

**ASSEMBLY BILL 15 (LRB -0985)**

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. (FE)

**2003**

01-30.	A.	Introduced by Representatives <b>Hahn, Ainsworth, Gronemus, M. Lehman, Kreibich, Freese, Lassa, Owens, Musser, Albers, Bies, Seratti, Hines, Ott, LeMahieu, Townsend and McCormick;</b> cosponsored by Senators <b>Welch, Cowles, Roessler, Lazich, Breske and Leibham.</b>	
01-30.	A.	Read first time and referred to committee on Highway Safety .....	38
02-07.	A.	Fiscal estimate received.	
04-16.	A.	Public hearing held.	
04-30.	A.	Executive action taken.	
05-06.	A.	Report passage recommended by committee on Highway Safety, Ayes 8, Noes 0 .....	183
05-06.	A.	Referred to committee on Rules .....	183
09-18.	A.	Placed on calendar 9-23-2003 by committee on Rules.	
09-23.	A.	Read a second time .....	370
09-23.	A.	Assembly amendment 1 offered by Representatives Hahn and W. Wood ( <b>LRB a0973</b> ) .....	370
09-23.	A.	Assembly amendment 1 <b>adopted</b> .....	370
09-23.	A.	Assembly amendment 2 offered by Representatives Hahn and W. Wood ( <b>LRB a0984</b> ) .....	370
09-23.	A.	Assembly amendment 2 <b>adopted</b> .....	370
09-23.	A.	Ordered to a third reading .....	370
09-23.	A.	Rules suspended .....	370
09-23.	A.	Read a third time and <b>passed</b> .....	370
09-23.	A.	Ordered immediately messaged .....	370
09-24.	S.	Received from Assembly .....	381
09-24.	S.	Read first time and referred to committee on Transportation and Information Infrastructure .....	382
10-15.	S.	Public hearing held.	
11-12.	S.	Executive action taken.	
11-12.	S.	Report concurrence recommended by committee on Transportation and Information Infrastructure, Ayes 5, Noes 0 .....	480
11-12.	S.	Available for scheduling.	

**2004**

03-09.	S.	Placed on calendar 3-10-2004 by committee on Senate Organization.
03-11.	S.	Placed on calendar 3-11-2004 by committee on Senate Organization.
03-11.	S.	Read a second time.
03-11.	S.	Ordered to a third reading.
03-11.	S.	Rules suspended.
03-11.	S.	Read a third time and <b>concurred in.</b>
03-11.	S.	Ordered immediately messaged.

2003  
ENROLLED BILL

03en AB-15

ADOPTED DOCUMENTS:

Orig     Engr     SubAmdt

03-09851

Amendments to above (if none, write "NONE"): AA1, AA2

Corrections - show date (if none, write "NONE"): none

Topic relay minus general

3/12/04    [Signature]  
Date                      Enrolling Drafter

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## 2003 ASSEMBLY BILL 15

January 30, 2003 - Introduced by Representatives HAHN, AINSWORTH, GRONEMUS, M. LEHMAN, KREIBICH, FREESE, LASSA, OWENS, MUSSER, ALBERS, BIES, SERATTI, HINES, OTT, LEMAHIEU, TOWNSEND and MCCORMICK, cosponsored by Senators WELCH, COWLES, ROESSLER, LAZICH, BRESKE and LEIBHAM. Referred to Committee on Highway Safety.

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

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### *Analysis by the Legislative Reference Bureau*

Under current law, the operator of a vehicle is prohibited from doing any of the following:

1. Driving the vehicle on or across a railroad crossing while being signaled to stop by a traffic officer, railroad employee, or warning device. After stopping for a warning device, however, the operator may proceed if no train is approaching.
2. Driving the vehicle through, around, or under any railroad crossing gate or barrier if it is closed or is being opened or closed.

An operator who fails to comply with either of these prohibitions may be required to forfeit not more than \$1,000, except that a bicyclist may be required to forfeit not more than \$40.

Current law also requires the operator of certain vehicles, including school buses, motor buses, and vehicles that are transporting certain hazardous substances, with limited traffic-related exceptions, to stop within 50 feet from the nearest track and take certain precautions before proceeding to ensure that a train is not approaching. An operator who fails to comply with this requirement is required to forfeit not less than \$60 nor more than \$600.

