

2019 DRAFTING REQUEST

Bill

For: **Jon Plumer (608) 266-3404** Drafter: **emueller**
 By: **Mitch** Secondary Drafters:
 Date: **3/25/2019** May Contact:
 Same as LRB: **-3150**

Submit via email: **YES**
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Pre Topic:

No specific pre topic given

Topic:

Work zone safety

Instructions:

Same as 2017 LRB-5809/p1, but omit radar speed detection materials

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller 4/1/2019	ccarmich 4/3/2019			
/P1	emueller 5/7/2019		dwalker 4/3/2019		State S&L
/1		ccarmich 5/7/2019	dwalker 5/7/2019	lparisi 5/7/2019	State S&L

FE Sent For:

*2
at
intro*

<END>



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5809/P1
EVM:cdc&ahc
2568/P1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMNR

4/3/19

1 AN ACT to amend 346.01 (2); and to create 38.04 (4) (e) 8., 115.28 (11) (h), 343.71
2 (5) (h), 346.275, 346.30 (6), 346.575 and 346.60 (6) of the statutes; relating to:
3 the use of photo radar speed detection to identify certain speed limit violations,
4 liability of owners of vehicles involved in certain speed limit and failure to yield
5 right-of-way violations, driver education instruction, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill authorizes the use of photo radar speed detection in highway work zones and the citation of owners of vehicles for certain highway work zone speed and failure to yield violations. The bill also requires driver education instruction related to highway work zone safety.

Under current law, law enforcement officers are prohibited from using any radar device combined with photographic identification of a vehicle to determine compliance with motor vehicle speed limits. This bill allows state and local law enforcement agencies to use photo radar speed detection to identify speed limit violations in highway work zones.

Current law also imposes, with exceptions, liability on the owner of a vehicle that is observed violating certain traffic laws, including illegally passing a school bus or fire truck, illegally crossing a railroad crossing or controlled school crossing, and failing to yield the right-of-way to an emergency vehicle or a funeral procession.

The bill imposes liability on the owner of a vehicle involved in a highway work zone speed violation detected through photo radar speed detection. The bill also

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imposes liability on the owner of a vehicle involved in a violation related to the failure to yield the right-of-way to certain persons engaged in maintenance or construction work in a highway work zone. Under this bill, a flagman who observes a vehicle involved in this sort of a failure to yield violation may report the violation to a traffic officer so that a citation may be issued.

For each of these owner liability provisions, the owner is subject to the same forfeiture that would be applicable to the vehicle operator for the violation, but the owner's operating privilege may not be suspended or revoked, and no demerit points may be recorded against the owner's driving record. Among the defenses available to an owner, the owner is not liable if the owner identifies the operator of the vehicle at the time of the violation and the operator admits to being the operator or if the owner has reported the vehicle as stolen. If an owner successfully asserts certain defenses, the person operating the vehicle at the time of the violation may be charged with the violation.

Under current law, the Department of Public Instruction must approve certain driver education courses offered by school districts and establish minimum standards for driver education courses offered by private driver schools, the Technical College System Board must approve courses of study for each program offered in technical college district schools, including driver education courses, and the Department of Transportation licenses private driver schools and DOT may not license a driver school unless its course of instruction includes the content required for TCSB approval of a driver education course.

Under this bill, all approved driver education courses must acquaint each student with the hazards posed by highway work zones and provide at least 30 minutes of instruction in safely dealing with these hazards.

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. 38.04 (4) (e) 8. of the statutes is created to read:

2 38.04 (4) (e) 8. ~~Acquaint~~^{Acquaints} each student with the hazards posed by highway work

3 zones, ~~as defined in s. 346.575 (1) (a)~~^{as defined in s. 346.575 (1) (a)}, and provides at least 30 minutes of instruction

4 in safely dealing with these hazards.

5 SECTION 2. 115.28 (11) (h) of the statutes is created to read:

1 115.28 (11) (h) Acquaint each student with the hazards posed by highway work
2 zones, as defined in s. 346.575 (1) (a), and provide at least 30 minutes of instruction
3 in safely dealing with these hazards.

