



WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO

2003 Assembly Bill 180	Assembly Substitute Amendment 1
<i>Memo published:</i> June 4, 2003	<i>Contact:</i> Don Salm, Senior Staff Attorney (266-8540)

Under *current law*:

1. The operator of a vehicle which approaches from the front or rear any school bus which has stopped on a street or highway and is displaying flashing red warning lights, must stop the vehicle not less than 20 feet from the bus and must remain stopped until the bus resumes motion or the operator extinguishes the flashing red warning lights. This provision does not apply to operators of vehicles proceeding in the opposite direction on a divided highway. [s. 346.48 (1), Stats.]

2. The operator of a school bus equipped with flashing red warning lights as specified in s. 347.25 (2), Stats., must: (a) actuate such lights at least 100 feet before stopping to load or unload pupils or other authorized passengers; and (b) 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 must use the flashing red warning lights when loading or unloading passengers from either side of the bus.

3. School bus operators **shall not** use the flashing red warning lights in:

a. Special school bus loading areas where the bus is entirely off the traveled portion of the highway.

b. 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), Stats.** That statutory provision specifies that the governing body of any town, city, village or county may by ordinance provide for the use of flashing red warning lights by school bus operators in a residence or business district when: (1) pupils or other authorized passengers are to be loaded or unloaded at a location at which there are no traffic signals; and (2) such persons must cross the street or highway before being loaded or after being unloaded.

Under *Substitute Amendment 1*:

1. Unless required otherwise by municipal ordinance enacted under s. 349.21 (1), Stats., a school bus operator *may not* actuate the flashing red warning lights when loading or unloading in a residence or business district, regardless of whether a curb and sidewalk are on one or both sides of the road, if *all of the following conditions* are met:

- a. There is a sidewalk and curb on the side of the road where pupils or other authorized passengers are loaded or unloaded.
- b. The loading or unloading occurs immediately adjacent to the sidewalk and curb.
- c. There is sufficient clearance on the roadway for other vehicles to pass at a safe distance to the left of the school bus.
- d. No person must cross the highway before being loaded or after being unloaded.

(*Note:* As noted above, under s. 349.21 (1), Stats., a school bus operator would still be permitted to activate the warning lights if there is no traffic signal where the loading or unloading occurs, the person being loaded or unloaded must cross the highway, and a local ordinance authorizes the use of warning lights under these circumstances.)

2. A school bus operator who stops to load or unload a pupil or other authorized passenger under s. 346.48, as revised in the substitute amendment, and who does not use the flashing red warning lights as provided in item 1., above, is required to actuate the vehicular hazard lights specified in s. 347.26 (11) (a), Stats., before stopping and must not extinguish such lights until loading or unloading is completed. (*Note:* Under current law, other motorists need not stop for a school bus displaying vehicular hazard lights.)

The substitute amendment specifies that if it is enacted into law:

1. It first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for sentencing a person.
2. It takes effect on the first day of the *3rd month* beginning after publication.

Legislative History

On April 30, 2003, the Assembly Committee on Highway Safety voted to recommend adoption of Assembly Substitute Amendment 1, offered by Representative Musser, by a vote of Ayes, 8; Noes, 0; and recommended passage of Assembly Bill 180, as amended, by a vote of Ayes, 8; Noes, 0.

DLS:ksm;tlu

Vote Record

Committee on Transportation and Information Infrastructure

Date: 3/3/04

Moved by: Breske

Seconded by: Kedzie

AB 180

AB 180 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

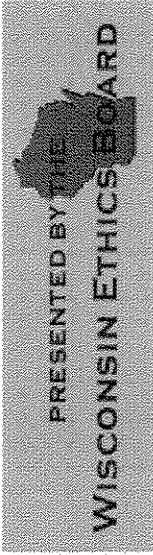
A/S Amdt _____
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 A/S Sub Amdt _____
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- Be recommended for:
- Passage Adoption Confirmation Concurrence Indefinite Postponement
 - Introduction Rejection Tabling Nonconcurrence

Committee Member	Aye	No	Absent	Not Voting
Senator Joseph Leibham, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ted Kanavas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Roger Breske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Mark Meyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>4</u>	_____	_____	_____

Motion Carried Motion Failed

- ▶ Home
- ▶ Lobbying in Wisconsin
- ▶ Organizations employing lobbyists
- ▶ Lobbyists



as of Monday, December 15, 2003

2003-2004 legislative session

Legislative bills and resolutions

(search for another legislative bill or resolution at the bottom of this page)

- Text, Sponsors and Analysis
- Status and Fiscal Estimate
- Lobbying Effort on this item

Assembly Bill 180

school buses loading or unloading pupils or other authorized passengers.

Organization Profile	Interests	These organizations have reported lobbying on this proposal:		
		Date Notified	Position	Comments
●	●	3/24/2003	?	
●	●	5/14/2003	?	

