

CHAPTER 349.

POWERS OF STATE AND LOCAL AUTHORITIES.

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GENERAL PROVISIONS.

349.01 **Words and phrases defined.** Words and phrases defined in s. 340.01 are used in the same sense in this chapter unless a different definition is specifically provided.

349.02 **Police and traffic officers to enforce traffic law.** It is the duty of the police and traffic departments of every unit of government and each authorized department of the state to enforce chs. 346 to 348. Police and traffic officers are authorized to direct all traffic within their respective jurisdictions either in person or by means of visual or audible signal in accordance with chs. 346 to 348. In the event of fire or other emergency, police and traffic officers and officers of the fire department may direct traffic as conditions may require notwithstanding the provisions of chs. 346 to 348.

349.03 **Regulation by local authorities forbidden; exceptions.** (1) Chapters 341 to 348 shall be uniform in operation throughout the state. No local authority may enact or enforce any traffic regulation unless such regulation:

- (a) Is not contrary to or inconsistent with chs. 341 to 348; or
- (b) Is expressly authorized by ss. 349.06 to 349.25 or some other provision of the statutes.

(2) No local authority may enact or enforce any traffic regulation providing for suspension or revocation of motor vehicle operator's licenses or requiring local registration of vehicles or in any manner excluding or prohibiting any motor vehicle, mobile home, trailer or semitrailer whose owner has complied with chs. 341 to 348 from the free use of all highways, except as authorized by ss. 66.046 and 349.17.

**History:** 1961 c. 336.

EXPRESS REGULATORY POWERS.

349.06 **Authority to adopt traffic regulations in strict conformity with state law.** Except for the suspension or revocation of motor vehicle operator's licenses, any local authority may enact and enforce any traffic regulation which is in strict conformity with chs. 341 to 348 but the penalty for violation of any of its provisions shall be limited to a forfeiture.

The burden of proof in forfeiture cases involving criminal acts is that of "clear, satisfactory and convincing evidence". *Madison v. Geier*, 27 W (2d) 687, 135 NW (2d) 761.

349.07 **Authority to designate through highways.** (1) The state highway commission may, when it deems it necessary for the public safety, by order declare any state trunk highway or connecting street or portion thereof to be a through highway.

(2) Every county highway committee may, when it deems necessary for the public safety, by order declare any county trunk highway or portion thereof to be a through

highway, except that where a state trunk highway intersects a county trunk highway the state highway commission shall designate the through highway.

(3) Every local authority may, when it deems it necessary for the public safety, by ordinance or resolution declare any highway or portion thereof under its exclusive jurisdiction to be a through highway.

(4) No order, ordinance or resolution declaring any highway to be a through highway is effective until official stop signs or traffic control signals have been installed at the entrances thereto from other highways.

**349.08 Design, installation, operation and cost of signs and traffic control signals.**

(1) The state highway commission shall adopt rules for the design and installation of stop and yield signs and for the design, installation and operation of traffic control signals where these signs and devices are permitted by statutes. In amending such rules, the state highway commission shall take into account the needs and conveniences of local authorities as well as the policy of the state to require uniform stop and yield signs and traffic control signals.

(2) No stop sign, yield sign or traffic control signal shall be installed unless the design, installation and use or operation of such sign or signal conforms to the rules of the state highway commission.

(3) The cost of any stop sign or traffic control signal installed by reason of an order of the state highway commission, a county highway committee, or any local authority, shall be paid for from any funds available for the maintenance of through highways.

(4) The state highway commission may when requested furnish official traffic signs or signals at cost to any local authority.

(5) Nothing in this section shall prohibit local authorities from placing additional stop signs on the roadway or temporary school zoning warning signs or temporary stop signs in the roadway at school crossings during periods of daylight when school children are using such crossings if such signs do not interfere with the free movement of vehicles over or about such signs.

(6) (a) The state highway commission may, when it deems necessary for the public safety, by order provide for the installation of yield signs on state trunk highways and connecting streets, and the governing body of any city, or county, may by ordinance or resolution provide, when it deems it necessary for the public safety, for the installation of yield signs on any through highway which has been so declared under s. 349.07 (3) and under its exclusive jurisdiction to regulate merging traffic movements and conflicting movements occurring within the intersection of 2 or more highways. Yield signs shall not be used in lieu of stop signs at direct crossing of 2-way highways.

(b) The governing body of any town, city, village or county may by ordinance or resolution provide for the installation of yield signs at any intersection over which it has exclusive jurisdiction, but if the intersection is part of a through highway such yield signs can be installed at such intersections only as provided in par. (a). The design, installation and use of such signs shall be in accordance with the rules of the state highway commission.

