

2003 ASSEMBLY BILL 15

AN ACT *to renumber* 346.495 (1); *to amend* 346.01 (2); and *to create* 346.452, 346.49 (2r) and 346.495 (1) (b) of the statutes; **relating to:** vehicle owner liability for violations of certain traffic laws relating to railroad crossings and providing penalties.

Analysis by the Legislative Reference Bureau

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

1 **SECTION 1.** 346.01 (2) of the statutes is amended to read:
2 346.01 **(2)** In this chapter, notwithstanding s. 340.01 (42), “owner” means, with
3 respect to a vehicle that is registered, or is required to be registered, by a lessee of
4 the vehicle under ch. 341, the lessee of the vehicle for purposes of vehicle owner
5 liability under ss. 346.175, 346.195, 346.205, 346.452, 346.457, 346.465, 346.485,
6 346.505 (3), and 346.945.

ASSEMBLY BILL 15**SECTION 2**

1 **SECTION 2.** 346.452 of the statutes is created to read:

2 **346.452 Owner's liability for vehicle illegally crossing at a railroad**
3 **crossing.** (1) Subject to s. 346.01 (2), the owner of a vehicle involved in a violation
4 of s. 346.44 or 346.45 shall be liable for the violation as provided in this section.

5 (2) A railroad employee who observes a violation of s. 346.44 or 346.45 may
6 prepare a written report indicating that a violation has occurred. If possible, the
7 report shall contain the following information:

8 (a) The violation alleged.

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

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

11 (d) Identification of the vehicle as an automobile, station wagon, motor truck,
12 motor bus, motorcycle, or other type of vehicle.

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

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

22 (b) If with reasonable diligence the owner cannot be served under par. (a),
23 service may be made by leaving a copy of the citation at the owner's usual place of
24 abode within this state in the presence of a competent member of the family at least
25 14 years of age, who shall be informed of the contents thereof.

ASSEMBLY BILL 15

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

4 (d) In addition to serving the person with the citation under par. (a), (b), or (c),
5 the serving agency shall include a notice that informs the person that he or she may
6 petition the court for a change of venue; of the court costs required for petitioning for
7 a change of venue; and of the procedures for petitioning the court for a change of
8 venue.

9 **(4m)** The venue for the action shall be in the county where the violation
10 occurred, except that the venue shall be in the county where the person is a resident
11 if he or she is a resident of the state and he or she petitions the court for a change of
12 venue to his or her county of residence.

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

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

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

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

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

