

State of Wisconsin



2021 Assembly Bill 297

Date of enactment: **December 6, 2021**

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2021 WISCONSIN ACT 115

AN ACT *to renumber and amend* 346.17 (5), 346.22 (1) (b), 346.43 (1) (b) 3., 346.49 (1) (c), 346.60 (3m) (a) and 346.65 (5m); *to amend* 346.43 (4) (a), 346.43 (4) (b), 346.49 (5) (a), 346.49 (5) (b), 346.89 (4m) and 349.06 (3); and *to create* 340.01 (15pu), 346.17 (5) (b), 346.22 (1) (b) 2., 346.43 (1) (b) 3. b., 346.49 (1) (c) 2., 346.60 (3m) (a) 2. and 346.65 (5m) (b) of the statutes; **relating to:** traffic violations when emergency or roadside response vehicles are present and providing a penalty.

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

SECTION 1. 340.01 (15pu) of the statutes is created to read:

340.01 (15pu) "Emergency or roadside response area" means the section of roadway within 500 feet of an authorized emergency vehicle giving a visible signal or a tow truck displaying flashing red lamps, as required by s. 347.26 (6) (b).

SECTION 2. 346.17 (5) of the statutes is renumbered 346.17 (5) (a) and amended to read:

346.17 (5) (a) If Except as provided in par. (b), if an operator of a vehicle violates s. 346.04 (1) or (2) where persons engaged in work in a highway maintenance or construction area or in a utility work area, or emergency or roadside response area are at risk from traffic, any applicable minimum and maximum forfeiture specified in sub. (1) for the violation shall be doubled.

SECTION 3. 346.17 (5) (b) of the statutes is created to read:

346.17 (5) (b) If an operator of a vehicle violates s. 346.04 (1) or (2) where persons engaged in work in a highway maintenance or construction area, utility work area, or emergency or roadside response area are at risk

from traffic and the violation results in bodily harm, as defined in s. 939.22 (4), to another, the operator may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both. In addition to the penalties specified under this paragraph, a court may also order a person convicted under this paragraph to perform not fewer than 100 nor more than 200 hours of community service work and attend traffic safety school, as provided under s. 345.60.

SECTION 4. 346.22 (1) (b) of the statutes is renumbered 346.22 (1) (b) 1. and amended to read:

346.22 (1) (b) 1. If Except as provided in subd. 2., if an operator of a vehicle violates s. 346.18 (6) where persons engaged in work in a highway maintenance or construction area or in a utility work area, or emergency or roadside response area are at risk from traffic, any applicable minimum and maximum forfeiture specified in par. (a), (c), (d), or (e) for the violation shall be doubled.

SECTION 5. 346.22 (1) (b) 2. of the statutes is created to read:

346.22 (1) (b) 2. If an operator of a vehicle violates s. 346.18 (6) where persons engaged in work in a highway maintenance or construction area, utility work area, or emergency or roadside response area are at risk from

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

traffic and the violation results in bodily harm, as defined in s. 939.22 (4), to another, the operator may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both. In addition to the penalties specified under this subdivision, a court may also order a person convicted under this subdivision to perform not fewer than 100 nor more than 200 hours of community service work and attend traffic safety school, as provided under s. 345.60.

SECTION 6. 346.43 (1) (b) 3. of the statutes is renumbered 346.43 (1) (b) 3. a. and amended to read:

346.43 (1) (b) 3. a. If Except as provided in subd. 3. b., if an operator of a vehicle violates s. 346.37 or 346.39 where persons engaged in work in a highway maintenance or construction area or in a utility work area, or emergency or roadside response area are at risk from traffic, any applicable minimum and maximum forfeiture specified in subd. 1. for the violation shall be doubled.

SECTION 7. 346.43 (1) (b) 3. b. of the statutes is created to read:

346.43 (1) (b) 3. b. If an operator of a vehicle violates s. 346.37 or 346.39 where persons engaged in work in a highway maintenance or construction area, utility work area, or emergency or roadside response area are at risk from traffic and the violation results in bodily harm, as defined in s. 939.22 (4), to another, the operator may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both. In addition to the penalties specified under this subd. 3. b., a court may also order a person convicted under this subd. 3. b. to perform not fewer than 100 nor more than 200 hours of community service work and attend traffic safety school, as provided under s. 345.60.

SECTION 8. 346.43 (4) (a) of the statutes is amended to read:

346.43 (4) (a) If Except as provided in sub. (1) (b) 3. b., if a person violates s. 346.37 (1) (a) 1., (c) 3., or (d) 1. or 346.39 (1) and the violation results in great bodily harm, as defined in s. 939.22 (14), to another, the person shall forfeit \$500.

SECTION 9. 346.43 (4) (b) of the statutes is amended to read:

346.43 (4) (b) If Except as provided in sub. (1) (b) 3. b., if a person violates s. 346.37 (1) (a) 1., (c) 3., or (d) 1. or 346.39 (1) and the violation results in death to another, the person shall forfeit \$1,000.

SECTION 10. 346.49 (1) (c) of the statutes is renumbered 346.49 (1) (c) 1. and amended to read:

346.49 (1) (c) 1. If Except as provided in subd. 2., if an operator of a vehicle violates s. 346.46 (1) where persons engaged in work in a highway maintenance or construction area or in a utility work area, or emergency or roadside response area are at risk from traffic, any applicable minimum and maximum forfeiture specified in par. (a) for the violation shall be doubled.