**History:** 1961 c. 106, 205; 1963 c. 36; 1965 c. 196, 227, 433.

After a town has erected a stop sign after knowledge that it is missing is negligent under (5) it has the duty to replace it if negligence as a matter of law. *Pirkus v. Rom-*  
it is missing. Failure to do so for 19 days *balski*, 25 W (2d) 352, 130 NW (2d) 835.

**349.085 Authority to install stop signs at railroad grade crossings.** Local authorities may, by ordinance, when they deem it necessary for the public safety, install official stop signs of the size and type prescribed in s. 349.08 at public traveled railroad grade crossings on highways maintained by the respective authorities.

**History:** 1963 c. 109.

**349.09 Authority to remove prohibited signs or signals.** Every sign, signal, marking or device which is placed, maintained or displayed in violation of s. 346.41 is declared to be a public nuisance. The authority in charge of maintenance of the highway in question may notify in writing the owner or occupant of the premises upon which the nuisance exists or the person causing or maintaining the nuisance to remove the same. If such nuisance is not removed within 30 days after such notice is given or if an unauthorized signal or device is found to be in operation at any time after such notice is given, the authority in charge of maintenance of the highway may cause the nuisance to be removed and collect the expense of removal from the person notified to remove it. The expense of removal may be charged against the premises and, upon certificate of the highway authority causing the removal, assessed as are other special taxes.

**349.10 Authority to designate one-way highways, safety zones, turns and lanes.**

(1) The state highway commission, county highway committees and local authorities:

in regard to highways under their respective jurisdictions, may:

(a) Declare by order, ordinance or resolution and designate by appropriate signs any highway or portion thereof to be a one-way highway and require that all vehicles be operated in one specific direction on such highway.

(b) Designate by mark or markers certain places on highways as safety zones or erect and maintain islands of safety and regulate and control traffic with respect to such safety zones and islands of safety.

(c) Where traffic conditions warrant, prohibit right or left turns at intersections or prohibit U-turns by all vehicles or by certain types of vehicles.

(d) Place markers, buttons or signs within or adjacent to intersections and thereby require and direct that a different course from that specified in s. 346.31 be traveled by vehicles turning at the intersection.

(e) Mark lanes for traffic upon any roadway and designate specific lanes for slow-moving traffic or for traffic moving in a particular direction.

(2) No local authority shall declare any part of a connecting street between portions of the state trunk highway system to be a one-way highway or prohibit right or left turns at any intersection of one such connecting street with another without due regard for the expeditious flow of intercity traffic using the state trunk highways and without first conferring with the state highway commission on the problems involved.

**History:** 1961 c. 205.

**349.105 Authority to prohibit certain traffic on expressways and freeways.** The authority in charge of maintenance of an expressway or freeway may, by order, ordinance or resolution, prohibit the use of such expressway or freeway by pedestrians, persons riding bicycles or other nonmotorized traffic or by persons operating power driven cycles or motor bicycles. The state or local authority adopting any such prohibitory regulation shall erect and maintain official signs giving notice thereof on the expressway or freeway to which such prohibition applies.

**349.11 Authority to modify speed restrictions.** (1) Whenever the state highway commission with respect to the state trunk highway system and the local authorities with respect to highways under their jurisdiction determine upon the basis of an engineering and traffic investigation that any statutory speed limit is greater or less than is reasonable or safe under the conditions found to exist upon any part of a highway or that the actual speed of vehicles upon any part of a highway is greater or less than is reasonable and prudent, the commission with respect to the state trunk highway system and the local authorities with respect to highways under their jurisdiction may, subject to the limitations set forth in subs. (2) and (3), determine and declare a reasonable and safe speed limit on the highway or part thereof in question. When appropriate signs giving notice of such speed limit have been erected and are in place, such speed limit shall be effective at all times or at such times as indicated by the signs.

(2) The state highway commission may not:

(a) Declare a speed limit which is in excess of the limits stated in s. 346.57 (4) (h), except that the state highway commission may establish speed limits in excess of those provided by s. 346.57 (4) (h) on freeways as defined in s. 990.01 (9a) and on that portion of the interstate system within Wisconsin which has been completed to the standards established by the U.S. bureau of public roads and establish different speed limits for different types of vehicles thereon; or

(b) Modify the limits stated in s. 346.57 (4) (a) to (c) or 346.58 (1); or

(c) Modify the statutory speed limit on more than 2,000 miles of state trunk highways. The first mile outside of and immediately adjacent to any incorporated municipality shall not be counted in computing such 2,000 miles.

