



State of Wisconsin
2011 – 2012 LEGISLATURE



LRB-0063/2
ARG:jld:rs

2011 ASSEMBLY BILL 611

February 22, 2012 – Introduced by Representative PETROWSKI, cosponsored by Senator LAZICH, by request of Department of Transportation. Referred to Committee on Transportation.

1 **AN ACT to repeal** 346.45 (1) (c) 1. to 10.; **to renumber and amend** 346.45 (1)
2 (c) (intro.); and **to amend** 346.45 (4) of the statutes; **relating to:** vehicles
3 required to stop at railroad crossings, providing an exemption from emergency
4 rule procedures, and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT) must adopt rules, consistent with federal regulations, for the marking and placarding of vehicles being used to transport hazardous materials.

Also under current law, the operator of certain vehicles, before crossing an at-grade railroad crossing, must stop the vehicle within 50 feet but not less than 15 feet from the nearest rail. Among the vehicles required to stop are motor vehicles that, in accordance with DOT rules, must be marked or placarded with one of ten specified hazardous materials markings.

This bill eliminates the statutory enumeration of ten specific hazardous materials markings that require a marked or placarded vehicle to stop at an at-grade railroad crossing. Instead, the bill requires DOT to promulgate rules identifying classifications of markings or placarding that, consistent with federal

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regulations, require a marked or placarded vehicle to stop at an at-grade railroad crossing.

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

1 **SECTION 1.** 346.45 (1) (c) (intro.) of the statutes is renumbered 346.45 (1) (c) and
2 amended to read:

3 346.45 **(1)** (c) Every motor vehicle which, in accordance with sub. (4), is
4 required to be marked or placarded with ~~one of the following markings: a~~
5 classification of marking or placarding that requires the vehicle to stop.

6 **SECTION 2.** 346.45 (1) (c) 1. to 10. of the statutes are repealed.

7 **SECTION 3.** 346.45 (4) of the statutes is amended to read:

8 346.45 **(4)** The department shall adopt rules for the marking and placarding
9 of vehicles being used to transport hazardous materials which are potentially
10 dangerous to life and property, which rules shall be in accordance with the
11 regulations of the U.S. department of transportation. These rules shall identify
12 classifications of markings or placarding that, consistent with federal regulations,
13 when required on a vehicle also require the vehicle to stop as provided in sub. (1) (c).

14 **SECTION 4. Nonstatutory provisions.**

15 (1) PROPOSED PERMANENT RULES. The department of transportation shall submit
16 in proposed form the rules required under section 346.45 (4) of the statutes to the
17 legislative council staff under section 227.15 (1) of the statutes no later than the first
18 day of the 4th month beginning after the effective date of this subsection.

19 (2) EXCEPTION TO ECONOMIC IMPACT REPORT FOR RULES. Notwithstanding section
20 227.137 (2) of the statutes, the department of transportation is not required to

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1 prepare an economic impact analysis for the rules required under section 346.45 (4)
2 of the statutes.

3 (3) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
4 the department of transportation shall promulgate the rules required under section
5 346.45 (4) of the statutes, for the period before the effective date of the permanent
6 rules promulgated under section 346.45 (4) of the statutes, but not to exceed the
7 period authorized under section 227.24 (1) (c) of the statutes, subject to extension
8 under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2)
9 (b), and (3) of the statutes, the department is not required to provide evidence that
10 promulgating a rule under this subsection as an emergency rule is necessary for the
11 preservation of public peace, health, safety, or welfare and is not required to provide
12 a finding of an emergency for a rule promulgated under this subsection.
13 Notwithstanding section 227.24 (1) (e) 1d. and 1g. of the statutes, the department is
14 not required to obtain approval of a statement of scope as provided in section 227.135
15 (2) or (4) of the statutes, or submit the proposed emergency rule in final draft form
16 to the governor for approval and obtain such approval, for a rule promulgated under
17 this subsection.

SECTION 5. Initial applicability.

18 (1) This act first applies to violations committed on the effective date of this
19 subsection.
20

21 **SECTION 6. Effective dates.** This act takes effect on the first day of the 4th
22 month beginning after publication, except as follows:

23 (1) SECTION 4 of this act takes effect on the day after publication.

24 (END)