

2003 DRAFTING REQUEST

Bill

Received: 12/02/2002

Received By: tfast

Wanted: Soon

Identical to LRB:

For: Eugene Hahn (608) 266-3404

By/Representing: Heather Schubert

This file may be shown to any legislator: NO

Drafter: tfast

May Contact:

Addl. Drafters:

Subject: Transportation - traffic laws

Extra Copies: ARG, PJH - 1

Submit via email: YES

Requester's email: Rep.Hahn@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No spccific pre topic given

Topic:

Vehicle owner liability for RR crossing violations

Instructions:

Redraft 2001 AB-199

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tfast 12/04/2002	kgilfoy 12/11/2002		_____			S&L
/1			jfrantze 12/11/2002	_____	amentkow 12/11/2002	amentkow 12/12/2002	

FE Sent For:

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<END>

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1?	tfast	1-12/11 Kmg	12/11	Self 12/11			

FE Sent For:

<END>

Fast, Timothy

From: Schubert, Heather
Sent: Monday, December 02, 2002 12:11 PM
To: Fast, Timothy

Timothy:

Representative Eugene Hahn would like to have AB 199 redrafted for the new session.

Thank you,

Heather Schubert
Office of Rep. Gene Hahn
266-3404

2003

Date (time) needed

SOON
(turned in 12/4)

LRB-09851-1

TNF: King

BILL

Use the appropriate components and routines developed for bills.

PWF: all amended stats.

AN ACT ... [generate catalog] to repeal ... ; to renumber ... ; to consolidate and renumber ... ; to renumber and amend ... ; to consolidate, renumber and amend ... ; to amend ... ; to repeal and recreate ... ; and to create ... of the statutes; relating to:

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: create -> anal: -> title: -> head

For the subheading, execute: create -> anal: -> title: -> sub

For the sub-subheading, execute: create -> anal: -> title: -> sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: create -> anal: -> text

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

SECTION #.

~~2001 ASSEMBLY BILL 199~~

~~March 13, 2001~~ Introduced by Representatives ~~HAIN, WADE, SKINDRUD, GRONEMUS, POWERS, NASS, URBAN, STONE, OWENS, MUSSER, VRAKAS, TOWNSEND, BERCEAU and SYKORA~~ cosponsored by Senators ~~DARLING, HUELSMAN, COWLES and SCHULTZ~~. Referred to Committee on Highway Safety.

①

~~AN ACT to amend 346.495 (1) to amend 346.01 (2) and to create 346.452,~~

②

~~346.49 (2) 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.

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.

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.

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 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 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).^{next}

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)

Mentkowski, Annie

From: Martz, Jack
Sent: Thursday, December 12, 2002 3:02 PM
To: LRB.Legal
Subject: Draft review: LRB-0985/1 Topic: Vehicle owner liability for RR crossing violations

It has been requested by <Martz, Jack> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-0985/1 Topic: Vehicle owner liability for RR crossing violations