



2019 ASSEMBLY BILL 262

June 7, 2019 - Introduced by Representatives PLUMER, DOYLE, KRUG, KULP, MURSAU, QUINN, SPIROS, SKOWRONSKI, STUCK, JAMES, VRUWINK, DUCHOW, TUSLER, SHANKLAND, EDMING, BRANDTJEN, OTT and VANDERMEER, cosponsored by Senators TESTIN, RINGHAND, FEYEN, OLSEN, MARKLEIN, CARPENTER, BERNIER and COWLES. Referred to Committee on Criminal Justice and Public Safety.

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

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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:

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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

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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

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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)