

# State of Wisconsin



2011 Assembly Bill 274

Date of enactment: **December 7, 2011**  
Date of publication\*: **December 20, 2011**

## 2011 WISCONSIN ACT 101

AN ACT *to amend* 195.285 (2), 195.29 (6), 340.01 (47), 343.315 (2) (j) 1., 346.44 (1) (b), 346.44 (1) (c), 346.45 (2), 350.137 (2) (intro.) and 350.137 (2) (a); and *to create* 195.001 (3) and 340.01 (47m) of the statutes; **relating to:** requiring motorists to yield to railroad track equipment trains at railroad crossings and requiring a railroad to maintain its right-of-way.

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

**SECTION 1.** 195.001 (3) of the statutes is created to read:

195.001 (3) "Railroad track equipment" means a device that is operated on rails and used primarily for the maintenance of railroads.

**SECTION 2.** 195.285 (2) of the statutes is amended to read:

195.285 (2) Signs placed upon the order of the office under this section shall exempt vehicles from stopping as required under s. 346.45, unless a train ~~or~~ an engine, or railroad track equipment is occupying or approaching the crossing.

**SECTION 3.** 195.29 (6) of the statutes is amended to read:

195.29 (6) VIEW AT CROSSINGS; TREES AND BRUSH NEAR CROSSINGS; FORFEITURE. Every railroad shall keep its right-of-way clear of brush or trees for a distance of not less than 330 feet in each direction from the center of its intersection at grade with any public highway, ~~and for such further distance as is necessary~~ to provide an adequate view of approaching trains, or railroad track equipment from the highway. Every municipality shall keep the public highways within its jurisdiction clear of brush

and shall adequately trim all trees within 330 feet of the center of any railroad highway grade crossing. Every person or corporation owning or occupying any land adjacent to any railroad highway grade crossing shall keep all brush cut and adequately trim all trees on the land within the triangles bounded on 2 sides by the railway and the highway, and on the 3rd side by a line connecting points on the center lines of the railway and the highway, 330 feet from the intersection of the center lines. The office, upon its own motion, or upon any complaint to the effect that any work required by this subsection has not been performed, after due notice and hearing, may order the corporation, municipality or person at fault to perform the work; provided, however, that if the physical conditions at any crossing are such that the performance of the required work will not materially improve the view for highway traffic, or, if unreasonable loss would be caused thereby, the office may excuse the party in interest from performing the same. The office may also order the cutting of brush and the trimming of trees at private farm crossings as may be necessary and reasonable. If any person shall violate any provision of this section, or shall fail, neglect or refuse to obey any order made by the office under this section, or any judgment or decree made by any court upon such an order, for every such violation,

\* Section 991.11, WISCONSIN STATUTES 2009-10 : 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 as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

failure or refusal such person shall forfeit not less than \$25 nor more than \$150.

**SECTION 4.** 340.01 (47) of the statutes is amended to read:

340.01 (47) "Railroad crossing" means the intersection of any highway or private road or driveway at grade with tracks upon which railroad track equipment or railroad trains operate.

**SECTION 5.** 340.01 (47m) of the statutes is created to read:

340.01 (47m) "Railroad track equipment" means a device that is operated on rails and used primarily for the maintenance of railroads.

**SECTION 6.** 343.315 (2) (j) 1. of the statutes is amended to read:

343.315 (2) (j) 1. If the operator is not always required to stop the vehicle, failing to reduce speed and determine that the tracks are clear of any approaching railroad train or railroad track equipment.

**SECTION 7.** 346.44 (1) (b) of the statutes is amended to read:

346.44 (1) (b) While any warning device signals to stop, except that if the operator of the vehicle after stopping and investigating finds that no railroad train or railroad track equipment is approaching the operator may proceed.

**SECTION 8.** 346.44 (1) (c) of the statutes is amended to read:

346.44 (1) (c) If any crossbuck sign specified under s. 192.29 (5) (a) is maintained at the crossing, while any railroad train or railroad track equipment occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision.

**SECTION 9.** 346.45 (2) of the statutes is amended to read:

346.45 (2) The operator of every vehicle required to stop before crossing any track shall listen and look in both directions along the track for any approaching railroad train or railroad track equipment, and shall not proceed until such precautions have been taken and until the operator has ascertained that the course is clear. Wherever an auxiliary lane is provided for stopping at a railroad, operators of vehicles required to stop shall use such lane for stopping.

**SECTION 10.** 350.137 (2) (intro.) of the statutes is amended to read:

350.137 (2) (intro.) The maintenance standards shall include requirements for the marking of snowmobile rail crossings and for the maintenance of adequate drainage of railroad rights-of-way. The design and construction standards shall include a list and a description of the frequency and speed of railroad trains and railroad track equipment and the types of railroad tracks, embankments, ditches, snowmobile trail alignments and other configurations that do any of the following:

**SECTION 11.** 350.137 (2) (a) of the statutes is amended to read:

350.137 (2) (a) Preclude the use of a proposed site for a snowmobile rail crossing because the site would be unsafe due to poor visibility of an approaching railroad train or railroad track equipment from the position of a snowmobile operator who is stopped on the approach to the proposed crossing.

**SECTION 12. Initial applicability.**

(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of revocation of motor vehicle operating privileges or disqualification from operating a commercial motor vehicle.

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