

CHAPTER 349

VEHICLES — POWERS OF STATE AND LOCAL AUTHORITIES

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SUBCHAPTER I

GENERAL PROVISIONS

349.01 Words and phrases defined. (1) Words and phrases defined in s. 340.01 are used in the same sense in this chapter unless a different definition is specifically provided.

(2) In this chapter, “chauffeur” means a person employed full time or on a regular basis, including leased drivers, for the principal purpose of operating a motor vehicle.

History: 1989 a. 105.

349.015 Applicability of chapter to electric personal assistive mobility devices. An electric personal assistive mobility device shall be considered a vehicle for purposes of this chapter, except those provisions which by their express terms apply only to motor vehicles or which by their very nature would have no application to electric personal assistive mobility devices.

History: 2001 a. 90.

349.02 Police and traffic officers to enforce law. (1) It is the duty of the police, sheriff’s and traffic departments of every unit of government and each authorized department of the state to enforce chs. 346 to 348 and 350. Police officers, sheriffs, deputy sheriffs and traffic officers are authorized to direct all traffic within their respective jurisdictions either in person or by means of visual or audible signal in accordance with chs. 346 to 348 and 350. In the event of fire or other emergency, police officers, sheriffs, deputy sheriffs and traffic officers and officers of the fire department may direct traffic as conditions may require notwithstanding the provisions of chs. 346 to 348 and 350.

(2) (a) Notwithstanding sub. (1), a police officer, sheriff, deputy sheriff, traffic officer or motor vehicle inspector may not stop or inspect a vehicle solely to determine compliance with a statute or ordinance specified under par. (b) unless the police officer, sheriff, deputy sheriff, traffic officer or motor vehicle inspector has reasonable cause to believe that a violation of a statute or ordinance specified under par. (b) has been committed. This paragraph does not limit the authority of a police officer, sheriff, deputy sheriff, traffic officer or motor vehicle inspector to make an arrest or issue a citation for a violation of any statute or ordinance specified under par. (b) observed in the course of a stop or inspec-

tion made for a lawful purpose. This paragraph does not apply to a traffic officer or motor vehicle inspector in the performance of duties under s. 110.075 (2).

(b) The statutes and ordinances covered under par. (a) are all of the following:

1. This chapter and local ordinances enacted under this chapter.
2. Chapter 961 and local ordinances that strictly conform to s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or (2).
3. Chapters 341 to 346.
4. Local ordinances enacted under s. 59.54 (25) or (25m) or 66.0107 (1) (bm).

(c) Notwithstanding par. (a), a law enforcement officer may not stop a vehicle solely because the vehicle’s color differs from the color stated in the application for registration of that vehicle. This paragraph does not limit the authority of a law enforcement officer to issue a citation for improper registration of a vehicle whose color differs from the color stated in the application for registration of the vehicle, if the difference is observed in the course of a stop or inspection made for other purposes.

(3) (a) In this subsection, “photo radar speed detection” means the detection of a vehicle’s speed by use of a radar device combined with photographic identification of the vehicle.

(b) Notwithstanding sub. (1), the state and local authorities may not use photo radar speed detection to determine compliance with any speed restriction imposed by s. 346.57, 346.58, 346.59, 346.595 or 349.11 or a local ordinance in conformity therewith.

History: 1971 c. 277; 1987 a. 34, 399; 1991 a. 39, 269; 1993 a. 246; 1995 a. 113, 201, 448; 1999 a. 90; 1999 a. 150 s. 672; 2003 a. 193; 2005 a. 116.

While it is clear that ss. 110.07 and 110.075 authorize the traffic officers of the state patrol and DOT to make stops and inspections and perhaps arrests for equipment violations, nothing in these statutes limits local law enforcements officers’ powers to do so. A city police officer is a traffic officer under a. 340.01 (70), and because s. 110.075 provides that any traffic officer can stop and inspect vehicles for violations of ch. 110 or rules issued under ch. 110, and because sub. (2) permits a police officer to enforce a city ordinance violation upon reasonable basis to believe a violation has occurred, a city officer had authority to make a stop for violation of an ordinance adopting a safety rule. *State v. Bailey*, 2009 WI App 140, ___ Wis. 2d ___, 773 N.W.2d 488, 08–3153.

In case of an emergency, a sheriff has the power to temporarily close any highway in the county and to divert traffic. 67 Atty. Gen. 335.

349.025 Quotas relating to the enforcement of traffic regulations prohibited. (1) In this section:

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(a) “Law enforcement officer” has the meaning given in s. 165.85 (2) (c).

(b) “Political subdivision” means a city, village, town or county.

(c) “State agency” means an office, commission, department or independent agency in the executive branch of state government.

(d) “Traffic regulation” means a provision of chs. 194 or 341 to 348 or an ordinance enacted in accordance with this chapter.

(2) No state agency or political subdivision of this state may require a law enforcement officer to issue a specific number of citations, complaints or warning notices during any specified time period for violations of traffic regulations.

(3) A state agency or political subdivision may, for purposes of evaluating a law enforcement officer’s job performance, compare the number of citations, complaints or warning notices issued by the law enforcement officer to the number of citations, complaints or warning notices issued by all law enforcement officers employed by the state agency or political subdivision who have similar job duties and who serve in the same administrative unit as the law enforcement officer.

History: 1999 a. 16.

349.027 Collection of information related to motor vehicle stops. (1) **INFORMATION COLLECTION REQUIRED.** For each motor vehicle stop made on or after January 1, 2011, by a law enforcement officer, the person in charge of the law enforcement agency employing the law enforcement officer shall cause to be obtained all information relating to the traffic stop that is required to be collected under rules promulgated under s. 16.964 (16) (b) 1.

(2) **SUBMISSION OF INFORMATION COLLECTED.** The person in charge of a law enforcement agency shall submit the information collected under sub. (1) to the office of justice assistance using the process, and in the format, prescribed by the rules promulgated under s. 16.964 (16) (b) 2.

History: 2009 a. 28.

349.03 Regulation by local authorities forbidden; exceptions. (1) Chapters 341 to 348 and 350 shall be uniform in operation throughout the state. No local authority may enact or enforce any traffic regulation unless such regulation:

(a) Is not contrary to or inconsistent with chs. 341 to 348 and 350; or

(b) Is expressly authorized by ss. 349.06 to 349.25 or some other provision of the statutes.

(2) No local authority may enact or enforce any traffic regulation providing for suspension or revocation of motor vehicle operator’s licenses or requiring local registration of vehicles, except as authorized by s. 341.35, or in any manner excluding or prohibiting any motor vehicle, mobile home, vehicle transporting a manufactured home or modular home, recreational vehicle, trailer, or semitrailer whose owner has complied with chs. 341 to 348 from the free use of all highways, except as authorized by sub. (3) and ss. 66.0429 (1) and (3), 349.13, 349.17, 349.22 and 349.23.

(2m) Notwithstanding sub. (2), a municipal court may suspend a license for a violation of a local ordinance in conformity with s. 346.63 (1) or (2m).

(3) In a county having a population of at least 500,000, city councils and village boards may, as to streets within their corporate limits, and the county board may, as to all other highways, establish one-way lanes to be used only by specified public transportation vehicles but only to facilitate mass transit and taxicab movement. The authority granted by this subsection may be exercised extraterritorially by the county board of the populous county on those portions of county trunk and state trunk highways in contiguous counties which are within 2 miles of the populous county if the highways so affected are connected to highways similarly

affected in the populous county and if the board of the contiguous county concurs.

(4) If a violation under s. 343.305 or 346.63 or a local ordinance in conformity with s. 346.63 (1), (5) or (7) occurs within a law enforcement officer’s jurisdiction, he or she may enforce the violation anywhere in the state.

History: 1971 c. 234, 277; 1973 c. 86, 87, 336; 1979 c. 59; 1981 c. 20, 165; 1983 a. 535; 1985 a. 194; 1987 a. 3, 27; 1989 a. 105; 1993 a. 113; 1999 a. 150 s. 672; 2007 a. 11.