4 **SECTION 3.** 343.71 (5) (h) of the statutes is created to read:

5 343.71 (5) (h) Acquaints each student with the hazards posed by highway work
6 zones, as defined in s. 346.575 (1) (a), and provides at least 30 minutes of instruction
7 in safely dealing with these hazards.

8 **SECTION 4.** 346.01 (2) of the statutes is amended to read:

9 346.01 (2) In this chapter, notwithstanding s. 340.01 (42), "owner" means, with
10 respect to a vehicle that is registered, or is required to be registered, by a lessee of
11 the vehicle under ch. 341, the lessee of the vehicle for purposes of vehicle owner
12 liability under ss. 346.175, 346.195, 346.205, 346.275, 346.452, 346.457, 346.465,
13 346.485, 346.505 (3), 346.575, 346.675, and 346.945.

14 **SECTION 5.** 346.275 of the statutes is created to read:

15 **346.275 Owner's liability for vehicle failing to yield right-of-way to**
16 **persons in a work zone.** (1) Subject to sub. (5) (b), the owner of a vehicle involved
17 in a violation of s. 346.27 is liable for the violation as provided in this section.

18 (2) A flagman who observes a violation of s. 346.27 may prepare a written
19 report indicating that a violation has occurred. If possible, the report shall contain
20 the following information:

21 (a) The time and the approximate location at which the violation occurred.

22 (b) The license number and color of the vehicle involved in the violation.

23 (c) Identification of the vehicle as an automobile, motor truck, motor bus,
24 motorcycle, or other type of vehicle.

1 **(3)** If within 24 hours after observing the violation, the flagman delivers a
2 report under sub. (2) to a traffic officer of the county or municipality in which the
3 violation occurred, the officer may issue a citation under sub. (4). A report that does
4 not contain all the information in sub. (2) shall be maintained by the county or
5 municipality for statistical purposes.

6 **(4)** (a) Within 48 hours after receiving a report under sub. (3) containing all the
7 information in sub. (2), the traffic officer may issue a citation for a violation of this
8 section to the owner of the vehicle involved in the violation. A citation for a violation
9 of this section shall be prepared on a uniform traffic citation form under s. 345.11 and
10 personally served on the owner of the vehicle.

11 (b) If with reasonable diligence the owner cannot be served under par. (a),
12 service may be made by leaving a copy of the citation at the owner's usual place of
13 abode within this state in the presence of a competent member of the family at least
14 14 years of age, who shall be informed of the contents thereof.

15 (c) If with reasonable diligence the owner cannot be served under par. (a) or (b)
16 or if the owner lives outside of the jurisdiction of the issuing authority, service may
17 be made by certified mail addressed to the owner's last-known address.

18 **(5)** (a) Except as provided in par. (b), it is not a defense to a violation of this
19 section that the owner was not operating the vehicle at the time of the violation.

20 (b) The following are defenses to a violation of this section:

21 1. That a report that the vehicle was stolen was made by the owner to a law
22 enforcement agency before the violation occurred or within a reasonable time after
23 the violation occurred.

24 2. That the owner of the vehicle provided a traffic officer with the name and
25 address of the person operating the vehicle at the time of the violation and the person

1 so named admits operating the vehicle at the time of the violation. In that case, the
2 person operating the vehicle may be charged under s. 346.27.

3 3. That the vehicle is owned by a lessor of vehicles and is registered in the name
4 of the lessor, that at the time of the violation the vehicle was in the possession of a
5 lessee, and that the lessor provided a traffic officer with the information required
6 under s. 343.46 (3). In that case, the lessee may be charged under s. 346.27.

7 4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
8 including the persons specified in s. 340.01 (11) (a) to (d), that at the time of the
9 violation the vehicle was being operated by a person on a trial run, and that the
10 dealer provided a traffic officer with the name, address, and operator's license
11 number of the person operating the vehicle. In that case, the person operating the
12 vehicle may be charged under s. 346.27.