Place pointer on icon to display comments.
click icon to display prior comments

Select a legislative proposal and click "go"

House
Proposal Type
Proposal Number (enter proposal)
Legislative Session

AS 180

Erickson, Dan

From: Erickson, Dan
Sent: Wednesday, November 27, 2002 9:32 AM
To: 'Rep.Musser@legis.state.wi.us'
Cc: Sartorius, Gary
Subject: Use of School Bus Red Warning Lights within Municipalities

Dear Assemblyman Musser:

The Tomah Area School District's Transportation Department has a matter we wish to have clarified and, more importantly, improved upon.

Your attention is directed to Wisconsin Statutes 346.475, 346.48 (2) (a) (b) and 349.21 (1) (2). Handicapped children are addressed in 346.475 but not in the school bus statutes 346.48 and 349.21. This school district transports a number of students who are mobile only with the assistance of a wheel chair.

There are times the school bus cannot drive off the road or street to load or unload a wheel chair student. It can take upwards of five (05) minutes for a loading or unloading procedure to be completed. If the student lives on a street that has curb and sidewalk on one side, but not the other side, the red warning lights must be used per S.346.48 regardless of local ordinance(s) in effect under S.349.21. The use of red warning lights continuously for up to five (05) minutes can be a serious safety hazard and is a grave concern on the part of this department.

Below is Traffic Code 7.09, the first from the City of Tomah, the second from the City of Sparta. Both are presented verbatim.

7.09 "USE OF FLASHING RED WARNING LIGHTS BY SCHOOL BUS OPERATORS. No school bus operator shall use the flashing red warning lights when operating a school bus 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 ground on Clark St. from Brownell St. to Monroe St. and on Oak St. from Monroe St. to La Crosse St., which is an area designated by school warning signs as provided in the Wisconsin Statutes."

7.09 "SCHOOL BUSES, USE OF FLASHERS. School bus operators shall not use flashing red warning lights in the City, except where emergency conditions create a safety hazard to passengers or pedestrians or where the operator is prevented by traffic conditions from loading and unloading passengers immediately next to a curb. School bus operators are prohibited from using flashing red warning lights when pupils or other authorized passengers are loading or unloading directly from or on to the school grounds or that portion of the right of way between the roadway and the school grounds designated by "school" warning signs as provided in Section 118.08 (1) in which a street or highway borders the grounds of a school, pursuant to Section 349.21 (2) Wis. Stats., except where emergency conditions create a safety hazard to passengers or pedestrians."

The City of Tomah further enumerates in Traffic Code 7.20 "SCHOOL BUS WARNING LIGHTS. (1) Notwithstanding the provisions of S.346.48 (2) (b)2., Wis. Stats, as adopted by reference in Section 7.01 of this chapter to the contrary, school bus operators may use flashing red warning lights in residential and business districts when pupils or other authorized passengers are to be loaded or unloaded at locations at which there are not traffic signals and such persons must cross the street or highway before being loaded or after being unloaded."

The key phraseology is "...must cross the street or highway..." Similar verbiage is used in S346.48.

Here are some examples: North Glendale Avenue from the Canadian Pacific Railroad crossing to Arthur Street has no curb and sidewalk along the west side, however, on the east side curb and sidewalk is intermittent. We have a wheel chair student who lives in the 100 block of North Glendale. There is curb and sidewalk along the east side of the block where his residence is located. To the immediate north is Townline Road, which is a busy street that leads to Tomah's Industrial Park and to the immediate south is the Canadian Pacific Railroad crossing.

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Because there is not curb and sidewalk on **both** sides of North Glendale Avenue using the 4-way hazard lights for curbside pick up and discharge is precluded by state statute. Red warning lights are required by state statute which means the handicap school bus must remain in its lane of traffic with red warning lights deployed. Recently utility workers precluded using the driveway, traffic was backed up onto Townline Road and beyond the railroad crossing. This causes great concern because the procedure itself **is hazardous to the driver, student, traveling public and the school bus itself**. Added to the physical hazard is today's "road rage" phenomenon.

Sparta's Traffic Code would allow the use of 4-way hazard lights curbside discharge or pick up under the above scenario. Tomah's Traffic Code does not allow use of 4-way hazard lights. Does a municipal ordinance supercede a state statute?

Head Start regulations mandate bus routes must be configured to allow for service door side pick up and discharge. Where there is curb and sidewalk on both sides of the street state statute allows (with municipal approval) use of red warning lights **only** if students must cross the street. In the City of Tomah, we would be required to deploy 4-way hazard lights and pick up or discharge curbside. Because Tomah has many locations where curb and sidewalk are not in place on both sides of the street, theoretically, in the very next block that might not have curb and sidewalk on **both** sides of the street the driver would be required to remain in the lane of traffic and deploy the red warning lights. This would lead to a very confused driving public and very likely would work to the detriment of safety for all concerned.

Tomah's main street (Superior Avenue) is in part, a state highway with the remainder being a U.S. highway. The majority of Superior Avenue is a four (04) lane roadway. In a verbal arrangement with the Police Department, the Tomah Area School District has instructed our school bus drivers to limit picking up and discharging students on Superior Avenue and **ONLY** when necessary activate the 4-way hazard lights and pull next to the curb. If at all possible, drivers are instructed to use the alleys parallel to Superior Avenue to pick up and discharge students who live on Superior Avenue from Center Street on the south side to Arthur Street on the north side. The bulk of these riders are special needs or Head Start students.