(3) Local authorities may not:

(a) Declare a speed limit which is in excess of the limits stated in s. 346.57 (4) (h); or

(b) Modify the limits stated in s. 346.57 (4) (a) to (c) or 346.58 (1); or

(c) Modify any existing speed limit without the consent of the state highway commission except to increase the speed limit stated in s. 346.57 (4) (e), (f) or (g). Whenever state highway commission approval is required, no signs giving notice of a modification of the speed limit shall be erected until such approval has been received.

(4) The state highway commission upon request from any county highway committee or local authority shall, or upon its own initiative may, conduct an investigation of any bridge, causeway, viaduct or structure on any highway. If it finds that any such structure cannot with safety to itself withstand vehicles traveling at the speeds otherwise permitted by law or if it finds that such structure is substandard as to width and that it is necessary from the standpoint of traffic safety to reduce the speed of ve-

hicles using such structure, the commission shall determine and declare the maximum vehicular speed which such structure can withstand or which can be maintained in safety on such structure. When appropriate signs giving notice of such maximum speed have been erected at a suitable distance before each end of the structure, such posted speed limit is the effective speed limit on such structure at all times when the signs are in place. The findings and determination of the commission are conclusive evidence of the maximum speed which can be maintained with safety to or on any such structure.

(5) The state highway commission and local authorities shall place and maintain upon all highways, where the speed limit is modified by them pursuant to this section, standard signs giving notice of such speed. All speed limit signs so erected shall conform to the rules of the state highway commission.

(6) No liability shall attach to the state highway commission or to any local authority by reason of the posting of a speed limit pursuant to this section nor shall such posting guarantee that the posted speed is reasonable and safe under all conditions.

**History:** 1961 c. 537; 1965 c. 181.

**349.12 Authority to designate no-passing zones.** The state highway commission is authorized to determine those portions of any state trunk highway where overtaking and passing or driving to the left of the center of the roadway would be especially hazardous and may, by appropriate signs or by a yellow unbroken line on the pavement on the right-hand side of and adjacent to the center line of the roadway, indicate the beginning and end of such zones.

**349.13 Authority to regulate the stopping, standing or parking of vehicles.** (1) The state highway commission with respect to state trunk highways outside of corporate limits and the local authorities with respect to highways under their jurisdiction, including state trunk highways or connecting streets within corporate limits, may, within the reasonable exercise of the police power, prohibit, limit the time of or otherwise restrict the stopping, standing or parking of vehicles beyond the prohibitions, limitations or restrictions imposed by ch. 346, except that they may not modify the exceptions set forth in s. 346.50. The state highway commission may also restrict or prohibit the stopping, standing or parking of vehicles on any part of a state trunk highway or connecting street within corporate limits if the local authority having jurisdiction has not enacted any stopping, standing or parking regulation applicable to the highway or part thereof in question. The authority granted by this subsection may be delegated to a traffic officer or to the officer in charge of the maintenance of the highway in question, but no prohibition, limitation or restriction on parking imposed pursuant to this section is effective unless official traffic signs or markers or parking meters have been placed or erected indicating the particular prohibition, limitation or restriction except that parking regulations which prohibit, limit or restrict the parking of vehicles during any hours between 12 midnight and 7 a.m., or any portion thereof, shall be effective in cities and villages upon a two-thirds vote of their respective governing bodies notwithstanding this subsection and s. 346.02 (7) when signs have been placed or erected at or reasonably near the corporate limits of such city or village on all state and county trunk highways and connecting streets, as the latter are defined in s. 84.02 (11), informing motorists that night parking regulations are in effect in such city or village. After July 1, 1965, such signs shall be reflectorized and of a type approved by the state highway commission as to size of lettering, shape and color. A sign indicating that stopping or standing is prohibited means that all stopping or standing is prohibited except under the circumstances described in s. 346.50 (1). A sign indicating that parking is prohibited means that parking is prohibited but that stopping temporarily for the purpose of receiving or discharging passengers or loading or unloading is not prohibited, provided the vehicle is attended by a licensed operator.

(2) Except as provided in this subsection, neither the state highway commission nor local authorities may extend stopping, standing or parking privileges to areas where stopping, standing or parking is prohibited by ch. 346. The state highway commission and local authorities, with respect to highways under their respective jurisdictions as described in sub. (1) may:

(a) Permit parking on sidewalk areas when such parking will not unduly interfere with pedestrian traffic;

(b) Permit parking on the roadway side of other parked vehicles when such double parking will not unduly interfere with the flow of vehicular traffic;

(c) Permit parking closer than 15 feet to the end of a safety zone when such parking will not unduly interfere with the flow of vehicular traffic;

(d) Designate parking upon the left side of a one-way street or roadway instead of the right side or permit parking on both sides;

(e) Designate angle parking on any roadway under its jurisdiction.  
 (f) Permit parking on the near side of specified highways or streets adjacent to school-houses in cities of the first class during specified hours when the common council of any such city by ordinance so directs.

