person driving or operating on or duty time with respect to a commercial motor vehicle shall be punished under s. 346.65 (2u).

(2f) Except as provided in sub. (2g), any person violating this section may have his or her operating privilege suspended under s. 343.30 (6) (b) 1.

(2g) Any person violating this section may be required to forfeit not less than $20 nor more than $400 and shall have his or her operating privilege:

(a) For a violation committed within 12 months of one previous violation, suspended under s. 343.30 (6) (b) 2.

(b) For a violation committed within 12 months of 2 or more previous violations, suspended under s. 343.30 (6) (b) 3.


346.935 Intoxicants in motor vehicles. (1) No person may drink alcohol beverages or inhale nitrous oxide while he or she is in any motor vehicle when the vehicle is upon a highway.

(2) No person may possess on his or her person, in a privately owned motor vehicle upon a public highway, any bottle or receptacle containing alcohol beverages or nitrous oxide if the bottle or receptacle has been opened, the seal has been broken or the contents of the bottle or receptacle have been partially removed or released.

(3) The owner of a privately owned motor vehicle, or the driver of the vehicle if the owner is not present in the vehicle, shall not keep, or allow to be kept in the motor vehicle when it is upon a highway any bottle or receptacle containing alcohol beverages or nitrous oxide if the bottle or receptacle has been opened, the seal has been broken or the contents of the bottle or receptacle have been partially removed or released.

(4) (a) In this subsection:

1. “Chauffeur” means a person employed full time or on a regular basis, including leased drivers, for the principal purpose of operating a motor vehicle.

2. “Limousine” means any motor vehicle for charter or hire which is operated by a chauffeur and designed for transporting persons rather than property.

(b) This section does not apply to passengers in a limousine or in a motor bus who possess any bottle or receptacle containing alcohol beverages that has been opened, on which the seal has been
346.94 Miscellaneous prohibited acts. (1) Driving on sidewalk. The operator of a vehicle shall not drive upon any sidewalk 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.

(3) Missiles, circulars or pamphlets. 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. This subsection does not apply to any person who places on a vehicle educational material relating to the parking privileges of physically disabled persons if the person has a good faith belief that the vehicle is violating state or local law on parking for motor vehicles used by the physically disabled and the educational material has been approved by the council on physical disabilities as provided under s. 46.29 (1) (em).

(4) 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.

(5) 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.

(6) 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 bicycle, moped or motorcycle may attach the same or himself or herself to any other moving vehicle upon a highway except when the motor bicycle, moped or motorcycle is incapacitated and being towed. A tow device attached to a towed motor bicycle, moped or motorcycle shall be attached so that an operator of the towed vehicle may release the tow device at any time.

(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, to merge into a bicycle lane before turning at an intersection, or to enter or leave a parking space located adjacent to 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 (1m) or (4) (b), on or along any highway or on any public or private property.

(14) Use of flashing blue lights along highways. Except as provided in ss. 346.03 (3) and 347.25 (1m) and (1s), no person may maintain or operate any device equipped with a flashing, oscillating, or rotating blue light within 100 feet of a highway if the light is visible from the highway and if the department or the local authority responsible for maintaining the highway determines that motorists would believe the light was the warning light of a police vehicle. This subsection does not apply to airport lights.

(15) Towing by buses or human service vehicles. No person may operate a school bus or a human service vehicle over any public highway of this state with any trailer or semitrailer attached.

(16) Radios or other electric sound amplification devices. (a) Except as provided in s. 347.38 (1), no person may operate or park, stop or leave standing a motor vehicle while using a radio or other electric sound amplification device emitting sound from the vehicle that is audible under normal conditions from a distance of 75 or more feet, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition.

(b) This subsection does not apply to any of the following:

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.

2. The operator of a vehicle of a public utility, as defined in s. 11.40 (1) (a).

3. The operator of a vehicle that is being used for advertising purposes.

4. The operator of a vehicle that is being used in a community event or celebration, procession or assembly.

5. The activation of a theft alarm signal device.

6. The operator of a motorcycle being operated outside of a business or residence district.

7. A local authority that has enacted an ordinance in conformity with s. 349.135.

(17) In-line skates on roadways. (a) A person riding upon in-line skates may go upon any roadway under the jurisdiction of a local authority, subject to any restrictions specified by municipal ordinance enacted under s. 349.235.

(b) Any person riding upon in-line skates upon any roadway shall ride in a careful and prudent manner and with due regard under the circumstances for the safety of all persons using the roadway.

(c) Notwithstanding any other provision of this subsection or s. 349.235, no person riding upon in-line skates may attach the in-line skates or himself or herself to any vehicle upon a roadway, except while crossing a roadway at a crosswalk, go upon any roadway under the jurisdiction of the department.

(18) Electric personal assistive mobility devices on roadways and sidewalks. (a) Except as otherwise prohibited in this chapter, a person may operate an electric personal assistive mobility device upon any roadway or sidewalk that is under the jurisdiction of the department.

2. Except as provided in s. 349.236 (1) (c), the department may by rule prohibit electric personal assistive mobility devices upon any roadway under its jurisdiction for which the speed limit is more than 25 miles per hour, and may by rule prohibit such
devices upon any sidewalk under its jurisdiction. This subdivision does not apply upon any sidewalk at a permanent or temporarily established driveway.

(b) A person may operate an electric personal assistive mobility device upon any roadway under the jurisdiction of a local authority, subject to any prohibitions specified by municipal ordinance enacted under s. 349.236.


346.945 Vehicle owner’s liability for radios or other electric sound amplification devices. (1) (a) Subject to s. 346.01 (2), the owner of a vehicle involved in a violation of s. 346.94 (16) shall be presumed liable for the violation as provided in this section.

(b) Notwithstanding par. (a), no owner of a vehicle involved in a violation of s. 346.94 (16) may be convicted under this section if the person operating the vehicle or having the vehicle under his or her control at the time of the violation has been convicted for the violation under this section or under s. 346.94 (16).

(2) Any member of the public who observes a violation of s. 346.94 (16) may prepare a written report indicating that a violation has occurred. If possible, the report shall contain the following information:

(a) The time and the approximate location at which the violation occurred.

(b) The license number and color of the motor vehicle involved in the violation.

(c) Identification of the motor vehicle as an automobile, motor truck, motor bus, motorcycle or other type of vehicle.

History: 1995 a. 373; 1997 a. 27; 1999 a. 80.

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), (12) or (15) 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) 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) or (14) shall be required to forfeit $50 for each offense.

(4) Any person violating s. 346.925 or 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.

(5e) Any person violating s. 346.94 (16) may be required to forfeit not less than $40 nor more than $80 for the first offense and not less than $100 nor more than $200 for the 2nd or subsequent conviction within a year.

(5g) A vehicle owner or other person found liable under s. 346.945 may be required to forfeit not less than $40 nor more than $80 for the first offense and not less than $100 nor more than $200 for the 2nd or subsequent conviction within a year. Imposition of liability under s. 346.945 shall not result in suspension or revocation of a person’s operating license under s. 343.30, nor shall it result in demerit points being recorded on a person’s driving record under s. 343.32 (2) (a).

(6) Any person violating s. 346.94 (17) or (18) 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.

(7) Any person violating s. 346.922 may be required to forfeit not less than $10 nor more than $25 for the first offense and not less than $25 nor more than $200 for a 2nd or subsequent conviction within 3 years.