



## 1997 SENATE BILL 39

January 29, 1997 – Introduced by Senators RUDE, BUETTNER, MOEN and HUELSMAN, cosponsored by Representatives DOBYNS, JOHNSRUD, HUEBSCH, OLSEN, ALBERS, OTTE, BLACK, RYBA, HAHN, FREESE and URBAN. Referred to Committee on Labor, Transportation and Financial Institutions.

1     **AN ACT to renumber** 346.49 (2) (b); **to renumber and amend** 346.49 (2) (a); **to**  
2     **amend** 59.25 (3) (j), 195.28 (2), 195.28 (3), 346.62 (1) (d) and 346.65 (5m); and  
3     **to create** 20.395 (2) (gj), 25.40 (1) (ij), 59.25 (3) (jm), 343.30 (2j), 343.32 (2) (bd),  
4     346.49 (2m) (a), 346.62 (2m) and 346.65 (4m) of the statutes; **relating to:**  
5     stopping at railroad crossings, reckless driving at railroad crossings and  
6     providing penalties.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the operator of a vehicle may not drive on or across a railroad crossing while being singled to stop by a traffic officer, railroad employe or warning device. After stopping for a warning device, however, the operator may proceed if no train is approaching. An operator is also prohibited from driving a vehicle through, around or under any railroad crossing gate or barrier if it is closed or is being opened or closed. An operator (other than a bicyclist) who fails to comply with any of these provisions may be required to forfeit not less than \$30 nor more than \$300. No demerit points or operating privilege revocation or suspension is specified for a conviction.

This bill changes the penalty for failing to comply with any of these provisions from a forfeiture to a fine and specifies that a fine of not more than \$1,000 may be imposed. In addition, the person's operating privilege may be revoked for 6 months for a first conviction and, for a 2nd or subsequent conviction within 5 years, shall be

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revoked for 6 months. Finally, a conviction results in 6 demerit points being assessed against the person's driving record.

Under current law, any person who endangers the safety of any person or property by the negligent operation of a vehicle (simple reckless driving) may be required to forfeit not less than \$25 nor more than \$200 for a first conviction and, for a 2nd or subsequent conviction within 4 years, may be fined not less than \$50 nor more than \$500 or imprisoned not more than one year in the county jail, or both.

This bill creates a new category of reckless driving by prohibiting an operator of a vehicle from recklessly endangering the safety of another person by failing to comply with any of these provisions on stopping at railroad crossings. A conviction results in a fine of not less than \$300 nor more than \$1,000 and, unless demerit points have been assessed for the same incident or occurrence for failing to stop at a railroad crossing, 6 demerit points are assessed against the person's driving record. In addition, the person's operating privilege may be revoked for 6 months for a first conviction and, for a 2nd or subsequent conviction within 5 years, shall be revoked for 6 months.

Under current law, 50% of all fines for state traffic offenses, except those related to the size, weight and load of vehicles, is deposited in the general fund. For vehicle size, weight or load offenses, 40% of all fines is deposited in the transportation fund. This bill requires 50% of all fines for violations of any of these provisions on stopping at railroad crossings, including the newly created category of reckless driving, to be deposited in the transportation fund and used to pay for the installation and maintenance of signals and other railroad crossing protection devices ordered installed by the office of the commissioner on railroads.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 20.395 (2) (gj) of the statutes is created to read:

2           20.395 (2) (gj) *Railroad crossing protection installation and maintenance, state*  
3 *funds.* All moneys received from fines under ss. 346.49 (2m) and 346.65 (4m), for the  
4 purpose of railroad crossing protection installation and maintenance under s. 195.28  
5 (2) and (3).

6           **SECTION 2.** 25.40 (1) (ij) of the statutes is created to read:

7           25.40 (1) (ij) All moneys forwarded by county treasurers from fines under ss.  
8 346.49 (2m) and 346.65 (4m), as provided in s. 59.25 (3) (jm).

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1           **SECTION 3.** 59.25 (3) (j) of the statutes is amended to read:

2           59.25 (3) (j) Retain 10% for fees in receiving and paying into the state treasury  
3 all money received by the treasurer for the state for fines and penalties, except that  
4 50% of the state forfeitures, fines and penalties under chs. 341 to 347, 349 and 351  
5 shall be retained as fees, and retain the other fees for receiving and paying money  
6 into the state treasury that are prescribed by law. This paragraph does not apply to  
7 fines under ss. 346.49 (2m) and 346.65 (4m).

8           **SECTION 4.** 59.25 (3) (jm) of the statutes is created to read:

9           59.25 (3) (jm) Forward 50% of the fines under ss. 346.49 (2m) and 346.65 (4m)  
10 to the state treasurer for deposit in the transportation fund under s. 25.40 (1) (ij).