(3) Whenever any traffic officer finds a vehicle standing upon a highway in violation of a prohibition, limitation or restriction on stopping, standing or parking, he is authorized to move such vehicle or to require the operator in charge thereof to move such vehicle to a position where parking is not prohibited.

(4) In counties having a population of 500,000 or more whenever any traffic officer finds a vehicle disabled so as to cause a hazard on any portion of the interstate system, limited access highway or any expressway, even though it may be impossible for the operator to avoid stopping or temporarily leaving the vehicle thereon, the county may remove such vehicle to a position where parking is permitted or to either private or public parking or storage premises. The removal may be performed by such officer or under his direction or such removal may be contracted for by such counties and any charges shall be regulated by ordinance. The operator or owner of the vehicle removed shall pay a reasonable charge for moving or towing or any storage involved based upon said ordinance.

**History:** 1963 c. 110, 575; 1965 [13.32 (2) (e)].

**349.14 Authority to use parking meters.** (1) It is the public policy of this state that the use of parking meters by cities, villages and counties to measure the time for parking vehicles is a local matter to be determined by the local authorities.

(2) Cities, villages and counties may by ordinance or resolution provide for the installation and operation of parking meters and may provide for the use of the revenue collected from such meters for general street and highway maintenance, repair and construction, for meeting the cost of traffic and parking regulation, for the purchase and operation of publicly-owned off-street parking facilities, and for such other expenses and purposes as the local authority deems reasonably necessary to provide for the convenience, safety and welfare of persons using the streets and highways for vehicular traffic.

**349.15 Authority to modify weight limitations and classify highways.** (1) The limitations on size and weight imposed by ch. 348 are lawful throughout the state and local authorities may not alter such limitations except as otherwise provided in this chapter.

(2) The county highway committee with respect to the county trunk highway system and the local authorities with respect to highways maintained by them may designate all or parts of such highways to be class "B" highways for the purpose of putting into effect the weight limitations set forth in s. 348.16, except that no portion of any such highway which is a state trunk highway or connecting street may be so designated.

(3) Any city of the first class may, with respect to the streets of such city, by ordinance increase the maximum weight limitations specified in ss. 348.15 and 348.16.

**349.16 Authority to impose special or seasonal weight limitations.** (1) The officer in charge of maintenance in case of highways maintained by a town, city or village, the county highway commissioner or county highway committee in the case of highways maintained by the county and the state highway commission in the case of highways maintained by the state may:

(a) Impose special weight limitations on any such highway or portion thereof which, because of weakness of the roadbed due to deterioration or climatic conditions or other special or temporary condition, would likely be seriously damaged or destroyed in the absence of such special limitations;

(b) Impose special weight limitations on bridges or culverts when in its judgment such bridge or culvert cannot safely sustain the maximum weights permitted by statute;

(c) Order the owner or operator of any vehicle being operated on a highway to suspend operation if in its judgment such vehicle is causing or likely to cause injury to such highway or is visibly injuring the permanence thereof or the public investment therein, except when s. 84.20 is applicable or when the vehicle is being operated pursuant to a contract which provides that the governmental unit will be reimbursed for any damage done to the highway. Traffic officers also may order suspension of operation under the circumstances and subject to the limitations stated in this paragraph.

(2) Imposition of the special weight limitations authorized by sub. (1) (a) shall be done by erecting signs on or along the highway on which it is desired to impose the limitation sufficient to give reasonable notice that a special weight limitation is in effect and the nature of that limitation. Imposition of the special weight limitations authorized

by sub. (1) (b) shall be done by erecting similar signs within 100 feet before each end of the bridge or culvert to which the weight limitation applies. All weight limitation signs shall comply with the rules of the state highway commission and shall be standard throughout the state.

**349.17 Authority of cities and villages to regulate heavy traffic.** (1) Any city or village may by ordinance or resolution designate any street under its jurisdiction as a heavy traffic route and designate the type and character of vehicles which may be operated thereon. Such city or village may restrict or prohibit heavy traffic from using other streets under its jurisdiction except that it may not place such restrictions on streets over which are routed state trunk highways and may not prohibit heavy traffic from using a street for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence fronting on such street. Whenever a city or village designates any street under its jurisdiction as a heavy traffic route, it shall cause appropriate signs to be erected giving notice thereof.

