



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-0570/1  
EVM:amn&skw

## 2019 ASSEMBLY BILL 746

January 16, 2020 - Introduced by Representatives SHANKLAND, LOUDENBECK, SPIROS, ANDERSON, BOWEN, CONSIDINE, DITTRICH, EMERSON, FIELDS, HEBL, JAMES, KITCHENS, KULP, MILROY, MURSAU, NOVAK, PLUMER, SINICKI, SUBECK, TUSLER and VRUWINK, cosponsored by Senators TESTIN, CARPENTER, BEWLEY, MARKLEIN, OLSEN, SCHACHTNER and LARSON. Referred to Committee on Criminal Justice and Public Safety.

1     **AN ACT to renumber and amend** 346.17 (5), 346.22 (1) (b), 346.43 (1) (b) 3.,  
2           346.49 (1) (c), 346.60 (3m) (a), 346.65 (5m) and 349.11 (10); **to amend** 346.43  
3           (4) (a), 346.43 (4) (b), 346.49 (5) (a), 346.49 (5) (b), 346.89 (4m) and 349.06 (3);  
4           and **to create** 340.01 (15pu), 346.17 (5) (b), 346.22 (1) (b) 2., 346.43 (1) (b) 3. b.,  
5           346.49 (1) (c) 2., 346.60 (3m) (a) 2., 346.65 (5m) (b) and 349.11 (10) (b) of the  
6           statutes; **relating to:** traffic violations when emergency or roadside response  
7           vehicles are present and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

This bill increases the penalties for certain traffic violations that are committed where an authorized emergency vehicle or tow truck giving a visible signal is present and law enforcement officers, fire fighters, or emergency medical personnel or tow truck operators are at risk from traffic (emergency or roadside response area).

Under current law, the amount of any applicable minimum and maximum fine or forfeiture is doubled for specified traffic violations committed where persons working in a highway maintenance or construction area or utility area are at risk from traffic. These traffic violations include failing to follow certain traffic signs and signals, failing to follow certain orders of traffic officers, exceeding certain maximum speed limits, and driving recklessly. Under the bill, the minimum and maximum fine or forfeiture for these covered violations is also doubled when committed in an

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emergency or roadside response area. Also under the bill, if an operator commits one of the covered violations in a highway maintenance or construction area, utility work area, or emergency or roadside response area and the violation results in an injury to another, the operator may be fined not more than \$10,000 or imprisoned not more than nine months, or both.

Current law prohibits inattentive driving of a motor vehicle in general and in several specific manners. Among the specific prohibitions is a prohibition of using a wireless telephone while driving a motor vehicle in a construction zone. A person who violates this particular prohibition may be required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the second or subsequent conviction within a year.

The bill specifically prohibits using a wireless telephone while driving a motor vehicle in an emergency or roadside response area. The penalty for a violation of this prohibition is the same as is provided for the offense described above.

Also under current law, local authorities may post temporary reduced speed limits on highways under construction or repair. The bill allows law enforcement officers, fire fighters, or emergency medical responders to post temporary reduced speed limits in response to an emergency.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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

2           340.01 (**15pu**) “Emergency or roadside response area” means the section of  
3 roadway where an authorized emergency vehicle giving a visible signal or tow truck  
4 flashing red lamps, as required by s. 347.26 (6) (b), is present and law enforcement  
5 officers, fire fighters, or emergency medical personnel or tow truck operators are at  
6 risk from traffic.

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

9           346.17 (**5**) (a) ~~If Except as provided in par. (b), if~~ an operator of a vehicle violates  
10 s. 346.04 (1) or (2) where persons engaged in work in a highway maintenance or

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1 construction area ~~or in a~~, utility work area, or emergency or roadside response area  
2 are at risk from traffic, any applicable minimum and maximum forfeiture specified  
3 in sub. (1) for the violation shall be doubled.

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

5 346.17 (5) (b) If an operator of a vehicle violates s. 346.04 (1) or (2) where  
6 persons engaged in work in a highway maintenance or construction area, utility  
7 work area, or emergency or roadside response area are at risk from traffic and the  
8 violation results in bodily harm, as defined in s. 939.22 (4), to another, the operator  
9 may be fined not more than \$10,000 or imprisoned for not more than 9 months, or  
10 both. In addition to the penalties specified under this paragraph, a court may also  
11 order a person convicted under this paragraph to perform not fewer than 100 nor  
12 more than 200 hours of community service work and attend traffic safety school, as  
13 provided under s. 345.60.