Section 349.03, in prohibitory language, is the same concept of municipal power that is expressed affirmatively in s. 349.06. These sections must be read together and establish one test. *Janesville v. Walker*, 50 Wis. 2d 35, 183 N.W.2d 158 (1971).

A city ordinance prohibiting loud and unnecessary tire or engine noise was valid under ss. 349.03 (1) and 349.06 (1). *City of Janesville v. Garthwaite*, 83 Wis. 2d 866, 266 N.W.2d 418 (1978).

There is no authority for municipalities to enact state administrative rules as ordinances. *Town of East Troy v. A-1 Service Co., Inc.* 196 Wis. 2d 120, 537 N.W.2d 126 (Ct. App. 1995), 94–0610.

349.04 Truck driver education surcharges. (1) If a court imposes a fine or forfeiture for a violation of a provision of chs. 346 to 348 or a rule issued under chs. 346 to 348 and the violation involved a commercial motor vehicle, the court shall impose under ch. 814 a truck driver education surcharge of \$8.

(2) If a fine or forfeiture is suspended in whole or in part, the truck driver education surcharge shall be reduced in proportion to the suspension.

(3) If any deposit is made for an offense to which this section applies, the person making the deposit shall also deposit a sufficient amount to include the truck driver education surcharge under this section. If the deposit is forfeited, the amount of the truck driver education surcharge shall be transmitted to the secretary of administration under sub. (4). If the deposit is returned, the amount of the truck driver education surcharge shall also be returned.

(4) The clerk of the circuit court shall collect and transmit to the county treasurer the truck driver education surcharge as required under s. 59.40 (2) (m). The county treasurer shall then pay the secretary of administration as provided in s. 59.25 (3) (f) 2. The secretary of administration shall deposit all amounts received under this subsection in the general fund to be credited to the appropriation account under s. 20.292 (1) (hm).

(5) This section first applies to fines and forfeitures imposed on the first day of the first month beginning after the director of the technical college system notifies the director of state courts under 2001 Wisconsin Act 16, section 9148 (1f) that the truck driver training center at Waukesha County Technical College is scheduled to open.

History: 2001 a. 16; 2003 a. 33, 139, 326.

SUBCHAPTER II

EXPRESS REGULATORY POWERS

349.06 Authority to adopt traffic regulations in strict conformity with state law. (1) (a) Except for the suspension or revocation of motor vehicle operator’s licenses or except as provided in par. (b), any local authority may enact and enforce any traffic regulation which is in strict conformity with one or more provisions of chs. 341 to 348 and 350 for which the penalty for violation thereof is a forfeiture.

(b) Any local authority shall enact and enforce parking regulations and penalties for violations of those regulations which are in conformity with the provisions of ss. 346.503, 346.505 and 346.56.

(c) Any local authority may enact and enforce any traffic regulation that is in strict conformity with any rule of the department promulgated under ch. 110, 347 or 348, except rules pertaining to federal motor carrier safety standards, for which the penalty for a violation thereof is a forfeiture.

(1m) Notwithstanding sub. (1), a municipal court may suspend a license for a violation of a local ordinance in conformity with s. 346.63 (1) or (2m).

(2) Traffic regulations adopted by local authorities which incorporate by reference existing or future amendments to chs. 340 to 348 or rules of the department shall be deemed to be in strict conformity and not contrary to or inconsistent with such chapters or rules. This subsection does not require local traffic regulations to incorporate state traffic laws or rules by reference in order to meet the requirements of s. 349.03 or sub. (1).

(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 are at risk from traffic, any applicable minimum and maximum forfeiture for the violation shall be doubled.

History: 1971 c. 277, 278, 307; 1973 c. 336; 1975 c. 248; 1981 c. 20; 1987 a. 3, 27; 1993 a. 198, 256; 1995 a. 44; 1997 a. 190, 277.

Section 349.03, in prohibitory language, is the same concept of municipal power that is expressed affirmatively in s. 349.06. These sections must be read together and establish one test. *Janesville v. Walker*, 50 Wis. 2d 35, 183 N.W.2d 158 (1971).

A city ordinance prohibiting loud and unnecessary tire or engine noise was valid under ss. 349.03 (1) and 349.06 (1). *City of Janesville v. Garthwaite*, 83 Wis. 2d 866, 266 N.W.2d 418 (1978).

A county can enact and enforce traffic ordinances in strict conformance with state statutes that are applicable to town roads. 64 Atty. Gen. 172.

349.065 Uniform traffic control devices. Local authorities shall place and maintain traffic control devices upon highways under their jurisdiction to regulate, warn, guide or inform traffic. The design, installation and operation or use of new traffic control devices placed and maintained by local authorities after the adoption of the uniform traffic control devices manual under s. 84.02 (4) (e) shall conform to the manual. After January 1, 1977, all traffic control devices placed and maintained by local authorities shall conform to the manual.

History: 1973 c. 185.

The decision to erect a stop sign, once made, carries with it the responsibility to ensure that the sign is properly installed and maintained to ensure that it remains visible to the motorists whose conduct the sign was intended to control. A local government that erects a stop sign should not be shielded on public policy grounds from liability when a tree obscures the stop sign. *Physicians Plus Insurance Corporation v. Midwest Mutual Insurance Co.* 2001 WI App 148, 246 Wis. 2d 933, 632 N.W.2d 59, 00–1836. Affirmed, 2002 WI 80, 254 Wis. 2d 77, 646 N.W.2d 777, 00–1836.

That the county erected a stop sign at the intersection of town and county highways, within the town right-of-way did not preclude possible liability in the town or the adjacent landowner for an accident resulting from the sign being obscured by a tree. Both units of government and the landowner had a duty to correct the hazardous condition created by the tree. *Physicians Plus Insurance Corporation v. Midwest Mutual Insurance Co.* 2001 WI App 148, 246 Wis. 2d 933, 632 N.W.2d 59, 00–1836. Affirmed, 2002 WI 80, 254 Wis. 2d 77, 646 N.W.2d 777, 00–1836.

349.07 Authority to designate through highways.

(1) The department may, when it deems it necessary for the public safety, by order declare any state trunk highway or connecting highway or portion thereof to be a through highway.

(2) Every county highway committee may, when it deems necessary for the public safety, by order declare any county trunk highway or portion thereof to be a through highway, except that where a state trunk highway intersects a county trunk highway the department shall designate the through highway.

(3) Every local authority may, when it deems it necessary for the public safety, by ordinance or resolution declare any highway or portion thereof under its exclusive jurisdiction to be a through highway.

(4) No order, ordinance or resolution declaring any highway to be a through highway is effective until official stop signs or traffic control signals have been installed at the entrances thereto from other highways.

(5) Through highway declarations under this section shall not apply to any paralleling service roads.

(6) (a) Nothing in this section shall prohibit local authorities from placing additional stop signs on the roadway or temporary school zoning warning signs or temporary stop signs in the roadway at school crossings during periods of daylight when school

children are using such crossings if such signs do not physically obstruct traffic.

(b) Nothing in this section shall prohibit local authorities from placing temporary stop signs in the roadway at intersections or crosswalks for limited periods of time if the local authorities deem it necessary for the public safety and if the signs do not physically obstruct traffic.

(7) (a) The department may, when it deems necessary for the public safety, by order provide for the installation of yield signs on state trunk highways and connecting highways, and the governing body of any city, or county, may by ordinance or resolution provide, when it deems it necessary for the public safety, for the installation of yield signs on any through highway which has been so declared under sub. (3) and under its exclusive jurisdiction to regulate merging traffic movements and conflicting movements occurring within the intersection of 2 or more highways. Yield signs shall not be used in lieu of stop signs where a highway directly crosses a through 2–way highway.

(b) The governing body of any town, city, village or county may by ordinance or resolution provide for the installation of yield signs at any intersection over which it has exclusive jurisdiction, but if the intersection is part of a through highway such yield signs can be installed at such intersections only as provided in par. (a).

(8) The governing body of any town, city, village or county may by ordinance or resolution provide for the installation of stop signs and traffic signals at intersections on highways over which it has exclusive jurisdiction.

