



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2334/1
EVM:kjf

2021 SENATE BILL 509

August 11, 2021 - Introduced by Senators PETROWSKI, SMITH, COWLES, CARPENTER, FELZKOWSKI, FEYEN, MARKLEIN, PFAFF and RINGHAND, cosponsored by Representatives CALLAHAN, DITTRICH, CABRAL-GUEVARA, EDMING, GUNDRUM, MURPHY, MURSAU, OHNSTAD, SHANKLAND, SKOWRONSKI, SUBECK, TUSLER and SPREITZER. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to amend* 346.01 (2); and *to create* 346.275 and 346.30 (4m) of the
2 statutes; **relating to:** vehicle owner's liability for failure to yield the
3 right-of-way to persons in a work zone and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law requires an operator of a vehicle to yield the right-of-way to persons engaged in maintenance or construction work on a highway whenever the operator is notified of their presence by flagmen or warning signs. Those who violate this requirement may be required to forfeit not less than \$60 nor more than \$600.

This bill imposes liability on the owner of a vehicle that violates this requirement under certain circumstances. The bill provides that a flagman who is employed by a political subdivision and who observes a violation may report the violation to a traffic officer in the jurisdiction where the violation occurred and the traffic officer, subject to several exceptions, may issue a citation to the vehicle owner. A vehicle owner found liable under the procedure created by the bill is subject to the same penalty as is provided under current law for failure to yield the right-of-way to persons in a work zone, not less than \$60 nor more than \$600.

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

4 **SECTION 1.** 346.01 (2) of the statutes is amended to read:

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1 346.01 (2) In this chapter, notwithstanding s. 340.01 (42), “owner” means, with
2 respect to a vehicle that is registered, or is required to be registered, by a lessee of
3 the vehicle under ch. 341, the lessee of the vehicle for purposes of vehicle owner
4 liability under ss. 346.175, 346.195, 346.205, 346.275, 346.452, 346.457, 346.465,
5 346.485, 346.505 (3), 346.675, and 346.945.

6 **SECTION 2.** 346.275 of the statutes is created to read:

7 **346.275 Owner’s liability for vehicle failing to yield right-of-way to**
8 **persons in a work zone. (1)** Subject to s. 346.01 (2), the owner of a vehicle involved
9 in a violation of s. 346.27 shall be liable for the violation as provided in this section.

10 **(2)** A flagman who is employed by a city, village, town, or county and who
11 observes a violation of s. 346.27 may prepare a report indicating that a violation has
12 occurred. If possible, the report shall contain the following information:

13 (a) The time and the approximate location at which the violation occurred.

14 (b) The license number and color of the vehicle involved in the violation.

15 (c) Identification of the vehicle as an automobile, motor truck, motor bus,
16 motorcycle, or other type of vehicle.

17 (d) A video recording of the violation.

18 **(3)** Within 24 hours after observing the violation, the flagman may deliver the
19 report to a traffic officer of the county or municipality in which the violation occurred.
20 A report that does not contain all the information in sub. (2) shall nevertheless be
21 delivered and shall be maintained by the county or municipality for statistical
22 purposes.

23 **(4)** (a) Within 48 hours after receiving a report containing all the information
24 in sub. (2), the traffic officer may prepare a uniform traffic citation under s. 345.11
25 and may personally serve it upon the owner of the vehicle.

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1 (b) If with reasonable diligence the owner cannot be served under par. (a),
2 service may be made by leaving a copy of the citation at the owner's usual place of
3 abode within this state in the presence of a competent member of the family at least
4 14 years of age, who shall be informed of the contents thereof.

5 (c) If with reasonable diligence the owner cannot be served under par. (a) or (b)
6 or if the owner lives outside of the jurisdiction of the issuing authority, service may
7 be made by certified mail addressed to the owner's last-known address.

8 **(5)** (a) Except as provided in par. (b), it shall be no defense to a violation of this
9 section that the owner was not operating the vehicle at the time of the violation.

10 (b) The following are defenses to a violation of this section:

11 1. That a report that the vehicle was stolen was given to a traffic officer before
12 the violation occurred or within a reasonable time after the violation occurred.

13 2. If the owner of the vehicle provides a traffic officer with the name and address
14 of the person operating the vehicle at the time of the violation and the person so
15 named admits operating the vehicle at the time of the violation, then the person
16 operating the vehicle and not the owner shall be charged under this section.

17 3. If the vehicle is owned by a lessor of vehicles and at the time of the violation
18 the vehicle was in the possession of a lessee, and the lessor provides a traffic officer
19 with the information required under s. 343.46 (3), then the lessee and not the lessor
20 shall be charged under this section.

21 4. If the vehicle is owned by a dealer as defined in s. 340.01 (11) (intro.) but
22 including the persons specified in s. 340.01 (11) (a) to (d), and at the time of the
23 violation the vehicle was being operated by any person on a trial run, and if the dealer
24 provides a traffic officer with the name, address, and operator's license number of the

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1 person operating the vehicle, then the person operating the vehicle, and not the
2 dealer, shall be charged under this section.

3 **SECTION 3.** 346.30 (4m) of the statutes is created to read:

4 346.30 **(4m)** A vehicle owner or other person found liable under s. 346.275 may
5 be required to forfeit not less than \$60 nor more than \$600. Imposition of liability
6 under s. 346.275 shall not result in suspension or revocation of a person's operating
7 license under s. 343.30, nor shall it result in demerit points being recorded on a
8 person's driving record under s. 343.32 (2) (a).

9 **(END)**