
Wisconsin Legislative Council

ACT MEMO



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December 15, 2021

2021 Wisconsin Act 115
[2021 Assembly Bill 297]

**Traffic Violations When
Emergency or Roadside
Response Vehicles are Present**

2021 WISCONSIN ACT 115

Very generally, 2021 Wisconsin Act 115 increases the penalties for certain traffic violations, prohibits certain cellular telephone use in an emergency or roadside response area, and requires the Department of Transportation (DOT) to conduct an advertising campaign related to certain driving hazards.

INCREASED PENALTIES FOR CERTAIN TRAFFIC VIOLATIONS

Under current law, if certain traffic violations are committed in a highway maintenance or construction area¹ or in a utility work area² while workers are at risk from traffic, the applicable minimum and maximum forfeitures are doubled.

2021 Wisconsin Act 115 also doubles the applicable minimum and maximum forfeitures for certain traffic violations committed in an emergency or roadside response area, which is defined by the act as the section of roadway within 500 feet of either an authorized emergency vehicle that is giving a visible signal or a tow truck that is displaying flashing red lamps, while workers are at risk from traffic.

More specifically, the act increases penalties for the following traffic violations:³

- Failing or refusing to comply with a lawful order, signal, or direction of a traffic officer. [s. 346.04 (1), Stats.]
- Disobeying the instructions of an official traffic sign or signal. [s. 346.04 (2), Stats.]
- Failing to yield the right-of-way at an intersection with a yield sign. [s. 346.18 (6), Stats.]
- Disobedience to a traffic-control signal. [s. 346.37, Stats.]
- Disobedience to a flashing signal. [s. 346.39, Stats.]
- Failing to stop and yield the right-of-way at a stop sign. [s. 346.46 (1), Stats.]

¹ A highway maintenance or construction area means the entire section of roadway between a first sign that provides advance warning of highway maintenance or construction work and an “END ROADWORK” or “END CONSTRUCTION” sign, or if a moving vehicle is engaged in maintenance or construction work, where traffic may return to its normal flow without impeding that work. [s. 340.01 (22e), Stats.]

² A utility work area means the entire section of roadway between a first sign that provides advance warning of work on a utility facility and an “END UTILITY WORK” sign, or if a moving vehicle is engaging in work on the utility facility, where traffic may return to its normal flow without impeding that work. [s. 340.01 (73m), Stats.]

³ The act also doubles the applicable minimum and maximum penalties for any local ordinances in strict conformity with the listed violations or with s. 346.27, Stats., relating to yielding the right-of-way to persons engaged in maintenance or construction work on a highway.

- Driving at a speed greater than what is reasonable and prudent. [s. 346.57 (2), Stats.]
- Failing to drive at an appropriate reduced speed when required by the conditions. [s. 346.57 (3), Stats.]
- Exceeding a posted speed limit in certain areas. [s. 346.57 (4) (d) to (h), Stats.]
- Exceeding a posted speed limit. [s. 346.57 (5), Stats.]
- Endangering safety by the negligent operation of a vehicle. [s. 346.62 (2), Stats.]
- Recklessly endangering the safety of another person through certain actions at a railroad crossing. [s. 346.62 (2m), Stats.]
- Causing bodily harm to another by the negligent operation of a vehicle. [s. 346.62 (3), Stats.]
- Causing great bodily harm to another by the negligent operation of a vehicle. [s. 346.62 (4), Stats.]

For those same violations, the act further increases penalties if the violation occurred in a highway maintenance or construction area, utility work area, or emergency or roadside response area where workers are at risk from traffic and bodily harm occurs. Upon conviction, the driver is subject to a fine of up to \$10,000 or imprisonment of up to nine months, or both, an order to perform between 100 and 200 hours of community service work, and an order to attend traffic safety school.⁴

CELLULAR TELEPHONE USE

Under current law, no person may drive a motor vehicle while using a cellular or other wireless telephone in a highway maintenance or construction area or in a utility work area where persons engaged in work are at risk from traffic. This prohibition includes using the telephone for a purpose other than communication but does not apply to the use of the telephone to report an emergency or to certain hands-free uses.

The act adds an emergency or roadside response area where workers are at risk from traffic to the places where cellular or other wireless telephone use is prohibited.

ADVERTISING CAMPAIGN

The act requires DOT to engage in an advertising campaign during the 2021-23 fiscal biennium. The advertising campaign is intended to acquaint the public with the hazards posed by highway construction and maintenance areas, utility areas, and emergency or roadside response areas, and the traffic laws and associated penalties related to those areas.

Effective date: December 8, 2021

Initial applicability: The act first applies to violations committed on the effective date.

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⁴ For traffic safety school, the course and mode of instruction is approved by DOT and conducted by a law enforcement agency, by an accredited institution of higher education operated by a federally recognized American Indian tribe or band, or by any regularly established safety organization. [s. 345.60, Stats.]