History: 1975 c. 192; 1977 c. 29 s. 1654 (3), (8) (a); 1977 c. 116 ss. 7, 8, 9; 1977 c. 272; 1979 c. 34.

Legislative Council Note, 1977: Section 349.08 (6) (a), relating to the placement of yield signs, is renumbered s. 349.07 (7) (a) and amended to prohibit the use of yield signs in lieu of stop signs where a highway directly crosses a through 2–way highway; the present prohibition against the use of yield signs in lieu of stop signs is overly broad in that it is not restricted to highways which directly cross through highways. By definition, the entrances to a “through highway” from intersecting highways must be controlled by traffic control signals or stop signs; “through highway” is defined in s. 340.01 (67). [Bill 465–A]

349.08 Cost of signs and traffic control signals. The department may, when requested, furnish official traffic control devices and highway paint at cost to any local authority.

History: 1975 c. 23, 48, 237, 239, 367, 422; 1977 c. 29 s. 1654 (3), (8) (a); 1977 c. 116.

349.085 Authority to install stop signs at railroad grade crossings. Local authorities may, by ordinance, when they deem it necessary for the public safety, install official stop signs at public traveled railroad grade crossings on highways maintained by the respective authorities.

History: 1977 c. 116.

349.09 Authority to remove prohibited signs or signals. Every sign, signal, marking or device which is placed, maintained or displayed in violation of s. 346.41 is declared to be a public nuisance. The authority in charge of maintenance of the highway in question may notify in writing the owner or occupant of the premises upon which the nuisance exists or the person causing or maintaining the nuisance to remove the same. If such nuisance is not removed within 30 days after such notice is given or if an unauthorized signal or device is found to be in operation at any time after such notice is given, the authority in charge of maintenance of the highway may cause the nuisance to be removed and collect the expense of removal from the person notified to remove it. The expense of removal may be charged against the premises and, upon certificate of the highway authority causing the removal, assessed as are other special taxes.

Cross Reference: See also s. Trans 200.04, Wis. adm. code.

349.10 Authority to designate one-way highways, safety zones, turns and lanes. **(1)** The department, county highway committees and local authorities in regard to highways under their respective jurisdictions, may:

(a) Declare by order, ordinance or resolution and designate by appropriate signs any highway or portion thereof to be a one-way

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highway and require that all vehicles be operated in one specific direction on such highway.

(b) Designate by mark or markers certain places on highways as safety zones or erect and maintain islands of safety and regulate and control traffic with respect to such safety zones and islands of safety.

(c) By order, ordinance or resolution and by the erection of appropriate signs, prohibit right or left turns at intersections by all vehicles or by certain types of vehicles.

(d) Place official traffic control devices within or adjacent to intersections and thereby require and direct that a different course from that specified in s. 346.31 be traveled by vehicles turning at the intersection.

(e) Mark lanes for traffic upon any roadway and designate specific lanes for slow-moving traffic or for traffic moving in a particular direction.

(f) By order, ordinance or resolution and by the erection of appropriate signs, prohibit U-turns at specified locations. The local authority with the approval of the department may prohibit U-turns and erect appropriate signs on state trunk highways within cities, villages and towns.

(2) No local authority shall declare any part of a connecting highway between portions of the state trunk highway system to be a one-way highway or prohibit right or left turns or U-turns at any intersection of one such connecting highway with another without due regard for the expeditious flow of intercity traffic using the state trunk highways and without first conferring with the department on the problems involved.

History: 1973 c. 175; 1977 c. 29 s. 1654 (3), (8) (a); 1977 c. 116, 272; 1993 a. 246; 2009 a. 97.

349.105 Authority to prohibit certain traffic on expressways and freeways. The authority in charge of maintenance of an expressway or freeway may, by order, ordinance or resolution, prohibit the use of such expressway or freeway by pedestrians, persons riding bicycles or other nonmotorized traffic or by persons operating mopeds or motor bicycles. The state or local authority adopting any such prohibitory regulation shall erect and maintain official signs giving notice thereof on the expressway or freeway to which such prohibition applies.

History: 1983 a. 243.

349.11 Authority to modify speed restrictions. (1) (a) Whenever the department with respect to the state trunk highway system and the local authorities with respect to highways under their jurisdiction determine upon the basis of an engineering and traffic investigation that any statutory speed limit is greater or less than is reasonable or safe under the conditions found to exist upon any part of a highway or that the actual speed of vehicles upon any part of a highway is greater or less than is reasonable and prudent, the department with respect to the state trunk highway system and the local authorities with respect to highways under their jurisdiction may, subject to the limitations set forth in subs. (2) and (3), determine and declare a reasonable and safe speed limit on the highway or part thereof in question. When appropriate signs giving notice of such speed limit have been erected and are in place, such speed limit shall be effective at all times or at such times as indicated by the signs.

(b) Whenever the department with respect to the state trunk highway system determines, upon the basis of an engineering and traffic investigation, that any statutory minimum speed limit is greater or less than is reasonable or safe under the conditions found to exist upon any part of a highway or that the actual minimum speed of vehicles upon any part of a highway is greater or less than is reasonable and prudent, the department with respect to the state trunk highway system may, subject to applicable limitations in subs. (2) and (3), determine and declare a reasonable and safe minimum speed limit on the highway or part thereof in question. When appropriate signs giving notice of such minimum speed limit have been erected and are in place such minimum

speed limit shall be effective at all times or at such times as indicated by the signs.

(2) The department may not do any of the following:

(a) Declare a speed limit which is in excess of the limits stated in s. 346.57 (4) (h), except as provided in s. 346.57 (4) (gm).

(b) Modify the limits stated in s. 346.57 (4) (c) or 346.58.

(c) Modify the statutory speed limit on more than 2,000 miles of state trunk highways. The first mile outside of and immediately adjacent to any incorporated municipality shall not be counted in computing such 2,000 miles. This paragraph does not apply to freeways or to expressways, as defined in s. 346.57 (1) (ag) and (am).

(3) Local authorities may not:

(a) Declare a speed limit which is in excess of the limits stated in s. 346.57 (4) (h); or

(b) Modify the limits stated in s. 346.57 (4) (c) or 346.58; or

(c) Modify any existing speed limit without the consent of the department except to reduce the speed limit as provided under sub. (10), or to increase the speed limit stated in s. 346.57 (4) (e), (f) or (g), or to reduce by 10 miles per hour or less the speed limit stated in s. 346.57 (4) (a), (b) or (d) to (j), or to reduce by 15 miles per hour or less the speed limit stated in s. 346.57 (4) (k). Whenever department approval is required, no signs giving notice of a modification of the speed limit may be erected until such approval has been received.

(4) The department upon request from any county highway committee or local authority shall, or upon its own initiative may, conduct an investigation of any bridge, causeway, viaduct or structure on any highway. If it finds that any such structure cannot with safety to itself withstand vehicles traveling at the speeds otherwise permitted by law or if it finds that such structure is substandard as to width and that it is necessary from the standpoint of traffic safety to reduce the speed of vehicles using such structure, the department shall determine and declare the maximum vehicular speed which such structure can withstand or which can be maintained in safety on such structure. When appropriate signs giving notice of such maximum speed have been erected at a suitable distance before each end of the structure, such posted speed limit is the effective speed limit on such structure at all times when the signs are in place. The findings and determination of the department are conclusive evidence of the maximum speed which can be maintained with safety to or on any such structure.

(5) Except as provided in sub. (10), the department and local authorities shall place and maintain upon all highways, where the speed limit is modified by them pursuant to this section, standard signs giving notice of such speed. All speed limit signs so erected shall conform to the rules of the department.

(6) No liability shall attach to the department or to any local authority by reason of the posting of a speed limit pursuant to this section nor shall such posting guarantee that the posted speed is reasonable and safe under all conditions.

(7) The department with respect to the state trunk highway system and local authorities with respect to highways under their jurisdiction may increase the speed limits stated in s. 346.57 (4) (a) and (b), but any speed limit so established shall not be greater than the speed limit established on the adjoining sections of the same street or highway.