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Current law imposes various surcharges or assessments to be levied against persons who violate certain laws; these surcharges and assessments must be paid in addition to any fine or forfeiture imposed and in addition to any other surcharge or assessment imposed. A railroad crossing improvement assessment is imposed on any person found to have violated any of these traffic laws relating to railroad crossings. The amount of the assessment is equal to 50% of the amount of the forfeiture that is imposed upon conviction. The money collected from the assessment must be used to fund railroad crossing protection improvements, such as automatic signals or other warning devices, and their maintenance.

This bill imposes liability upon the owner of a vehicle involved in a violation of any of these traffic laws relating to railroad crossings. A railroad employee who observes a railroad crossing violation may submit a written report concerning the violation to a traffic officer within 24 hours of observing the violation. The traffic officer may, within 48 hours of receiving the report, prepare a traffic citation for the violation and serve it upon the owner of the vehicle.

The bill subjects the owner of a vehicle involved in a violation of any of these traffic laws relating to railroad crossings to the same penalties as those that apply to the operator of the vehicle involved in the violation, including a railroad crossing improvement assessment. However, the bill provides that the vehicle owner's operating privilege may not be suspended or revoked, and no demerit points may be recorded against the owner's driving record, for the imposition of vehicle owner liability created by this bill.

The vehicle owner has a defense to liability for the violation if the vehicle had been stolen at the time of the violation or if the owner provides the traffic officer with the name and address of the person who was operating the vehicle or who had the vehicle under his or her control at the time of the violation and that person admits operating the vehicle or having the vehicle under his or her control at the time of the violation. Lessors and dealers of vehicles have similar types of defenses.

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

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*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.

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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.

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

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

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

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

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

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

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

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

23 **SECTION 3.** 346.49 (2r) of the statutes is created to read:

24 346.49 (2r) (a) A vehicle owner or other person found liable under s. 346.452  
25 with respect to a violation of s. 346.44 may be required to forfeit not more than

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1 \$1,000, except that, if the vehicle involved in the violation was a bicycle, the bicycle  
2 owner or other person may be required to forfeit not more than \$40.

3 (b) A vehicle owner or other person found liable under s. 346.452 with respect  
4 to a violation of s. 346.45 shall forfeit not less than \$60 nor more than \$600.

5 (c) Imposition of liability under s. 346.452 shall not result in suspension or  
6 revocation of a person's operating license under s. 343.30 or 343.31, nor shall it result  
7 in demerit points being recorded on a person's driving record under s. 343.32 (2) (a).

8 **SECTION 4.** 346.495 (1) of the statutes is renumbered 346.495 (1) (a).

9 **SECTION 5.** 346.495 (1) (b) of the statutes is created to read:

10 346.495 (1) (b) If a court imposes a forfeiture under s. 346.49 (2r) with respect  
11 to a violation of s. 346.44 or 346.45, the court shall also impose a railroad crossing  
12 improvement assessment equal to 50% of the amount of the forfeiture.

13

(END)

**ASSEMBLY AMENDMENT 1,  
TO 2003 ASSEMBLY BILL 15**

September 23, 2003 - Offered by Representatives HAHN and W. WOOD.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 4, line 3: after that line insert:

3 "(d) In addition to serving the person with the citation under par. (a), (b), or  
4 (c), the serving agency shall include a notice that informs the person that he or she  
5 may petition the court for a change of venue; of the court costs required for  
6 petitioning for a change of venue; and of the procedures for petitioning the court for  
4-3  
7 a change of venue.

8 **(4m)** The venue for the action shall be in the county where the violation  
9 occurred, except that the venue shall be in the county where the person is a resident  
10 if he or she is a resident of the state and he or she petitions the court for a change of  
11 venue to his or her county of residence.

12 (END)



**ASSEMBLY AMENDMENT 2,  
TO 2003 ASSEMBLY BILL 15**

September 23, 2003 - Offered by Representatives HAHN and W. WOOD.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 19: after "(2)" insert "and after verifying the information  
3 provided under sub. (2) (c) and (d)".

4 (END)

3-19