There is a glaring lack of clarity as to when it is appropriate to use red warning lights per municipal ordinance versus state statutes particularly as it relates to wheel chair students/school buses. It is the safety of children that is paramount. However, the safety of the school bus drivers and public cannot be minimized. I believe further clarification/coordination is required when handicapped students are being transported in school buses as opposed to human services vehicles as spelled out in S346.475.

This office has discussed these concerns with Tomah's Chief of Police, Chris Anderson. He has discussed the issues with the City Attorney's office. Both offices seem to think Sparta's ordinance could be challenged as to its legality. (Personally, I feel it is what is needed to offer the bus driver an appropriate **safety option** given an immediate concern and I would believe that is how and why it was written and presented to the Sparta City Council for their approval.) Chief Anderson and City Counsel agree the matter of handicapped students riding a handicap/wheelchair lift **school bus** needs specific state statute language as to when red warning lights or 4-way yellow hazards lights should/can be used when picking up or discharging students within the confines of a municipality. The current statutes are devoid of this very serious safety issue.

Your assistance in assisting us to provide the safest student transportation possible is very much appreciated.

Sincerely,

Daniel M. Erickson
Transportation Supervisor
Tomah Area School District
(608) 374-7214

12/16/2003



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: SENATOR JOSEPH LEIBHAM, CHAIR, AND MEMBERS OF THE SENATE
COMMITTEE ON TRANSPORTATION AND INFORMATION INFRASTRUCTURE

FROM: Don Salm, Senior Staff Attorney *DS*

RE: Analysis of 2003 Assembly Bill 180, Relating to School Buses Loading or Unloading Pupils
or Other Authorized Passengers, As Amended by the Assembly

DATE: December 10, 2003

This memorandum analyzes 2003 Assembly Bill 180, relating to school buses loading or unloading pupils or other authorized passengers, as amended by the Assembly (hereafter, "the bill"). The bill passed the Assembly on a voice vote. The Senate Committee on Transportation and Information Infrastructure will hold a public hearing on the bill on *Wednesday, December 17, 2003, at 9:00 a.m., in Room 330 Southwest, State Capitol.*

CURRENT LAW

Under current law:

1. The operator of a vehicle which approaches from the front or rear any school bus which has stopped on a street or highway and is displaying flashing red warning lights, must stop the vehicle not less than 20 feet from the bus and must remain stopped until the bus resumes motion or the operator extinguishes the flashing red warning lights. This provision does not apply to operators of vehicles proceeding in the opposite direction on a divided highway. [s. 346.48 (1), Stats.]
2. The operator of a school bus equipped with flashing red warning lights as specified in s. 347.25 (2), Stats., must: (a) actuate such lights at least 100 feet before stopping to load or unload pupils or other authorized passengers; and (b) 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 must use the flashing red warning lights when loading or unloading passengers from either side of the bus.
3. School bus operators *shall not* use the flashing red warning lights in:

- a. Special school bus loading areas where the bus is entirely off the traveled portion of the highway.
- b. 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), Stats.** That statutory provision specifies that the governing body of any town, city, village or county may by ordinance provide for the use of flashing red warning lights by school bus operators in a residence or business district when: (1) pupils or other authorized passengers are to be loaded or unloaded at a location at which there are no traffic signals; and (2) such persons must cross the street or highway before being loaded or after being unloaded.

2003 ASSEMBLY BILL 180, AS AMENDED BY THE ASSEMBLY

Under the bill:

1. Unless required otherwise by municipal ordinance enacted under s. 349.21 (1), Stats., a school bus operator *may not* actuate the flashing red warning lights when loading or unloading in a residence or business district, regardless of whether a curb and sidewalk are on one or both sides of the road, if *all of the following conditions* are met:

- a. There is a sidewalk and curb on the side of the road where pupils or other authorized passengers are loaded or unloaded.
- b. The loading or unloading occurs immediately adjacent to the sidewalk and curb.
- c. There is sufficient clearance on the roadway for other vehicles to pass at a safe distance to the left of the school bus.
- d. No person must cross the highway before being loaded or after being unloaded.

(*Note:* As noted above, under s. 349.21 (1), Stats., a school bus operator would still be permitted to activate the warning lights if there is no traffic signal where the loading or unloading occurs, the person being loaded or unloaded ^{? (may)} must cross the highway, and a local ordinance authorizes the use of warning lights under these circumstances.)

2. A school bus operator who stops to load or unload a pupil or other authorized passenger under s. 346.48, as revised in the bill, and who does not use the flashing red warning lights as provided in item 1., above, is required to actuate the vehicular hazard lights specified in s. 347.26 (11) (a), Stats., before stopping and must not extinguish such lights until loading or unloading is completed. (*Note:* Under current law, other motorists need not stop for a school bus displaying vehicular hazard lights.)

The bill specifies that if it is enacted into law:

1. It first applies to violations committed on the effective date of the new law, but does not preclude the counting of other violations as prior violations for sentencing a person.
2. It takes effect on the first day of the *3rd month* beginning after publication of the new law.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

DLS:ksm;tlu