13 **SECTION 6.** 346.30 (6) of the statutes is created to read:

14 346.30 (6) A vehicle owner found liable under s. 346.275 may be required to
15 forfeit not less than \$60 nor more than \$600. Imposition of liability under s. 346.275
16 shall not result in suspension or revocation of a person's operating privilege under
17 s. 343.30, nor shall it result in demerit points being recorded on a person's driving
18 record under s. 343.32 (2) (a).

19 **SECTION 7.** 346.575 of the statutes is created to read:

20 **346.575 Owner's liability for speed restriction violations detected by**
21 **photo radar in work zones.** (1) In this section:

22 (a) "Highway work zone" means a highway maintenance or construction area
23 on or adjacent to a highway where persons engaged in work are at risk from traffic.

24 (b) "Photo radar speed detection" has the meaning given in s. 349.02 (3) (a).

1 (2) Notwithstanding s. 349.02 (3) (b), a state or local law enforcement agency
2 with jurisdiction over traffic violations may use photo radar speed detection to
3 determine compliance with a speed restriction established under s. 346.57, or a local
4 ordinance in conformity with s. 346.57 or 349.11, in a highway work zone. Subject
5 to sub. (4) (b), the owner of a vehicle involved in a violation of s. 346.57, or a local
6 ordinance in conformity with s. 346.57 or 349.11, in a highway work zone that is
7 determined by photo radar speed detection shall be liable for the violation as
8 provided in this section.

9 (3) (a) A citation for a violation of this section shall be prepared on a uniform
10 traffic citation form under s. 345.11, issued to the owner of the vehicle involved in the
11 violation, and personally served on the owner.

12 (b) If with reasonable diligence the owner cannot be served under par. (a),
13 service may be made by leaving a copy of the citation at the owner's usual place of
14 abode within this state in the presence of a competent member of the family at least
15 14 years of age, who shall be informed of the contents thereof.

16 (c) If with reasonable diligence the owner cannot be served under par. (a) or (b)
17 or if the owner lives outside of the jurisdiction of the issuing authority, service may
18 be made by certified mail addressed to the owner's last-known address.

19 (4) (a) Except as provided in par. (b), it is not a defense to a violation of this
20 section that the owner was not operating the vehicle at the time of the violation.

21 (b) All of the following are defenses to a violation of this section:

22 1. That a report that the vehicle was stolen was made by the owner to a law
23 enforcement agency before the violation occurred or within a reasonable time after
24 the violation occurred.

1 2. That the owner of the vehicle provided a traffic officer with the name and
2 address of the person operating the vehicle at the time of the violation and the person
3 so named admits operating the vehicle at the time of the violation. In that case, the
4 person operating the vehicle may be charged with a violation of s. 346.57 or a local
5 ordinance in conformity with s. 346.57 or 349.11.

6 3. That the vehicle is owned by a lessor of vehicles and is registered in the name
7 of the lessor, that at the time of the violation the vehicle was in the possession of a
8 lessee, and that the lessor provided a traffic officer with the information required
9 under s. 343.46 (3). In that case, the lessee may be charged with a violation of s.
10 346.57 or a local ordinance in conformity with s. 346.57 or 349.11.

11 4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
12 including the persons specified in s. 340.01 (11) (a) to (d), that at the time of the
13 violation the vehicle was being operated by a person on a trial run, and that the
14 dealer provided a traffic officer with the name, address, and operator's license
15 number of the person operating the vehicle. In that case, the person operating the
16 vehicle may be charged with a violation of s. 346.57 or a local ordinance in conformity
17 with s. 346.57 or 349.11.