(8) Notwithstanding the authority otherwise granted to modify speed restrictions in this section, except as provided in sub. (9) and s. 346.57 (4) (gm), the department may not establish or continue:

(a) A maximum speed limit on any highway within its jurisdiction in excess of 55 miles per hour;

(c) Maximum speed limits which are not uniformly applicable to all types of motor vehicles using a highway, except that a lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle.

(8m) Notwithstanding the authority otherwise granted to modify speed restrictions in this section, local authorities may not establish or continue:

(a) A maximum speed limit on any highway within their respective jurisdictions in excess of 55 miles per hour;

(c) Maximum speed limits which are not uniformly applicable to all types of motor vehicles using a highway, except that a lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle.

(9) The department, with respect to any highway, may alter speed restrictions during an energy emergency to comply with federal law or if the department finds that extraordinary circumstances in this state require such alteration. All decisions made by the department under this subsection will be subject to review by the joint committee for review of administrative rules in accordance with s. 227.26.

(10) Notwithstanding any speed limits imposed under this section or under s. 346.57, if a highway is being constructed, reconstructed, maintained or repaired, local authorities with respect to highways under their jurisdiction, any county highway committee performing maintenance on the state trunk highway system under s. 84.07 and any local authority with respect to highways not under its jurisdiction that are being constructed, reconstructed, maintained or repaired by the local authority may, for the safety of the highway construction and maintenance workers, pedestrians and highway users, post a temporary speed limit less than the speed limit imposed under this section or under s. 346.57. The temporary limits may be posted for the duration of the construction, reconstruction, maintenance or repair period. Temporary speed limits imposed under this subsection may be posted with signs on portable supports. When portable supports are used under this subsection, the bottom of the sign shall be not less than one foot above the surface of the pavement or shoulder.

History: 1971 c. 38; 1973 c. 157; 1975 c. 25; 1977 c. 29 s. 1654 (8) (a); 1977 c. 30 s. 5; 1977 c. 67, 203, 418; 1979 c. 213; 1983 a. 54; 1985 a. 182 s. 57; 1987 a. 17, 219; 1989 a. 31; 1993 a. 376; 1995 a. 318; 1999 a. 85.

349.12 Authority to designate no-passing zones. The department, county highway committees and local authorities, in regard to highways under their respective jurisdictions, may determine, in accordance with standards and procedures adopted by the department, where overtaking or passing or driving to the left of the center of the roadway would be especially hazardous and may, by signs approved by the department or by a yellow unbroken line on the pavement on the right-hand side of and adjacent to the center line or a lane line of a roadway, indicate the beginning and end of such zones.

History: 1977 c. 29 s. 1654 (8) (a); 1979 c. 76.

349.13 Authority to regulate the stopping, standing or parking of vehicles. (1b) In this section, “owner” includes the lessee of a vehicle if the vehicle is registered, or required to be registered, by the lessee under ch. 341.

(1e) (a) The department with respect to state trunk highways outside of corporate limits and the local authorities with respect to highways under their jurisdiction, including state trunk highways or connecting highways within corporate limits, may, within the reasonable exercise of the police power, prohibit, limit the time of or otherwise restrict the stopping, standing or parking of vehicles beyond the prohibitions, limitations or restrictions imposed by ch. 346, except that they may not modify the exceptions set forth in s. 346.50.

(b) The department may also restrict or prohibit the stopping, standing or parking of vehicles on any part of a state trunk highway or connecting highway within corporate limits if the local authority having jurisdiction has not enacted any stopping, standing or parking regulation applicable to the highway or part thereof in question as provided under par. (a).

(c) 1. The authority granted by this subsection may be delegated to a traffic officer or to the officer in charge of the maintenance of the highway in question, but, except as provided in subd. 2., no prohibition, limitation or restriction on parking imposed under this section is effective unless official traffic signs or markers or parking meters have been placed or erected indicating the particular prohibition, limitation or restriction.

2. Parking regulations that prohibit, limit or restrict the parking of vehicles for any period longer than 24 consecutive hours, during any hours between 12 midnight and 7 a.m., or any portion thereof or during a snow emergency as determined by a municipality, shall be effective in the municipality upon a two-thirds vote of its respective governing body notwithstanding this subsection and s. 346.02 (7) when official traffic signs have been placed or erected at or reasonably near the corporate limits of the municipality on all state and county trunk highways and connecting highways informing motorists that 24-hour parking limitations, night parking regulations or snow emergency regulations are in effect in the municipality.

(1g) The department, with respect to state trunk highways outside of corporate limits, and local authorities, with respect to highways under their jurisdiction including state trunk highways or connecting highways within corporate limits, may authorize persons whose residences abut a highway in a zone where the time of parking is limited by official signs, markers or parking meters to park their vehicles in the highway zone without regard to the time limits posted.

(1j) The department, with respect to state trunk highways outside of corporate limits, and local authorities, with respect to highways under their jurisdiction including state trunk highways or connecting highways within corporate limits, may authorize persons to park their vehicles during specified hours on the near side of a highway adjacent to a schoolhouse located on property of the University of Wisconsin System when the persons are conducting business at the schoolhouse.

(1k) (a) Notwithstanding s. 86.32 (1) and any other provision of this section, and as provided in par. (b), a local authority, with respect to highways under its jurisdiction including connecting highways within corporate limits, may authorize persons whose residences abut a highway in a zone where parking is prohibited by official signs, guests of such persons, and commercial enterprises providing services to such persons to park their vehicles in the highway zone without regard to the posted prohibitions.

(b) If a University of Wisconsin System college campus located in a 1st class city creates 721 parking spaces on campus, a 1st class city may initiate a program to reserve 721 parking spaces for persons whose residences are adjacent to the University of Wisconsin System college campus, guests of such persons, and commercial enterprises providing services to such persons. If a University of Wisconsin System college campus located in a 1st class city creates additional parking spaces on campus, a 1st class city may reserve an equal number of parking spaces for persons whose residences are adjacent to the University of Wisconsin System college campus, guests of such persons, and commercial enterprises providing services to such persons.

(1m) In addition to the requirements under s. 346.503 (1m), the department, with respect to state trunk highways outside of corporate limits and parking facilities under its jurisdiction, and local authorities, with respect to highways under their jurisdiction including state trunk highways or connecting highways within corporate limits and parking facilities within corporate limits, may, by official traffic signs indicating the restriction, prohibit parking, stopping or standing upon any portion of a street, highway or parking facility reserved for any vehicle bearing special registration plates issued under s. 341.14 (1), (1a), (1e), (1m), (1q) or (1r) (a) or a motor vehicle, other than a motorcycle, upon which a special identification card issued under s. 343.51 is displayed or any vehicle registered in another jurisdiction and displaying a reg-

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istration plate, card or emblem issued by the other jurisdiction which designates the vehicle as a vehicle used by a physically disabled person.

(2) Except as provided in this subsection, neither the department nor local authorities may extend stopping, standing or parking privileges to areas where stopping, standing or parking is prohibited by ch. 346. The department and local authorities, with respect to highways under their respective jurisdictions as described in sub. (1e) may do any of the following:

(a) Permit parking on sidewalk areas when such parking will not unduly interfere with pedestrian traffic.

(b) Permit parking on the roadway side of other parked vehicles when such double parking will not unduly interfere with the flow of vehicular traffic.

(c) Permit parking closer than 15 feet to the end of a safety zone when such parking will not unduly interfere with the flow of vehicular traffic.

(d) Designate parking upon the left side of a one-way street or roadway instead of the right side or permit parking on both sides.

(e) Designate angle parking on any roadway under its jurisdiction.

(f) Permit the parking of any vehicle or of school buses only on the near side of specified highways adjacent to schoolhouses during specified hours if the governing body of the municipality where the schoolhouse is located directs by ordinance.