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

16 346.22 (1) (b) 1. If Except as provided in subd. 2., if an operator of a vehicle  
17 violates s. 346.18 (6) where persons engaged in work in a highway maintenance or  
18 construction area ~~or in a~~, utility work area, or emergency or roadside response area  
19 are at risk from traffic, any applicable minimum and maximum forfeiture specified  
20 in par. (a), (c), (d), or (e) for the violation shall be doubled.

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

22 346.22 (1) (b) 2. If an operator of a vehicle violates s. 346.18 (6) where persons  
23 engaged in work in a highway maintenance or construction area, utility work area,  
24 or emergency or roadside response area are at risk from traffic and the violation  
25 results in bodily harm, as defined in s. 939.22 (4), to another, the operator may be

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1 fined not more than \$10,000 or imprisoned for not more than 9 months, or both. In  
2 addition to the penalties specified under this subdivision, a court may also order a  
3 person convicted under this subdivision to perform not fewer than 100 nor more than  
4 200 hours of community service work and attend traffic safety school, as provided  
5 under s. 345.60.

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

8 346.43 (1) (b) 3. a. If Except as provided in subd. 3. b., if an operator of a vehicle  
9 violates s. 346.37 or 346.39 where persons engaged in work in a highway  
10 maintenance or construction area ~~or in a~~, utility work area, or emergency or roadside  
11 response area are at risk from traffic, any applicable minimum and maximum  
12 forfeiture specified in subd. 1. for the violation shall be doubled.

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

14 346.43 (1) (b) 3. b. If an operator of a vehicle violates s. 346.37 or 346.39 where  
15 persons engaged in work in a highway maintenance or construction area, utility  
16 work area, or emergency or roadside response area are at risk from traffic and the  
17 violation results in bodily harm, as defined in s. 939.22 (4), to another, the operator  
18 may be fined not more than \$10,000 or imprisoned for not more than 9 months, or  
19 both. In addition to the penalties specified under this subd. 3. b., a court may also  
20 order a person convicted under this subd. 3. b. to perform not fewer than 100 nor more  
21 than 200 hours of community service work and attend traffic safety school, as  
22 provided under s. 345.60.

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

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1           346.43 (4) (a) If Except as provided in sub. (1) (b) 3. b., if a person violates s.  
2           346.37 (1) (a) 1., (c) 3., or (d) 1. or 346.39 (1) and the violation results in great bodily  
3           harm, as defined in s. 939.22 (14), to another, the person shall forfeit \$500.

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

5           346.43 (4) (b) If Except as provided in sub. (1) (b) 3. b., if a person violates s.  
6           346.37 (1) (a) 1., (c) 3., or (d) 1. or 346.39 (1) and the violation results in death to  
7           another, the person shall forfeit \$1,000.

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

10          346.49 (1) (c) 1. If Except as provided in subd. 2., if an operator of a vehicle  
11          violates s. 346.46 (1) where persons engaged in work in a highway maintenance or  
12          construction area ~~or in a~~, utility work area, or emergency or roadside response area  
13          are at risk from traffic, any applicable minimum and maximum forfeiture specified  
14          in par. (a) for the violation shall be doubled.

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

16          346.49 (1) (c) 2. If an operator of a vehicle violates s. 346.46 (1) where persons  
17          engaged in work in a highway maintenance or construction area, utility work area,  
18          or emergency or roadside response area are at risk from traffic and the violation  
19          results in bodily harm, as defined in s. 939.22 (4), to another, the operator may be  
20          fined not more than \$10,000 or imprisoned for not more than 9 months, or both. In  
21          addition to the penalties specified under this subdivision, a court may also order a  
22          person convicted under this subdivision to perform not fewer than 100 nor more than  
23          200 hours of community service work and attend traffic safety school, as provided  
24          under s. 345.60.

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

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

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

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

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

10           346.60 (3m) (a) 1. ~~If Except as provided in subd. 2., if an operator of a vehicle~~  
11 violates s. 346.57 (2), (3), (4) (d) to (h), or (5) where persons engaged in work in a  
12 highway maintenance or construction area ~~or in a~~, utility work area, or emergency  
13 or roadside response area are at risk from traffic or where sanitation workers are at  
14 risk from traffic and the operator knows or should know that sanitation workers are  
15 present, any applicable minimum and maximum forfeiture specified in sub. (2) or (3)  
16 for the violation shall be doubled.