SECTION 11. 346.49 (1) (c) 2. of the statutes is created to read:

346.49 (1) (c) 2. If an operator of a vehicle violates s. 346.46 (1) where persons engaged in work in a highway maintenance or construction area, utility work area, or emergency or roadside response area are at risk from traffic and the violation results in bodily harm, as defined in s. 939.22 (4), to another, the operator may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both. In addition to the penalties specified under this subdivision, a court may also order a person convicted under this subdivision to perform not fewer than 100 nor more than 200 hours of community service work and attend traffic safety school, as provided under s. 345.60.

SECTION 12. 346.49 (5) (a) of the statutes is amended to read:

346.49 (5) (a) If Except as provided in sub. (1) (c) 2., if a person violates s. 346.46 (1) or (4) (a) or 346.47 (1) or (2) and the violation results in great bodily harm, as defined in s. 939.22 (14), to another, the person shall forfeit \$500.

SECTION 13. 346.49 (5) (b) of the statutes is amended to read:

346.49 (5) (b) If Except as provided in sub. (1) (c) 2., if a person violates s. 346.46 (1) or (4) (a) or 346.47 (1) or (2) and the violation results in death to another, the person shall forfeit \$1,000.

SECTION 14. 346.60 (3m) (a) of the statutes is renumbered 346.60 (3m) (a) 1. and amended to read:

346.60 (3m) (a) 1. If Except as provided in subd. 2., if an operator of a vehicle violates s. 346.57 (2), (3), (4) (d) to (h), or (5) where persons engaged in work in a highway maintenance or construction area or in a utility work area, or emergency or roadside response area are at risk from traffic or where sanitation workers are at risk from traffic and the operator knows or should know that sanitation workers are present, any applicable minimum and maximum forfeiture specified in sub. (2) or (3) for the violation shall be doubled.

SECTION 15. 346.60 (3m) (a) 2. of the statutes is created to read:

346.60 (3m) (a) 2. If an operator of a vehicle violates s. 346.57 (2), (3), (4) (d) to (h), or (5) where persons engaged in work in a highway maintenance or construction area, utility work area, or emergency or roadside response area are at risk from traffic and the violation results in bodily harm, as defined in s. 939.22 (4), to another, the operator may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both. In addition to the penalties specified under this subdivision, a court may also order a person convicted under this subdivision to perform not fewer than 100 nor more than 200 hours of community service work and attend traffic safety school, as provided under s. 345.60.

SECTION 16. 346.65 (5m) of the statutes is renumbered 346.65 (5m) (a) and amended to read:

346.65 (5m) (a) If Except as provided in par. (b), if an operator of a vehicle violates s. 346.62 (2) to (4) where persons engaged in work in a highway maintenance or construction area ~~or in a~~ utility work area, or emergency or roadside response area are at risk from traffic or where sanitation workers are at risk from traffic and the operator knows or should know that sanitation workers are present, any applicable minimum and maximum forfeiture or fine specified in sub. (1), (3), (4m), or (5) for the violation shall be doubled.

SECTION 17. 346.65 (5m) (b) of the statutes is created to read:

346.65 (5m) (b) If an operator of a vehicle violates s. 346.62 (2) to (3) where persons engaged in work in a highway maintenance or construction area, utility work area, or emergency or roadside response area are at risk from traffic and the violation results in bodily harm, as defined in s. 939.22 (4), to another, the operator may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both. In addition to the penalties specified under this paragraph, a court may also order a person convicted under this paragraph to perform not fewer than 100 nor more than 200 hours of community service work and attend traffic safety school, as provided under s. 345.60.

SECTION 18. 346.89 (4m) of the statutes is amended to read:

346.89 (4m) No person may drive, as defined in s. 343.305 (1) (b), any motor vehicle while using a cellular or other wireless telephone, including using the telephone for a purpose other than communication, where persons engaged in work in a highway maintenance or

construction area ~~or in a~~ utility work area, or emergency or roadside response area are at risk from traffic, except to report an emergency. This subsection does not apply to the use of a voice-operated or hands-free device if the driver of the motor vehicle does not use his or her hands to operate the device, except to activate or deactivate a feature or function of the device.

SECTION 19. 349.06 (3) of the statutes is amended to read:

349.06 (3) If an operator of a vehicle violates a local ordinance in strict conformity with s. 346.04 (1) or (2), 346.18 (6), 346.27, 346.37, 346.39, 346.46 (1), 346.57 (2), (3), (4) (d) to (h), or (5), or 346.62 (2) where persons engaged in work in a highway maintenance or construction area ~~or in a~~ utility work area, or emergency or roadside response area are at risk from traffic or violates a local ordinance in strict conformity with s. 346.57 (2), (3), (4) (d) to (h), or (5) or 346.62 (2) where sanitation workers are at risk from traffic and the operator knows or should know that sanitation workers are present, any applicable minimum and maximum forfeiture for the violation shall be doubled.

SECTION 22. Nonstatutory provisions.

(1) In the 2021–23 fiscal biennium, the department of transportation shall conduct an advertising campaign to acquaint the public with the hazards posed by highway construction and maintenance areas, utility areas, and emergency or roadside response areas and the traffic laws and associated penalties related to highway construction and maintenance areas, utility areas, and emergency or roadside response areas.

SECTION 23. Initial applicability.

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