18 **SECTION 8.** 346.60 (6) of the statutes is created to read:

19 346.60 (6) A vehicle owner found liable under s. 346.575 is subject to a
20 forfeiture in the same amount that may be imposed on a vehicle operator for the
21 corresponding violation of s. 346.57 including, if applicable, the doubling of the
22 forfeiture as provided in sub. (3m) (a). For purposes of this subsection, a person's
23 prior violation of s. 346.57 may be counted as a prior violation of s. 346.575.
24 Imposition of liability under s. 346.575 shall not result in suspension or revocation

1 of a person's operating privilege under s. 343.30 or 343.31, nor shall it result in
2 demerit points being recorded on a person's driving record under s. 343.32 (2) (a).

3 **SECTION 9. Initial applicability.**

4 (1) The treatment of ~~sections~~^{ss.} 38.04 (4) (e) 8., 115.28 (11) (h), and 343.71 (5) (h)
5 ~~of the statutes~~ first applies to driver education courses that begin on the effective
6 date of this subsection.

7 (END)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2568/P1
EVM:cdc

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

No Changes

5/7/19

- 1 **AN ACT to amend** 346.01 (2); and **to create** 38.04 (4) (e) 8., 115.28 (11) (h), 343.71
2 (5) (h), 346.275 and 346.30 (6) of the statutes; **relating to:** liability of owners
3 of vehicles involved in certain speed limit and failure to yield right-of-way
4 violations, driver education instruction, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill authorizes the citation of owners of vehicles for certain highway work zone speed and failure to yield violations. The bill also requires driver education instruction related to highway work zone safety.

Current law imposes, with exceptions, liability on the owner of a vehicle that is observed violating certain traffic laws, including illegally passing a school bus or fire truck, illegally crossing a railroad crossing or controlled school crossing, and failing to yield the right-of-way to an emergency vehicle or a funeral procession.

This bill imposes liability on the owner of a vehicle involved in a violation related to the failure to yield the right-of-way to certain persons engaged in maintenance or construction work in a highway work zone. Under this bill, a flagman who observes a vehicle involved in this sort of a failure to yield violation may report the violation to a traffic officer so that a citation may be issued.

An owner is subject to the same forfeiture that would be applicable to the vehicle operator for the violation, but the owner's operating privilege may not be suspended or revoked, and no demerit points may be recorded against the owner's driving record. Among the defenses available to an owner, the owner is not liable if the owner identifies the operator of the vehicle at the time of the violation and the

operator admits to being the operator or if the owner has reported the vehicle as stolen. If an owner successfully asserts certain defenses, the person operating the vehicle at the time of the violation may be charged with the violation.

Under current law, the Department of Public Instruction must approve certain driver education courses offered by school districts and establish minimum standards for driver education courses offered by private driver schools, the Technical College System Board must approve courses of study for each program offered in technical college district schools, including driver education courses, and the Department of Transportation licenses private driver schools and DOT may not license a driver school unless its course of instruction includes the content required for TCSB approval of a driver education course.

Under this bill, all approved driver education courses must acquaint each student with the hazards posed by highway work zones and provide at least 30 minutes of instruction in safely dealing with these hazards.

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.** 38.04 (4) (e) 8. of the statutes is created to read:

2 38.04 (4) (e) 8. Acquaints each student with the hazards posed by highway work
3 zones and provides at least 30 minutes of instruction in safely dealing with these
4 hazards.

5 **SECTION 2.** 115.28 (11) (h) of the statutes is created to read:

6 115.28 (11) (h) Acquaint each student with the hazards posed by highway work
7 zones and provide at least 30 minutes of instruction in safely dealing with these
8 hazards.

9 **SECTION 3.** 343.71 (5) (h) of the statutes is created to read:

10 343.71 (5) (h) Acquaints each student with the hazards posed by highway work
11 zones and provides at least 30 minutes of instruction in safely dealing with these
12 hazards.

13 **SECTION 4.** 346.01 (2) of the statutes is amended to read:

1 346.01 (2) In this chapter, notwithstanding s. 340.01 (42), “owner” means, with
2 respect to a vehicle that is registered, or is required to be registered, by a lessee of
3 the vehicle under ch. 341, the lessee of the vehicle for purposes of vehicle owner
4 liability under ss. 346.175, 346.195, 346.205, 346.275, 346.452, 346.457, 346.465,
5 346.485, 346.505 (3), 346.675, and 346.945.