(3) Whenever any traffic officer finds a vehicle standing upon a highway in violation of a prohibition, limitation or restriction on stopping, standing or parking imposed under ch. 346 or this section, or a disabled vehicle that obstructs the roadway of a freeway or expressway, as defined in s. 346.57 (1) (ag), the traffic officer is authorized to move the vehicle or to require the operator in charge thereof to move the vehicle to a position where parking is permitted or to either private or public parking or storage premises. The removal may be performed by, or under the direction of, the traffic officer or may be contracted for by local authorities. Any charges for removal shall be regulated by local ordinance. The operator or owner of the vehicle removed shall pay the reasonable charges for moving or towing or any storage involved based upon the ordinance.

(3m) No vehicle involved in trespass parking on a private parking lot or facility shall be removed without the permission of the vehicle owner, except upon the issuance of a repossession judgment or upon formal complaint and a citation for illegal parking issued by a traffic or police officer.

(4) In counties having a population of 500,000 or more whenever any traffic officer finds a vehicle disabled so as to cause a hazard on any portion of the interstate system, limited access highway or any expressway, even though it may be impossible for the operator to avoid stopping or temporarily leaving the vehicle thereon, the county may remove such vehicle to a position where parking is permitted or to either private or public parking or storage premises. The removal may be performed by such officer or under the officer's direction or such removal may be contracted for by such counties and any charges shall be regulated by ordinance. The operator or owner of the vehicle removed shall pay a reasonable charge for moving or towing or any storage involved based upon said ordinance.

(5) (a) No person who removes or stores a vehicle under subs. (3) to (4) or otherwise at the request of a law enforcement officer, and no person who removes or stores a disabled vehicle, accident debris or other object that obstructs the roadway of a freeway or expressway, as defined in s. 346.57 (1) (ag), may incur any civil liability for the act, except for civil liability for failure to exercise reasonable care in the performance of the act or for conduct that is willful, wanton or malicious.

(b) 1. As used in this paragraph:

a. "Personal property" means all property within the vehicle which is not mounted, attached or affixed to the vehicle.

b. "Proper identification" means identification which would be sufficient to establish ownership to release the vehicle.

2. A person who has custody of a vehicle removed or stored under subs. (3) to (4) or otherwise at the request of a law enforcement officer shall release the personal property within the vehicle to the owner of the vehicle during regular office hours upon presentation by the owner of proper identification.

3. No charge may be assessed against the owner for the removal or release of the personal property.

4. If the owner removes the personal property from a motor vehicle under this paragraph, the vehicle shall be deemed abandoned unless the person enters into a written agreement to pay the full charges for towing and storage. The owner shall be informed of this subdivision by the person who has custody of the vehicle before the property is released. A vehicle deemed abandoned under this subdivision may be disposed of as are other abandoned vehicles by the local authority.

5. The personal property is subject to forfeiture under ss. 961.55 to 961.56 and 973.075 to 973.077.

(c) A traffic or police officer who requests removal of a vehicle under subs. (3) to (4) by a towing service shall, within 24 hours of requesting the removal, notify the towing service of the name and last-known address of the registered owner and all lienholders of record of the vehicle if the vehicle is to be removed to any location other than a public highway within one mile from the location from which the vehicle is to be removed and if the officer is not employed by a municipality or county that has entered into a towing services agreement which requires the municipality or county to provide notice to such owner and lienholders of the towing.

History: 1973 c. 248; 1975 c. 299; 1977 c. 29 ss. 1654 (3), (8) (a), 1656 (43); 1977 c. 116, 272, 418; 1979 c. 34, 59, 231, 276, 325; 1981 c. 227; 1981 c. 255 ss. 10, 11, 13; 1983 a. 77 s. 15; 1983 a. 213; 1985 a. 29; 1985 a. 87 s. 5; 1989 a. 304; 1991 a. 269, 316; 1993 a. 246; 1995 a. 448; 1997 a. 27, 159, 258; 1999 a. 85; 2003 a. 142; 2005 a. 326.

Legislative Council Note, 1977: The last 2 sentences of sub. (1) are eliminated as unnecessary. These sentences contain explanations of what is meant by a sign which indicates that stopping or standing is prohibited and what is meant by a sign prohibiting parking. Although these explanations attempt to explain the conduct required of motorists by these signs, they do not define the key terms, "park or parking" and "stand or standing". In place of these explanations, definitions of the terms "park or parking" and "stand or standing" are created in 340.01 (42m) and (59m) in this bill. "Stop" is presently defined in s. 340.01 (62). [Bill 465-A]

It is not a violation of due process to tow an illegally parked car without first giving the owner notice and the opportunity to be heard regarding the lawfulness of towing the car. *Sutton v. City of Milwaukee*, 672 F.2d 644 (1982).

349.135 Authority to regulate radios or other electric sound amplification devices. (1) Notwithstanding s. 346.94 (16), the governing body of any town, city, village or county may, by ordinance, provide that, except as provided in s. 347.38 (1), no person may operate or park, stop or leave standing a motor vehicle while using a radio or other electric sound amplification device emitting sound from the vehicle that is clearly audible under normal conditions from a distance of 50 or more feet, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition. The ordinance may provide that any person violating the ordinance may be required to forfeit not less than \$40 nor more than \$80 for the first violation and not less than \$100 nor more than \$200 for the 2nd or subsequent violation within a year.

(2) Any ordinance enacted under sub. (1) may not apply to any of the following:

(a) The operator of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm.

(b) The operator of a vehicle of a public utility, as defined in s. 11.40 (1) (a).

(c) The operator of a vehicle that is being used for advertising purposes.

(d) The operator of a vehicle that is being used in a community event or celebration, procession or assemblage.

(e) The activation of a theft alarm signal device.

(f) The operator of a motorcycle being operated outside of a business or residence district.

History: 1995 a. 373; 1997 a. 35.

349.137 Authority to regulate use of motor vehicle immobilization devices. (1) In this section:

(b) “Parking area” means an area used for parking that is not on a highway.

(c) “Parking enforcer” means a person who enforces restrictions against unauthorized parking. The term includes a person who owns or operates a parking area and any employees or agents of an owner or operator.

(d) “Removal fee” means a fee charged by a parking enforcer to remove an immobilization device, including any amounts imposed for parking in violation of a restriction against unauthorized parking.

(e) “Unauthorized parking” means parking a motor vehicle in a parking area contrary to a sign posted under s. 346.55 (4).

(2) No person may use an immobilization device to immobilize a motor vehicle to enforce restrictions against unauthorized parking except in conformity with a municipal ordinance enacted under this section or a rule adopted under s. 36.11 (8).

(3) The governing body of any municipality may by ordinance or the chancellor of a campus of the University of Wisconsin System may by rule under s. 36.11 (8) provide for the use of immobilization devices to enforce restrictions against unauthorized parking. Any ordinance under this subsection or rule under s. 36.11 (8) shall do all of the following:

(a) Require the owner or operator of a parking area in which immobilization devices may be used to post and maintain in a manner that is clearly visible to operators entering the parking area a sign at each vehicular entrance to the parking area. At least one additional sign shall be posted for every 10 parking spaces in the parking area. The ordinance or rule shall require all such signs to be at least 12 inches by 18 inches in size and to clearly indicate all of the following:

1. That unauthorized parking is prohibited in the parking area.
2. That an immobilization device may be used in the parking area to enforce restrictions against unauthorized parking.
3. Whether a removal fee will be charged to remove an immobilization device and, if so, the amount of the fee.

(ag) Prohibit a parking enforcer from using an immobilization device to immobilize a motor vehicle to enforce parking restrictions against unauthorized parking unless the parking enforcer possesses a valid license authorizing that activity issued by the municipality.

(am) Establish a process by which the owner, lessee or operator of a motor vehicle may contest the propriety of the use of an immobilization device or the amount of a removal fee.

(b) Require the parking enforcer, before using an immobilization device, to do all of the following:

2. Maintain in effect a policy of bodily injury and property damage liability insurance for injury or damage arising from the use of an immobilization device in an amount of at least \$1,000,000 per use of an immobilization device.