(2) In this section, "heavy traffic" means all vehicles not operating completely on pneumatic tires and all vehicles or combination of vehicles, other than motor busses, designed or used for transporting property of any nature and having a gross weight of more than 6,000 pounds.

**349.18 Additional traffic-control authority of cities and villages.** Any city or village may by ordinance:

(1) Designate the number of persons that may ride on a power driven cycle or motor bicycle at any one time and the time of day at which and the highways upon which a power driven cycle or motor bicycle may or may not be operated;

(2) Regulate the operation of bicycles and require their registration, including the payment of a registration fee;

(3) Regulate processions or assemblages on the highways, subject to s. 84.07 (4);

(4) Regulate the traffic of pedestrians upon highways within its jurisdiction, including the prohibition of pedestrian crossings at places otherwise permitted by law and the erection of signs indicating such prohibition.

**349.19 Authority to require accident reports.** Any city, village, town or county may by ordinance require the operator of a vehicle involved in an accident to file with a designated municipal department or officer a report of such accident or a copy of any report required to be filed with the motor vehicle department. All such reports are for the confidential use of such department or officer and are otherwise subject to the provisions of s. 346.73.

**349.20 Authority to prohibit use of bridges for fishing or swimming.** The authority in charge of maintenance of a highway on which is located a bridge or approach thereto which constitute an undue traffic hazard, if used by pedestrians for the purpose of fishing or swimming, may erect signs prohibiting the fishing or swimming off of such bridge or approach.

#### LICENSING POWERS.

**349.24 Authority to license taxicab operators and taxicabs.** (1) The council of any city and every village board may:

(a) Regulate and license chauffeurs and operators of taxicabs used for hire;

(b) Regulate and license the taxicab business by licensing each taxicab used for hire;

(c) Prohibit any person from operating any motor vehicle for taxicab purposes upon the highways of such city or village unless such person is licensed as a chauffeur and operator and unless such taxicab business is licensed by the licensing of each taxicab;

(d) Revoke any license mentioned in this section when in its judgment the public safety so requires.

(2) Any person licensed by any city or village as a chauffeur and operator shall not be required to procure either a chauffeur's and operator's license or a taxicab license in any other municipality for the purpose of carrying taxicab passengers for hire from one municipality to another, but this exception does not permit such chauffeur or operator to operate a taxicab wholly within the limits of any municipality in which such chauffeur or operator is not licensed.

Since the Milwaukee county airport terminal is in the city of Milwaukee and the county has not adopted any regulatory ordinances, a cab driver from another municipality can be fined for taking a passenger from the airport into Milwaukee, even though he passes through another city on the trip. *Courtesy Cab Co. v. Johnson*, 10 W (2d) 426, 103 NW (2d) 17.

**349.25 Authority to license hayrack and sleigh rides.** (1) In counties containing a city of the first or second class, the owner of a vehicle to be operated upon a highway for the purpose of transporting persons for hire in what is commonly known as a hayrack ride, a sleigh, boxsled or bobsled ride or a ride of similar nature and every person who is to operate such a vehicle shall obtain a license from the county board before so operating such a vehicle. Any person operating any such vehicle under the circumstances described without first obtaining a license from the county board may be fined not more than \$100 or imprisoned not more than 30 days or both.

(2) No county board shall issue a license for any of the vehicles mentioned in sub. (1) until the applicant exhibits proof that he is a person of good moral character and that liability insurance will be in force for the protection of his passengers in the minimum amount of \$10,000 for any one passenger and \$50,000 for any single accident. Section 204.30 (4) is applicable to the insurance required under this section, whether the vehicle is a motor vehicle or is propelled in some other manner. The county board shall charge a fee of \$1 for each license issued.

(3) The county board may, after notice and hearing accorded the licensee, revoke any license issued by it pursuant to this section whenever in its judgment the public safety so requires.

(4) No vehicle licensed pursuant to this section shall be operated upon a highway for the purpose of transporting persons for hire unless it is equipped with at least one red reflector at each of the 2 rear corners of the vehicle and with at least one blue reflector at each of the 2 front corners of the vehicle and at the front end of the pole or tongue. All such reflectors shall be of a type approved by the motor vehicle department.

(5) The county board in any county not containing a city of the first or second class may by ordinance require owners and operators of vehicles to be used for the purposes specified in sub. (1) to be licensed. The actual issuance of the license may be delegated to the county clerk.