



2011 ASSEMBLY BILL 274

September 22, 2011 – Introduced by Representatives PETROWSKI, MURSAU, BROOKS, ENDSLEY, JORGENSEN, KAUFERT, NERISON, A. OTT, RIVARD, SINICKI, SPANBAUER, ZEPNICK and TURNER, cosponsored by Senators LEIBHAM, OLSEN, HANSEN and TAYLOR, by request of Brotherhood of Maintenance of Way Employees Division, IBT. Referred to Committee on Transportation.

1 **AN ACT to amend** 195.285 (2), 195.29 (6), 340.01 (47), 343.315 (2) (j) 1., 346.44
2 (1) (b), 346.44 (1) (c), 346.45 (2), 350.137 (2) (intro.) and 350.137 (2) (a); and **to**
3 **create** 195.001 (3) and 340.01 (47m) of the statutes; **relating to:** requiring
4 motorists to yield to railroad track equipment trains at railroad crossings and
5 requiring a railroad to maintain its right-of-way.

Analysis by the Legislative Reference Bureau

Under current law, an operator of a vehicle may not drive across a railroad crossing when a train occupies or is closely approaching the crossing. An operator of certain vehicles, including motor buses, school buses, and certain motor vehicles used for transporting hazardous, flammable, or explosive materials (covered vehicles), must generally stop before crossing any nonexempted railroad track, listen and look in both directions for an approaching train, and proceed only once the operator has ascertained that the course is clear.

Under this bill, railroad track equipment is defined as “a device that is operated on rails and used primarily for the maintenance of railroads.” For railroad crossing purposes, this bill treats railroad track equipment similar to railroad trains. Thus, under this bill, a motorist must yield to railroad track equipment as for a railroad train at a railroad crossing and a covered vehicle must listen and look for railroad track equipment as for a railroad train at a nonexempted railroad tracks.

Also under current law, a railroad must keep its right-of-way clear of brush or trees for at least 330 feet in each direction from the center of a public railroad

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crossing, and for any further distance that is necessary to provide an adequate view of approaching trains from the highway. Under this bill, a railroad is required only to keep its right-of-way clear for at least 330 feet in each direction from the center of a public railroad crossing.

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

1 **SECTION 1.** 195.001 (3) of the statutes is created to read:

2 195.001 (3) “Railroad track equipment” means a device that is operated on rails
3 and used primarily for the maintenance of railroads.

4 **SECTION 2.** 195.285 (2) of the statutes is amended to read:

5 195.285 (2) Signs placed upon the order of the office under this section shall
6 exempt vehicles from stopping as required under s. 346.45, unless a train ~~or~~ an
7 engine, or railroad track equipment is occupying or approaching the crossing.

8 **SECTION 3.** 195.29 (6) of the statutes is amended to read:

9 195.29 (6) VIEW AT CROSSINGS; TREES AND BRUSH NEAR CROSSINGS; FORFEITURE.
10 Every railroad shall keep its right-of-way clear of brush or trees for a distance of not
11 less than 330 feet in each direction from the center of its intersection at grade with
12 any public highway, ~~and for such further distance as is necessary to provide an~~
13 adequate view of approaching trains, or railroad track equipment from the highway.
14 Every municipality shall keep the public highways within its jurisdiction clear of
15 brush and shall adequately trim all trees within 330 feet of the center of any railroad
16 highway grade crossing. Every person or corporation owning or occupying any land
17 adjacent to any railroad highway grade crossing shall keep all brush cut and
18 adequately trim all trees on the land within the triangles bounded on 2 sides by the
19 railway and the highway, and on the 3rd side by a line connecting points on the center
20 lines of the railway and the highway, 330 feet from the intersection of the center lines.

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1 The office, upon its own motion, or upon any complaint to the effect that any work
2 required by this subsection has not been performed, after due notice and hearing,
3 may order the corporation, municipality or person at fault to perform the work;
4 provided, however, that if the physical conditions at any crossing are such that the
5 performance of the required work will not materially improve the view for highway
6 traffic, or, if unreasonable loss would be caused thereby, the office may excuse the
7 party in interest from performing the same. The office may also order the cutting of
8 brush and the trimming of trees at private farm crossings as may be necessary and
9 reasonable. If any person shall violate any provision of this section, or shall fail,
10 neglect or refuse to obey any order made by the office under this section, or any
11 judgment or decree made by any court upon such an order, for every such violation,
12 failure or refusal such person shall forfeit not less than \$25 nor more than \$150.

13 **SECTION 4.** 340.01 (47) of the statutes is amended to read:

14 340.01 **(47)** “Railroad crossing” means the intersection of any highway or
15 private road or driveway at grade with tracks upon which railroad track equipment
16 or railroad trains operate.

17 **SECTION 5.** 340.01 (47m) of the statutes is created to read:

18 340.01 **(47m)** “Railroad track equipment” means a device that is operated on
19 rails and used primarily for the maintenance of railroads.

20 **SECTION 6.** 343.315 (2) (j) 1. of the statutes is amended to read:

21 343.315 **(2)** (j) 1. If the operator is not always required to stop the vehicle,
22 failing to reduce speed and determine that the tracks are clear of any approaching
23 railroad train or railroad track equipment.

24 **SECTION 7.** 346.44 (1) (b) of the statutes is amended to read:

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1 346.44 (1) (b) While any warning device signals to stop, except that if the
2 operator of the vehicle after stopping and investigating finds that no railroad train
3 or railroad track equipment is approaching the operator may proceed.

4 **SECTION 8.** 346.44 (1) (c) of the statutes is amended to read:

5 346.44 (1) (c) If any crossbuck sign specified under s. 192.29 (5) (a) is
6 maintained at the crossing, while any railroad train or railroad track equipment
7 occupies the crossing or approaches so closely to the crossing as to constitute a hazard
8 of collision.

9 **SECTION 9.** 346.45 (2) of the statutes is amended to read:

10 346.45 (2) The operator of every vehicle required to stop before crossing any
11 track shall listen and look in both directions along the track for any approaching
12 railroad train or railroad track equipment, and shall not proceed until such
13 precautions have been taken and until the operator has ascertained that the course
14 is clear. Wherever an auxiliary lane is provided for stopping at a railroad, operators
15 of vehicles required to stop shall use such lane for stopping.

16 **SECTION 10.** 350.137 (2) (intro.) of the statutes is amended to read:

17 350.137 (2) (intro.) The maintenance standards shall include requirements for
18 the marking of snowmobile rail crossings and for the maintenance of adequate
19 drainage of railroad rights-of-way. The design and construction standards shall
20 include a list and a description of the frequency and speed of railroad trains and
21 railroad track equipment and the types of railroad tracks, embankments, ditches,
22 snowmobile trail alignments and other configurations that do any of the following:

23 **SECTION 11.** 350.137 (2) (a) of the statutes is amended to read:

24 350.137 (2) (a) Preclude the use of a proposed site for a snowmobile rail crossing
25 because the site would be unsafe due to poor visibility of an approaching railroad

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1 train or railroad track equipment from the position of a snowmobile operator who is
2 stopped on the approach to the proposed crossing.

3 **SECTION 12. Initial applicability.**

4 (1) This act first applies to violations committed on the effective date of this
5 subsection, but does not preclude the counting of other violations as prior violations
6 for purposes of revocation of motor vehicle operating privileges or disqualification
7 from operating a commercial motor vehicle.

8 (END)