6 **SECTION 5.** 346.275 of the statutes is created to read:

7 **346.275 Owner’s liability for vehicle failing to yield right-of-way to**
8 **persons in a work zone.** (1) Subject to sub. (5) (b), the owner of a vehicle involved
9 in a violation of s. 346.27 is liable for the violation as provided in this section.

10 (2) A flagman who observes a violation of s. 346.27 may prepare a written
11 report indicating that a violation has occurred. If possible, the report shall contain
12 the following information:

13 (a) The time and the approximate location at which the violation occurred.

14 (b) The license number and color of the vehicle involved in the violation.

15 (c) Identification of the vehicle as an automobile, motor truck, motor bus,
16 motorcycle, or other type of vehicle.

17 (3) If within 24 hours after observing the violation, the flagman delivers a
18 report under sub. (2) to a traffic officer of the county or municipality in which the
19 violation occurred, the officer may issue a citation under sub. (4). A report that does
20 not contain all the information in sub. (2) shall be maintained by the county or
21 municipality for statistical purposes.

22 (4) (a) Within 48 hours after receiving a report under sub. (3) containing all the
23 information in sub. (2), the traffic officer may issue a citation for a violation of this
24 section to the owner of the vehicle involved in the violation. A citation for a violation

1 of this section shall be prepared on a uniform traffic citation form under s. 345.11 and
2 personally served on the owner of the vehicle.

3 (b) If with reasonable diligence the owner cannot be served under par. (a),
4 service may be made by leaving a copy of the citation at the owner's usual place of
5 abode within this state in the presence of a competent member of the family at least
6 14 years of age, who shall be informed of the contents thereof.

7 (c) If with reasonable diligence the owner cannot be served under par. (a) or (b)
8 or if the owner lives outside of the jurisdiction of the issuing authority, service may
9 be made by certified mail addressed to the owner's last-known address.

10 (5) (a) Except as provided in par. (b), it is not a defense to a violation of this
11 section that the owner was not operating the vehicle at the time of the violation.

12 (b) The following are defenses to a violation of this section:

13 1. That a report that the vehicle was stolen was made by the owner to a law
14 enforcement agency before the violation occurred or within a reasonable time after
15 the violation occurred.

16 2. That the owner of the vehicle provided a traffic officer with the name and
17 address of the person operating the vehicle at the time of the violation and the person
18 so named admits operating the vehicle at the time of the violation. In that case, the
19 person operating the vehicle may be charged under s. 346.27.

20 3. That the vehicle is owned by a lessor of vehicles and is registered in the name
21 of the lessor, that at the time of the violation the vehicle was in the possession of a
22 lessee, and that the lessor provided a traffic officer with the information required
23 under s. 343.46 (3). In that case, the lessee may be charged under s. 346.27.

24 4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
25 including the persons specified in s. 340.01 (11) (a) to (d), that at the time of the

1 violation the vehicle was being operated by a person on a trial run, and that the
2 dealer provided a traffic officer with the name, address, and operator's license
3 number of the person operating the vehicle. In that case, the person operating the
4 vehicle may be charged under s. 346.27.

5 **SECTION 6.** 346.30 (6) of the statutes is created to read:

6 346.30 (6) A vehicle owner found liable under s. 346.275 may be required to
7 forfeit not less than \$60 nor more than \$600. Imposition of liability under s. 346.275
8 shall not result in suspension or revocation of a person's operating privilege under
9 s. 343.30, nor shall it result in demerit points being recorded on a person's driving
10 record under s. 343.32 (2) (a).

11 **SECTION 7. Initial applicability.**

12 (1) The treatment of ss. 38.04 (4) (e) 8., 115.28 (11) (h), and 343.71 (5) (h) first
13 applies to driver education courses that begin on the effective date of this subsection.

14 (END)