11           **SECTION 5.** 195.28 (2) of the statutes is amended to read:

12           195.28 (2) INSTALLATION COSTS. The cost of any signal or other crossing  
13 protection device which is ordered installed under sub. (1) and the cost of installing  
14 any such device shall be paid by the department from the appropriations under s.  
15 20.395 (2) (gj), (gr) and (gx).

16           **SECTION 6.** 195.28 (3) of the statutes is amended to read:

17           195.28 (3) MAINTENANCE COSTS. Except as otherwise provided in this  
18 subsection, the cost of maintaining crossing protection devices ordered under sub. (1)  
19 shall be the responsibility of the railroad or railroad historical society. Any railroad  
20 company or railroad historical society that incurs expenses for maintenance of  
21 signals or other safety devices may file a claim for reimbursement with the  
22 department regardless of the date of installation of the signals or devices. At the  
23 close of each fiscal year the department shall reimburse claimants under this  
24 subsection for 50% of the costs, as determined by the office, incurred for maintenance  
25 of railroad crossing protection devices from the ~~appropriation~~ appropriations under

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1 s. 20.395 (2) (gj) and (gq). If the amount in the ~~appropriation~~ appropriations under  
2 s. 20.395 (2) (gj) and (gq) is not adequate to fund maintenance reimbursement under  
3 this subsection, the amount shall be prorated in the manner determined by the office.

4 **SECTION 7.** 343.30 (2j) of the statutes is created to read:

5 343.30 **(2j)** (a) A court may revoke a person's operating privilege upon the  
6 person's first conviction for violating s. 346.44 or 346.62 (2m) and shall revoke a  
7 person's operating privilege upon the person's 2nd or subsequent conviction within  
8 a 5-year period for violating s. 346.44 or 346.62 (2m). The revocation shall be for a  
9 period of 6 months. For purposes of determining prior convictions for purposes of this  
10 paragraph, the 5-year period shall be measured from the dates of the violations that  
11 resulted in the convictions. Each conviction under s. 346.44 or 346.62 (2m) shall be  
12 counted, except that convictions under s. 346.44 and 346.62 (2m) arising out of the  
13 same incident or occurrence shall be counted as a single conviction.

14 **SECTION 8.** 343.32 (2) (bd) of the statutes is created to read:

15 343.32 **(2)** (bd) The scale adopted by the secretary shall assess, for each  
16 conviction, 6 demerit points for a violation of s. 346.44 or 346.62 (2m), except that  
17 convictions under s. 346.44 and 346.62 (2m) arising out of the same incident or  
18 occurrence shall be counted as a single conviction.

19 **SECTION 9.** 346.49 (2) (a) of the statutes is renumbered 346.49 (2) and amended  
20 to read:

21 346.49 **(2)** ~~Unless otherwise provided in par. (b), any~~ Any person violating s.  
22 346.44, 346.45, 346.455 or 346.48 may be required to forfeit not less than \$30 nor  
23 more than \$300.

24 **SECTION 10.** 346.49 (2) (b) of the statutes is renumbered 346.49 (2m) (b).

25 **SECTION 11.** 346.49 (2m) (a) of the statutes is created to read:

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1           346.49 **(2m)** (a) Unless otherwise provided in par. (b), any person violating s.  
2           346.44 may be fined not more than \$1,000.

3           **SECTION 12.** 346.62 (1) (d) of the statutes is amended to read:

4           346.62 **(1)** (d) "Vehicle" has the meaning designated in s. 939.22 (44), except  
5           that for purposes of sub. (2m) "vehicle" has the meaning given in s. 340.01 (74).

6           **SECTION 13.** 346.62 (2m) of the statutes is created to read:

7           346.62 **(2m)** No person may recklessly endanger the safety of any person by  
8           driving a vehicle on or across a railroad crossing in violation of s. 346.44 (1) or  
9           through, around or under any crossing gate or barrier at a railroad crossing in  
10          violation of s. 346.44 (2).

11          **SECTION 14.** 346.65 (4m) of the statutes is created to read:

12          346.65 **(4m)** Except as provided in sub. (5m), any person violating s. 346.62  
13          shall be fined not less than \$300 nor more than \$1,000.

14          **SECTION 15.** 346.65 (5m) of the statutes is amended to read:

15          346.65 **(5m)** If an operator of a vehicle violates s. 346.62 (2) to (4) where persons  
16          engaged in work in a highway maintenance or construction area are at risk from  
17          traffic, any applicable minimum and maximum forfeiture or fine specified in sub. (1),  
18          (3), (4m) or (5) for the violation shall be doubled.

19          **SECTION 16. Initial applicability.**

20          (1) This act first applies to offenses committed on the effective date of this  
21          subsection, but does not preclude the counting of other convictions as prior  
22          convictions for purposes of sentencing a person, suspending or revoking a person's  
23          operating privilege, disqualifying a person from operating a commercial motor  
24          vehicle or determining eligibility for authorization to operate certain vehicles.

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(END)