

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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ARG:med&cjs:jf

September 9, 2011

ATTN: Tom Jackson

Please review the attached draft carefully to ensure that it is consistent with your intent.

In preparing the definition of “vulnerable highway user” under s. 340.01 (74p), I did not include a person who is boarding or exiting a mass transit vehicle, motor bus, or school bus because it seems that such a person would always be a pedestrian and would therefore already be covered by the definition. *See also* s. 340.01 (43) (definition of pedestrian). I also did not include highway workers as vulnerable highway users because, under current law, penalties are already doubled for many violations in highway work zones.

The attached draft provides for an enhanced penalty for most violations under ch. 346 if harm to a vulnerable highway user results. I did not apply this penalty enhancement to violations that impose “owner liability” but did apply the enhancement to almost all other violations under ch. 346. Given the instructions, I erred on the side of inclusion; however, there are probably many violations covered by this draft for which the penalty enhancement provision makes little sense. You may wish to review the violations covered in ch. 346 and with an eye toward applying the penalty enhancement to those violations where it makes the most sense.

As I have drafted this bill, if a driver causes harm to a vulnerable highway user, such as a pedestrian, in a highway work zone, the penalty is quadrupled (doubled and doubled again). Please advise if this is not consistent with your intent.

Chapters 345 and 799 govern citation and trial procedures for traffic regulation violations tried in circuit court. Chapter 800 governs procedures for traffic regulation violations (ordinance violations) tried in municipal court. Section 800.09 (1b) (b) explicitly allows the municipal court judge to order community service work, but neither chapter 345 nor chapter 799 contains an analogous provision. I have added an analogous provision, but limited its scope to situations involving harm to vulnerable highway users. Both s. 800.09 (1b) (b) and created s. 345.47 (1) (intro.) under this draft allow, but do not require, the judge to order community service work. Please advise if this is not consistent with your intent. Also, in the rare situations in which a traffic violation is a crime, a court already has many sentencing and probation options, and community service is among them.

Please let me know if you would like any changes made to the attached draft or if you have any questions.

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