3. Notwithstanding s. 346.94 (4), at the time of immobilization of a motor vehicle, place a written notice in a reasonably secure manner on the motor vehicle that clearly states all of the following:

- a. The name of the parking enforcer and a telephone number that a person may call to request the removal of the immobilization device.
- b. The amount of the removal fee, if any.
- c. The terms of the deferral agreement described in par. (d) 2.
4. Have a person available 24 hours a day either at the parking area or at the telephone number shown on the notice described in

subd. 3. to take requests for removal and to remove the immobilization device.

(c) Require the parking enforcer, before removing an immobilization device, to do all of the following:

1. Display prominently an identification card that identifies that person as a parking enforcer and that contains a photograph of that person.

2. Inform the owner, lessee or operator of the motor vehicle, orally and in writing, before removing an immobilization device, of all of the following:

a. If a removal fee is charged, that the owner, lessee or operator is required either to pay the removal fee or to sign a deferral agreement described in par. (d) 2.

b. That a parking enforcer may commence legal action to collect any removal fee that has not been paid within 14 days after the removal of an immobilization device.

c. That the owner, lessee or operator of an immobilized motor vehicle may contest the propriety of the use of an immobilization device on his or her motor vehicle or the validity of a removal fee using the process described in par. (am), and may contest any legal action commenced to collect a removal fee.

d. That, except for the payment of the removal fee or the signing of a deferral agreement, no person may be required to do anything to have an immobilization device removed.

e. That, if a parking enforcer uses an immobilization device on a motor vehicle that is not parked in violation of a restriction against unauthorized parking, the owner, lessee or operator shall not be required to pay a removal fee and the parking enforcer shall be liable to the owner, lessee or operator of the motor vehicle for an amount equal to the removal fee.

(d) Require the owner, lessee or operator of a motor vehicle to do any of the following before an immobilization device may be removed:

1. Pay the removal fee.
2. Sign a deferral agreement under which the person signing the agreement agrees to pay the removal fee to the parking enforcer or contest the removal fee, or the propriety of the use of an immobilization device on his or her motor vehicle, using the process described in par. (am) within 14 days after the immobilization device is removed.

(e) Require the parking enforcer to remove the immobilization device without undue delay after receiving a request to remove the device, not to exceed 60 minutes whenever a request for removal is made by telephone.

(f) Require that, whenever a deferral agreement is signed, the parking enforcer provide the owner, lessee or operator of the motor vehicle a copy of the signed deferral agreement.

(g) Require a person who signs a deferral agreement and does not do any of the activities described in par. (d) 2. within 14 days after the removal of the immobilization device to pay an amount not to exceed 3 times the removal fee plus the reasonable costs incurred to collect the removal fee to the parking enforcer within 30 days after the removal of the immobilization device.

(h) Require a parking enforcer who uses an immobilization device on a motor vehicle that is not parked in violation of a restriction against unauthorized parking to pay an amount equal to the removal fee to the owner, lessee or operator of the motor vehicle within 14 days after the determination that the immobilization device was used improperly.

(i) Prohibit a parking enforcer from requiring a person to transfer any goods, perform any services, or waive any available legal rights or remedies, as a condition for removing an immobilization device, except as specified in par. (d).

(j) Specify the maximum removal fee that may be charged.

(4) (a) A municipality may enact or enforce any regulation of the use of immobilization devices to enforce parking restrictions that is not contrary to or inconsistent with this section.

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(b) A chancellor of a campus of the University of Wisconsin System may adopt or enforce any rule under s. 36.11 (8) regulating the use of immobilization devices to enforce parking restrictions that is not contrary to or inconsistent with this section.

History: 1995 a. 434; 1997 a. 27; 1997 a. 35 s. 437.

349.14 Authority to use parking meters. (1) It is the public policy of this state that the use of parking meters by cities, villages, towns and counties to measure the time for parking vehicles is a local matter to be determined by the local authorities.

(2) Cities, villages, towns and counties may by ordinance or resolution provide for the installation and operation of parking meters and may provide for the use of the revenue collected from such meters for general street and highway maintenance, repair and construction, for meeting the cost of traffic and parking regulation, for the purchase and operation of publicly owned off-street parking facilities, and for such other expenses and purposes as the local authority deems reasonably necessary to provide for the convenience, safety and welfare of persons using the streets and highways for vehicular traffic.

History: 1993 a. 246.

349.145 Authority to establish disabled parking enforcement assistance councils. Any city, village or county may by ordinance or resolution establish a disabled parking enforcement assistance council. The majority of such a council shall be appointed by the local authorities from among those residents of the city, village or county to whom or on whose behalf the department has issued a special registration plate under s. 341.14 (1) to (1r) or a special identification card under s. 343.51. Members of such a council may report violations of s. 341.625 (1), 343.52, 346.503 or 346.505 (2) or ordinances in conformity therewith to a traffic officer of the city, village or county as provided in s. 341.625 (2), 343.52 (3), 346.503 (5) or 346.505 (3). If a 1st or 2nd class city has enacted an ordinance under s. 346.50 (3m), the council shall perform any duties required by s. 346.50 (3m).

History: 1987 a. 260; 1991 a. 87; 1993 a. 256; 1995 a. 131.

349.15 Authority to modify weight limitations and classify highways. (1) The limitations on size and weight imposed by ch. 348 are lawful throughout the state and local authorities may not alter such limitations except as otherwise provided in this chapter.

(2) The county highway committee with respect to the county trunk highway system and the local authorities with respect to highways maintained by them may designate all or parts of such highways to be class “B” highways for the purpose of putting into effect the weight limitations set forth in s. 348.16, except that no portion of any such highway which is a state trunk highway or connecting highway may be so designated.

(3) Any city of the first class may, with respect to the streets of such city, by ordinance increase the maximum weight limitations specified in ss. 348.15 and 348.16.

History: 1977 c. 29 s. 1654 (3).

The police power under this section need not be based on the condition of the roadbed, but may be exercised to promote the general welfare of the public. 66 Atty. Gen. 110.

349.16 Authority to impose special or seasonal weight limitations. (1) The officer in charge of maintenance in case of highways maintained by a town, city or village, the county highway commissioner or county highway committee in the case of highways maintained by the county and the department in the case of highways maintained by the state may:

(a) Impose special weight limitations on any such highway or portion thereof which, because of weakness of the roadbed due to deterioration or climatic conditions or other special or temporary condition, would likely be seriously damaged or destroyed in the absence of such special limitations;

(b) Impose special weight limitations on bridges or culverts when in its judgment such bridge or culvert cannot safely sustain the maximum weights permitted by statute;

(c) Order the owner or operator of any vehicle being operated on a highway to suspend operation if in its judgment such vehicle is causing or likely to cause injury to such highway or is visibly injuring the permanence thereof or the public investment therein, except when s. 84.20 is applicable or when the vehicle is being operated pursuant to a contract which provides that the governmental unit will be reimbursed for any damage done to the highway. Traffic officers also may order suspension of operation under the circumstances and subject to the limitations stated in this paragraph.

(2) Imposition of the special weight limitations authorized by sub. (1) (a) shall be done by erecting signs on or along the highway on which it is desired to impose the limitation sufficient to give reasonable notice that a special weight limitation is in effect and the nature of that limitation. Imposition of the special weight limitations authorized by sub. (1) (b) shall be done by erecting signs before each end of the bridge or culvert to which the weight limitation applies sufficient to give reasonable notice that a special weight limitation is in effect and the nature of that limitation. All weight limitation signs and their erection shall comply with the rules of the department and shall be standard throughout the state.

