



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2843/1
EVM:skw

2021 BILL

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.

Analysis by the Legislative Reference Bureau

This bill increases the penalties for certain traffic violations that are committed within 500 feet of an authorized emergency vehicle giving a visible signal or a tow truck displaying flashing red lamps (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 emergency or roadside response area. Also under the bill, if an operator commits one

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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.

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 within 500 feet of an authorized emergency vehicle giving a visible signal
4 or a tow truck displaying flashing red lamps, as required by s. 347.26 (6) (b).

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

7 346.17 (**5**) (a) If Except as provided in par. (b), if an operator of a vehicle violates
8 s. 346.04 (1) or (2) where persons engaged in work in a highway maintenance or
9 construction area ~~or in a~~, utility work area, or emergency or roadside response area

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1 are at risk from traffic, any applicable minimum and maximum forfeiture specified
2 in sub. (1) for the violation shall be doubled.

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

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

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

15 346.22 (1) (b) 1. If Except as provided in subd. 2., if an operator of a vehicle
16 violates s. 346.18 (6) where persons engaged in work in a highway maintenance or
17 construction area ~~or in a~~, utility work area, or emergency or roadside response area
18 are at risk from traffic, any applicable minimum and maximum forfeiture specified
19 in par. (a), (c), (d), or (e) for the violation shall be doubled.

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

21 346.22 (1) (b) 2. If an operator of a vehicle violates s. 346.18 (6) where persons
22 engaged in work in a highway maintenance or construction area, utility work area,
23 or emergency or roadside response area are at risk from traffic and the violation
24 results in bodily harm, as defined in s. 939.22 (4), to another, the operator may be
25 fined not more than \$10,000 or imprisoned for not more than 9 months, or both. In

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1 addition to the penalties specified under this subdivision, a court may also order a
2 person convicted under this subdivision to perform not fewer than 100 nor more than
3 200 hours of community service work and attend traffic safety school, as provided
4 under s. 345.60.

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

7 346.43 (1) (b) 3. a. If Except as provided in subd. 3. b., if an operator of a vehicle
8 violates s. 346.37 or 346.39 where persons engaged in work in a highway
9 maintenance or construction area ~~or in a~~, utility work area, or emergency or roadside
10 response area are at risk from traffic, any applicable minimum and maximum
11 forfeiture specified in subd. 1. for the violation shall be doubled.

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

13 346.43 (1) (b) 3. b. If an operator of a vehicle violates s. 346.37 or 346.39 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 subd. 3. b., a court may also
19 order a person convicted under this subd. 3. b. to perform not fewer than 100 nor more
20 than 200 hours of community service work and attend traffic safety school, as
21 provided under s. 345.60.

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

23 346.43 (4) (a) If Except as provided in sub. (1) (b) 3. b., if a person violates s.
24 346.37 (1) (a) 1., (c) 3., or (d) 1. or 346.39 (1) and the violation results in great bodily
25 harm, as defined in s. 939.22 (14), to another, the person shall forfeit \$500.

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

2 346.43 (4) (b) If Except as provided in sub. (1) (b) 3. b., if a person violates s.
3 346.37 (1) (a) 1., (c) 3., or (d) 1. or 346.39 (1) and the violation results in death to
4 another, the person shall forfeit \$1,000.

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

7 346.49 (1) (c) 1. If Except as provided in subd. 2., if an operator of a vehicle
8 violates s. 346.46 (1) where persons engaged in work in a highway maintenance or
9 construction area ~~or in a~~, utility work area, or emergency or roadside response area
10 are at risk from traffic, any applicable minimum and maximum forfeiture specified
11 in par. (a) for the violation shall be doubled.

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

13 346.49 (1) (c) 2. If an operator of a vehicle violates s. 346.46 (1) where persons
14 engaged in work in a highway maintenance or construction area, utility work area,
15 or emergency or roadside response area are at risk from traffic and the violation
16 results in bodily harm, as defined in s. 939.22 (4), to another, the operator may be
17 fined not more than \$10,000 or imprisoned for not more than 9 months, or both. In
18 addition to the penalties specified under this subdivision, a court may also order a
19 person convicted under this subdivision to perform not fewer than 100 nor more than
20 200 hours of community service work and attend traffic safety school, as provided
21 under s. 345.60.

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

23 346.49 (5) (a) If Except as provided in sub. (1) (c) 2., if a person violates s. 346.46
24 (1) or (4) (a) or 346.47 (1) or (2) and the violation results in great bodily harm, as
25 defined in s. 939.22 (14), to another, the person shall forfeit \$500.

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

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

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

7 346.60 (3m) (a) 1. If Except as provided in subd. 2., if an operator of a vehicle
8 violates s. 346.57 (2), (3), (4) (d) to (h), or (5) where persons engaged in work in a
9 highway maintenance or construction area ~~or in a~~, utility work area, or emergency
10 or roadside response area are at risk from traffic or where sanitation workers are at
11 risk from traffic and the operator knows or should know that sanitation workers are
12 present, any applicable minimum and maximum forfeiture specified in sub. (2) or (3)
13 for the violation shall be doubled.

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

15 346.60 (3m) (a) 2. If an operator of a vehicle violates s. 346.57 (2), (3), (4) (d)
16 to (h), or (5) where persons engaged in work in a highway maintenance or
17 construction area, utility work area, or emergency or roadside response area are at
18 risk from traffic and the violation results in bodily harm, as defined in s. 939.22 (4),
19 to another, the operator may be fined not more than \$10,000 or imprisoned for not
20 more than 9 months, or both. In addition to the penalties specified under this
21 subdivision, a court may also order a person convicted under this subdivision to
22 perform not fewer than 100 nor more than 200 hours of community service work and
23 attend traffic safety school, as provided under s. 345.60.

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

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

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

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

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

19 346.89 (4m) No person may drive, as defined in s. 343.305 (1) (b), any motor
20 vehicle while using a cellular or other wireless telephone, including using the
21 telephone for a purpose other than communication, where persons engaged in work
22 in a highway maintenance or construction area ~~or in a~~, utility work area, or
23 emergency or roadside response area are at risk from traffic, except to report an
24 emergency. This subsection does not apply to the use of a voice-operated or

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1 hands-free device if the driver of the motor vehicle does not use his or her hands to
2 operate the device, except to activate or deactivate a feature or function of the device.

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

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

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

15 349.11 (10) (a) Notwithstanding any speed limits imposed under this section
16 or under s. 346.57, if a highway is being constructed, reconstructed, maintained, or
17 repaired, local authorities with respect to highways under their jurisdiction, any
18 county highway committee performing maintenance on the state trunk highway
19 system under s. 84.07, and any local authority with respect to highways not under
20 its jurisdiction that are being constructed, reconstructed, maintained, or repaired by
21 the local authority may, for the safety of the highway construction and maintenance
22 workers, pedestrians, and highway users, post a temporary speed limit less than the
23 speed limit imposed under this section or under s. 346.57. The temporary limits may
24 be posted for the duration of the construction, reconstruction, maintenance, or repair
25 period.

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

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

6 349.11 (10) (b) Notwithstanding any speed limits imposed under this section
 7 or under s. 346.57, a law enforcement officer, fire fighter, or emergency medical
 8 responder may post a temporary speed limit less than the speed limit imposed under
 9 this section or under s. 346.57 in reasonable response to an emergency.

10 **SECTION 22. Nonstatutory provisions.**

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

17 **SECTION 23. Initial applicability.**

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

20 **(END)**