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

18           346.60 (3m) (a) 2. If an operator of a vehicle violates s. 346.57 (2), (3), (4) (d)  
19 to (h), or (5) where persons engaged in work in a highway maintenance or  
20 construction area, utility work area, or emergency or roadside response area are at  
21 risk from traffic and the violation results in bodily harm, as defined in s. 939.22 (4),  
22 to another, the operator may be fined not more than \$10,000 or imprisoned for not  
23 more than 9 months, or both. In addition to the penalties specified under this  
24 subdivision, a court may also order a person convicted under this subdivision to

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1 perform not fewer than 100 nor more than 200 hours of community service work and  
2 attend traffic safety school, as provided under s. 345.60.

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

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

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

13 346.65 (5m) (b) If an operator of a vehicle violates s. 346.62 (2) to (3) where  
14 persons engaged in work in a highway maintenance or construction area, utility  
15 work area, or emergency or roadside response area are at risk from traffic and the  
16 violation results in bodily harm, as defined in s. 939.22 (4), to another, the operator  
17 may be fined not more than \$10,000 or imprisoned for not more than 9 months, or  
18 both. In addition to the penalties specified under this paragraph, a court may also  
19 order a person convicted under this paragraph to perform not fewer than 100 nor  
20 more than 200 hours of community service work and attend traffic safety school, as  
21 provided under s. 345.60.

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

23 346.89 (4m) No person may drive, as defined in s. 343.305 (1) (b), any motor  
24 vehicle while using a cellular or other wireless telephone, including using the  
25 telephone for a purpose other than communication, where persons engaged in work

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

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

7 349.06 (3) If an operator of a vehicle violates a local ordinance in strict  
8 conformity with s. 346.04 (1) or (2), 346.18 (6), 346.27, 346.37, 346.39, 346.46 (1),  
9 346.57 (2), (3), (4) (d) to (h), or (5), or 346.62 (2) where persons engaged in work in  
10 a highway maintenance or construction area ~~or in a~~, utility work area, or emergency  
11 or roadside response area are at risk from traffic or violates a local ordinance in strict  
12 conformity with s. 346.57 (2), (3), (4) (d) to (h), or (5) or 346.62 (2) where sanitation  
13 workers are at risk from traffic and the operator knows or should know that  
14 sanitation workers are present, any applicable minimum and maximum forfeiture  
15 for the violation shall be doubled.

16 **SECTION 20.** 349.11 (10) of the statutes is renumbered 349.11 (10) (a) and  
17 amended to read:

18 349.11 (10) (a) Notwithstanding any speed limits imposed under this section  
19 or under s. 346.57, if a highway is being constructed, reconstructed, maintained, or  
20 repaired, local authorities with respect to highways under their jurisdiction, any  
21 county highway committee performing maintenance on the state trunk highway  
22 system under s. 84.07, and any local authority with respect to highways not under  
23 its jurisdiction that are being constructed, reconstructed, maintained, or repaired by  
24 the local authority may, for the safety of the highway construction and maintenance  
25 workers, pedestrians, and highway users, post a temporary speed limit less than the



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1 speed limit imposed under this section or under s. 346.57. The temporary limits may  
2 be posted for the duration of the construction, reconstruction, maintenance, or repair  
3 period.

4 (c) Temporary speed limits imposed under this subsection may be posted with  
5 signs on portable supports. When portable supports are used under this subsection,  
6 the bottom of the sign shall be not less than one foot above the surface of the  
7 pavement or shoulder.

8 **SECTION 21.** 349.11 (10) (b) of the statutes is created to read:

9 349.11 (10) (b) Notwithstanding any speed limits imposed under this section  
10 or under s. 346.57, a law enforcement officer, fire fighter, or emergency medical  
11 responder may post a temporary speed limit less than the speed limit imposed under  
12 this section or under s. 346.57 in reasonable response to an emergency.

13 **SECTION 22. Nonstatutory provisions.**

14 (1) In the 2019-21 fiscal biennium, the department of transportation shall  
15 conduct an advertising campaign to acquaint the public with the hazards posed by  
16 highway construction and maintenance areas, utility areas, and emergency or  
17 roadside response areas and the traffic laws and associated penalties related to  
18 highway construction and maintenance areas, utility areas, and emergency or  
19 roadside response areas.

20 **SECTION 23. Initial applicability.**

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

23 (END)