(3) The authority in charge of the maintenance of the highway may exempt vehicles carrying certain commodities specified by the authority or which are used to perform certain services specified by the authority from the special weight limitations which are imposed under sub. (1) (a), or may set different weight limitations than those imposed under sub. (1) (a) for vehicles carrying those commodities or which are used to perform those services, if such exemption or limitation is reasonable and necessary to promote the public health, safety and welfare. The authority in charge of the maintenance of the highway shall exempt from the special or seasonal weight limitations imposed under sub. (1) (a) a vehicle that is used to transport material pumped from a septic or holding tank if, because of health concerns, material needs to be removed from a septic or holding tank within 24 hours after the vehicle owner or operator is notified and if the vehicle is operated for the purpose of emptying the septic or holding tank and disposing of its contents and is operated on a route that minimizes travel on highways subject to weight limitations imposed under sub. (1) (a). Within 72 hours after operating a vehicle that transported material pumped from a septic or holding tank and that exceeded special or seasonal weight limitations as authorized by this subsection, the owner or operator of the vehicle shall notify the authority in charge of maintenance of the highways over which the vehicle was operated.

History: 1975 c. 141; 1977 c. 29 s. 1654 (8) (a); 1977 c. 435; 1983 a. 307; 1999 a. 46.

349.17 Authority of cities, villages and towns to regulate heavy traffic. (1) Any city, village or town may by ordinance or resolution designate any street or highway under its jurisdiction as a heavy traffic route and designate the type and character of vehicles which may be operated thereon. A city, village or town may restrict or prohibit heavy traffic from using other streets or highways under its jurisdiction except that it may not place such restrictions on streets or highways over which are routed state trunk highways and may not prohibit heavy traffic from using a street or highway for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence which has an entrance on such street or highway. Whenever a city, village or town designates any street or highway under its jurisdiction as a heavy traffic route, it shall cause appropriate signs to be erected giving notice thereof.

(2) In this section, “heavy traffic” means all vehicles not operating completely on pneumatic tires and all vehicles or combination of vehicles, other than motor buses, designed or used for transporting property of any nature and having a gross weight of more than 6,000 pounds.

History: 1977 c. 116; 1993 a. 246.

Legislative Council Note, 1977: Sub. (1) authorizes cities and villages to designate any street as a heavy traffic route. As defined in s. 340.01 (64), the term “street”

means every highway within the corporate limits of a city or village except alleys. By adding “or highway” after “street”, s. 349.17 (1) authorizes a city or village to prohibit heavy traffic from using any street or alley which has not been designated as a heavy traffic route unless such street or alley is being used to obtain orders for supplies or to deliver supplies or commodities to or from a place of business or residence with an entrance on such street or alley. “Highway” is defined in s. 340.01 (22), to mean “all public ways and thoroughfares”, including alleys. [Bill 465–A]

349.18 Additional traffic–control authority of counties and municipalities. (1) Any city, village or town, by ordinance, may:

(a) Designate the number of persons that may ride on a motor bicycle at any one time and the highways upon which a motor bicycle or moped may or may not be operated.

(b) Establish a golf cart crossing point upon a highway within its limits. An ordinance enacted under this paragraph shall require that a golf cart stop and yield the right-of-way to all vehicles approaching on the highway before crossing the highway. The ordinance may require that a golf cart be equipped with reflective devices as specified in the ordinance. The city, village or town shall place a sign of a type approved by the department to mark the crossing point on both sides of the highway.

(c) Regulate the operation of a golf cart to and from a golf course for a distance not to exceed one mile upon a highway under its exclusive jurisdiction. The city, village or town shall place a sign of a type approved by the department to mark any golf cart travel route designated by the ordinance.

(2) Any city, town or village may by ordinance enacted pursuant to s. 349.06 regulate the operation of bicycles and motor bicycles and may by ordinance require registration of any bicycle or motor bicycle owned by a resident of the city, town or village, including the payment of a registration fee.

(3) Any county, by ordinance, may require the registration of any bicycle or motor bicycle owned by a resident of the county if the bicycle or motor bicycle is not subject to registration under sub. (2). Such ordinance does not apply to any bicycle or motor bicycle subject to registration under sub. (2), even if the effective date of the ordinance under sub. (2) is later than the effective date of the county ordinance. A county may charge a fee for the registration.

History: 1977 c. 116, 288; 1983 a. 243, 288, 343, 538; 1985 a. 135, 197, 298, 332; 1989 a. 167; 1993 a. 246; 1995 a. 138; 1997 a. 27.

Cities and villages cannot license bicyclists, create bicycle courts, or impound bicycles in the absence of express legislative authorization. 66 Atty. Gen. 99.

349.185 Authority to regulate certain events and pedestrians. The authority in charge of the maintenance of a highway may by order, ordinance or resolution:

(1) Regulate community events or celebrations, processions or assemblages on the highways, including reasonable regulations on the use of radios or other electric sound amplification devices, subject to s. 84.07 (4).

(2) Regulate the traffic of pedestrians upon highways within its jurisdiction, including the prohibition of pedestrian crossings at places otherwise permitted by law and the erection of signs indicating such prohibition.

History: 1977 c. 116 ss. 14, 15; 1989 a. 31; 1991 a. 83.

349.19 Authority to require accident reports. Any city, village, town or county may by ordinance require the operator of a vehicle involved in an accident to file with a designated municipal department or officer a report of such accident or a copy of any report required to be filed with the department. All such reports are for the confidential use of such department or officer and are otherwise subject to s. 346.73, except that this section does not prohibit the disclosure of a person’s name or address, of the name or address of a person’s employer or of financial information that relates to a person when requested under s. 49.22 (2m) to the department of children and families or a county child support agency under s. 59.53 (5).

History: 1971 c. 164; 1977 c. 29 s. 1654 (7) (a); 1997 a. 191; 2007 a. 20.

349.20 Authority to prohibit use of bridges for fishing or swimming. The authority in charge of maintenance of a highway on which is located a bridge or approach thereto which constitute an undue traffic hazard, if used by pedestrians for the purpose of fishing or swimming, may erect signs prohibiting the fishing or swimming off of such bridge or approach.

349.21 Authority to regulate school bus warning lights. (1) The governing body of any town, city, village or county may by ordinance provide for the use of flashing red warning lights by school bus operators in a residence or business district when pupils or other authorized passengers are to be loaded or unloaded at a location at which there are no traffic signals and such persons must cross the street or highway before being loaded or after being unloaded.

(2) The governing body of any town, city, village or county may, by ordinance, prohibit the use of flashing red warning lights by school bus operators when pupils or other authorized passengers are loaded or unloaded directly from or onto the school grounds or that portion of the right-of-way between the roadway and the school grounds in a zone designated by “school” warning signs as provided in s. 118.08 (1) in which a street or highway borders the grounds of a school.

History: 1973 c. 93; 1987 a. 125.

349.215 Authority to appoint school crossing guards. The governing body of any city, village, town or county may by ordinance provide for the appointment of adult school crossing guards for the protection of persons who are crossing a highway in the vicinity of a school. The school crossing guards shall wear insignia or uniforms which designate them as school crossing guards and shall be equipped with signals or signs to direct traffic to stop at school crossings.

History: 1979 c. 344.

349.22 Authority to establish mass transit way. (1) The department with respect to the state trunk highway system may by order, and any local authority with respect to highways under its jurisdiction may by ordinance, designate a portion of any highway under its jurisdiction as a mass transit way, designate the type and character of vehicles which may be operated thereon and specify those conditions under which any of said vehicles may be operated thereon. If car pool vehicles are permitted to use the mass transit way, the authority designating the mass transit way may specify the minimum number of occupants, including the operator, in the vehicles. In this section, the department’s authority to designate a mass transit way is limited to free-way entrance ramps and state trunk highways connecting with or extending a mass transit way designated by a local authority.

(2) Whenever the department or local authority designates any highway or portion thereof under its jurisdiction as a mass transit way it may establish priority of right-of-way thereon and make such other regulation of the use of the mass transit way as it deems necessary. The department or local authority shall cause appropriate signs to be erected giving notice of priorities or regulations established under this subsection.

(3) The department or local authority designating the mass transit way may construct curbs, paint lines, erect signs or establish other physical separations to exclude the use of the mass transit way by vehicles other than those specifically permitted to operate thereon.

History: 1973 c. 86; 1983 a. 130.

349.23 Authority to designate bicycle lanes and bicycle ways. (1) The governing body of any city, town, village or county may by ordinance:

(a) Designate any roadway or portion thereof under its jurisdiction as a bicycle lane.

(b) Designate any sidewalk or portion thereof in its jurisdiction as a bicycle way.

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(2) A governing body designating a sidewalk or portion thereof as a bicycle way or a highway or portion thereof as a bicycle lane under this section may:

(a) Designate the type and character of vehicles or other modes of travel which may be operated on a bicycle lane or bicycle way, provided that the operation of such vehicle or other mode of travel is not inconsistent with the safe use and enjoyment of the bicycle lane or bicycle way by bicycle traffic.

(b) Establish priority of right-of-way on the bicycle lane or bicycle way and otherwise regulate the use of the bicycle lane or bicycle way as it deems necessary. The designating governing body may, after public hearing, prohibit through traffic on any highway or portion thereof designated as a bicycle lane, except that through traffic may not be prohibited on any state highway. The designating governing body shall erect and maintain official signs giving notice of the regulations and priorities established under this paragraph, and shall mark all bicycle lanes and bicycle ways with appropriate signs.

(c) Paint lines or construct curbs or establish other physical separations to exclude the use of the bicycle lane or bicycle way by vehicles other than those specifically permitted to operate thereon.

(3) The governing body of any city, town, village or county may by ordinance prohibit the use of bicycles and motor bicycles on a roadway over which they have jurisdiction, after holding a public hearing on the proposal.

History: 1973 c. 87, 182; 1977 c. 208; 1983 a. 243.

349.235 Authority to restrict use of in-line skates on roadway. (1) The governing body of any city, town, village or county may by ordinance restrict the use of in-line skates on any roadway under its jurisdiction. No ordinance may restrict any person from riding upon in-line skates while crossing a roadway at a crosswalk.

(2) The department of natural resources may promulgate rules designating roadways under its jurisdiction upon which in-line skates may be used, except that no rule may permit a person using in-line skates to attach the skates or himself or herself to any vehicle upon a roadway.

History: 1993 a. 260.

349.236 Authority to regulate operation of electric personal assistive mobility devices. (1) The governing body of any municipality or county may, by ordinance, do any of the following:

(a) Prohibit the operation of electric personal assistive mobility devices on all roadways under its jurisdiction having a speed limit of more than 25 miles per hour or only on certain roadways, or portions of such roadways, under its jurisdiction having a speed limit of more than 25 miles per hour that are designated in the ordinance.

(b) Prohibit the operation of electric personal assistive mobility devices on all sidewalks under its jurisdiction or only on certain sidewalks, or portions of such sidewalks, under its jurisdiction that are designated in the ordinance. This paragraph does not apply to the operation of such devices on any sidewalk at a permanent or temporarily established driveway.

(bm) Prohibit the operation of electric personal assistive mobility devices on all bicycle paths under its jurisdiction or only on certain bicycle paths, or portions of such bicycle paths, under its jurisdiction that are designated in the ordinance. This paragraph does not apply to the operation of such devices on any bicycle paths at a permanent or temporarily established driveway.

(c) Designate and mark locations for electric personal assistive mobility devices to cross a state trunk highway or connecting highway that is not a controlled-access highway and on which the department has prohibited the operation of electric personal assistive mobility devices under s. 346.94 (18) (a) 2. A municipality or county may erect official signs or otherwise mark a crossing

designated under this paragraph only as directed by the department.

(2) Except as otherwise provided in this chapter, ch. 346, and s. 59.84 (2) (j), the governing body of any municipality or county may not restrict the operation of electric personal assistive mobility devices on any roadway or sidewalk under its jurisdiction.

History: 2001 a. 90.

SUBCHAPTER III

LICENSING POWERS

349.24 Authority to license taxicab operators and taxicabs. (1) The council of any city and every village or town board may:

(a) Regulate and license chauffeurs and operators of taxicabs used for hire;

(b) Regulate and license the taxicab business by licensing each taxicab used for hire;

(c) Prohibit any person from operating any motor vehicle for taxicab purposes upon the highways of the city, village or town unless the person is licensed as a chauffeur and operator and unless the taxicab business is licensed by the licensing of each taxicab;

(d) Revoke any license mentioned in this section when in its judgment the public safety so requires.

(2) Any person licensed by any city, village or town as a chauffeur and operator shall not be required to procure either a chauffeur's and operator's license or a taxicab license in any other municipality for the purpose of carrying taxicab passengers for hire from one municipality to another, but this exception does not permit the chauffeur or operator to operate a taxicab wholly within the limits of any municipality in which the chauffeur or operator is not licensed.

(3) Any person licensed under this section is required to comply with the licensing requirements of ch. 343.

History: 1989 a. 105; 1993 a. 246.

The restrictions in sub.(2) that prevent municipalities from requiring licenses from taxis and drivers with licenses from other municipalities do not pertain to the permits required under a Milwaukee County ordinance governing airport taxis as neither the county nor the airport is a municipality in the relevant sense. County of Milwaukee v. Williams, 2007 WI 69, 301 Wis. 2d 134, 732 N.W.2d 770, 05–2686.

349.25 Authority to license hayrack and sleigh rides.

(1) In counties containing a city of the first or second class, the owner of a vehicle to be operated upon a highway for the purpose of transporting persons for hire in what is commonly known as a hayrack ride, a sleigh, boxsledded or bobsledded ride or a ride of similar nature and every person who is to operate such a vehicle shall obtain a license from the county board before so operating such a vehicle. Any person operating any such vehicle under the circumstances described without first obtaining a license from the county board may be fined not more than \$100 or imprisoned not more than 30 days or both.

(2) No county board may issue a license for any of the vehicles mentioned in sub. (1) unless the applicant does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, and until the applicant exhibits proof that liability insurance will be in force for the protection of passengers in the minimum amount of \$10,000 for any one passenger and \$50,000 for any single accident. Section 632.24 is applicable to the insurance required under this section, whether the vehicle is a motor vehicle or is propelled in some other manner. The county board shall set the amount for each license issued, not to exceed an amount reasonably related to the actual and necessary cost of providing the license.

(3) The county board may, after notice and hearing accorded the licensee, revoke any license issued by it pursuant to this section whenever in its judgment the public safety so requires.

(4) No vehicle licensed pursuant to this section shall be operated upon a highway for the purpose of transporting persons for hire unless it is equipped with at least one red reflector at each of the 2 rear corners of the vehicle and with at least one blue reflector at each of the 2 front corners of the vehicle and at the front end of the pole or tongue. All such reflectors shall be of a type approved by the department.

(5) The county board in any county not containing a city of the first or second class may by ordinance require owners and operators of vehicles to be used for the purposes specified in sub. (1) to be licensed. The actual issuance of the license may be delegated to the county clerk.

History: 1975 c. 375 s. 44; 1975 c. 421; 1977 c. 29 s. 1654 (7) (a); 1981 c. 380; 1981 c. 391 s. 211; 1983 a. 146.

349.26 Authority to allow the operation of neighborhood electric vehicles. (2) Subject to sub. (3), the governing body of any city, town, or village may by ordinance allow the use of a neighborhood electric vehicle on a roadway that has a speed limit of 35 miles per hour or less and over which the city, town, or village has jurisdiction.

(3) (a) An ordinance under sub. (2) may apply to a connecting highway, or to an intersection where the roadway crosses a state trunk highway, within the city, town, or village only if all of the following apply:

1. The city, town, or village provides written notice to the department of the ordinance, including identification of any connecting highway or state trunk highway intersection to which the ordinance will apply.

2. Within 21 days of receiving the notice under subd. 1., the department has provided written or oral consent to the use of neighborhood electric vehicles on the connecting highway or through the intersection crossing the state trunk highway or has failed to object to the use of neighborhood electric vehicles on the connecting highway or through the intersection crossing the state trunk highway.

(b) If the department makes a timely objection under par. (a) 2., no ordinance enacted under this section is valid for that connecting highway or that intersection crossing the state trunk highway.

History: 2005 a. 329; 2007 a. 33.

Cross Reference: See also ch. Trans 145, Wis. adm. code.