

(5) Any person, firm or corporation whose written application for permission to construct such lines within the limits of a highway has been refused, or has been on file with the department or local authority for 20 days and no action has been taken thereon, may file with the department or local authority a notice of appeal to the division of hearings and appeals. The department or local authority shall thereupon return all of the papers and action of the department or local authority to the division of hearings and appeals, and the division of hearings and appeals shall hear and try and determine the appeal on 10 days' notice to the department or local authority, and the applicant. The order entered by the division of hearings and appeals shall be final.

**History:** 1977 c. 29 s. 1654 (8) (d), (e); 1979 c. 34; 1981 c. 347 s. 80 (2); 1989 a. 31; 1993 a. 16, 490; 1997 a. 204; 2007 a. 63.

**Cross Reference:** See also s. Trans 200.05, Wis. adm. code.

Pipelines to transport water under sub. (1) include wastewater as well as freshwater pipelines. Review of a town's refusal to grant permission to a city to construct a sewer line was within the scope of DHA's authority under sub. (5). *Town of Barton v. Division of Hearings & Appeals*, 2002 WI App 169, 256 Wis. 2d 628, 649 N.W.2d 293, 01–1209.

**86.17 Taking water from highway streams. (1)** The general public shall have the right to use and take water from any spring, creek or running water that may be found running in or across the limits of any public highway, provided that this section shall not interfere with the tunneling or piping of water for the purpose of draining or improving lands on either side of such highway.

(2) Any person who shall wantonly interfere with the free use of the water from any spring or in any creek or stream running across or in any highway shall be guilty of a misdemeanor and be liable to any person damaged thereby for all damages sustained.

**86.18 Milwaukee County highways; location, alteration, maintenance. (1)** The county board of any county having a population of 250,000 or more may acquire, establish, lay out, relocate, widen, enlarge, extend, pave, repave, improve and maintain county trunk highways therein, and when requested by resolution adopted by the governing body of any municipality situated therein, any other highway located in such municipality; to construct and lay water pipes, sewers, curbs, gutters and all other public facilities in such highways; to make assessments of benefits and damages, levy assessments, and issue assessment certificates and bonds in the making of and paying for said improvement to the same extent as is given to cities on the same subject matter.

(2) In acquiring property for any purpose covered by sub. (1) the county board shall proceed under ch. 32, except that the board shall determine the necessity of the taking, and the county highway commissioner shall perform all the duties of the commissioners in making awards and appraisals under s. 32.05.

(3) Any party to the condemnation proceedings may appeal from the award of the county highway commissioner in the manner provided for appeals from awards of commissioners in ch. 32 and such appeal shall be heard and delivered as are appeals in ch. 32.

(4) The county highway commissioner shall have all the powers now given to the city board of public works in making assessments of benefits and damages in highway improvements, and the same proceedings shall be had and taken after the highway commissioner's report is filed with the county clerk as by s. 66.0703 is had and taken in the report of such board of public works in city assessments. Notices of both the preliminary and final reports shall be published as a class 2 notice, under ch. 985, in the official county paper, and the date of hearing in each case shall not be earlier than 5 days after the last insertion. Appeals from the final determination of the highway commissioner may be had, and shall thereafter be heard as provided in s. 66.0703 (12) and such remedy shall be exclusive.

**History:** 1989 a. 31; 1991 a. 32; 1999 a. 150 s. 672.

**86.185 Populous counties; power over county trunk highways.** Counties having a population of at least 150,000 may

exercise any corresponding power over county trunk highways that is conferred upon cities in the widening or improving and maintaining of state trunk or county trunk highways, the constructing or laying of water pipes, sewers and all other public service facilities therein, and in the levying of special assessments and issuing of assessment certificates and special improvement bonds.

**History:** 1989 a. 31.

**86.19 Highway signs, regulation, prohibition.**

(1) Except as provided in sub. (1m) or s. 84.01 (30) (g), no sign shall be placed within the limits of any street or highway except such as are necessary for the guidance or warning of traffic or as provided by ss. 60.23 (17m) and 66.0429. The authorities charged with the maintenance of streets or highways shall cause the removal therefrom and the disposal of all other signs.

(1m) Notwithstanding sub. (1), the department shall place 100 signs near highways and in waysides that display a slogan or logo, or both, developed by the department of agriculture, trade and consumer protection to promote Wisconsin agricultural products. The signs shall be placed in prominent locations where they are likely to be seen by tourists from other states, except that no sign may be placed in violation of federal law.

(1r) The department shall maintain the directional sign existing on October 29, 1999, that is located along I 43 for America's Black Holocaust Museum in Milwaukee County. The department may not charge any fee related to the sign maintained under this subsection.

(2) The department shall prescribe regulations with respect to the erection of signs on public highways. Such regulations shall have the full force of law. No advertising sign shall use prominently any words, or combination of words, commonly used for the guidance or warning of travel, nor shall any advertising sign be erected or be permitted to remain in any place or manner so as to endanger travel on the highways, either by reason of causing an obstruction to the view or otherwise.

(3) Any person who shall erect any sign on any public highway, or elsewhere in violation of any of the provisions of this section or the regulations of the department, or without the written consent of the department if the sign is to be erected on a state trunk highway, the county highway committee in the case of a county trunk highway, or the city council, village or town board in case of a street or highway maintained by a city, village or town, shall be fined not less than \$10 nor more than \$100, and for a second or subsequent violation shall be fined not less than \$10 nor more than \$500.

(4) This section shall not be construed as prohibiting the erection of such historical monuments or markers within the limits of public streets and highways as shall be approved by the department. The name of a newspaper on a newspaper tube or receptacle shall not be deemed a sign within the meaning of this section.

(5) The department shall assign to each county and local authority responsible for the placement and maintenance of signs, guide boards, mile posts, signals or markers erected for the warning, instruction or information of the public a code number which the county or local authority shall place on each warning, instruction or information device at the time of replacement or new installation of such device.

(6) At the request of any city, village or town, the department shall erect directional signs on state trunk highways at the intersection of those highways with streets or other highways where the streets or other highways lead to the city, village or town, provided the city, village or town is located within 5 miles of the intersection and provided the city, village or town agrees to pay for the installation and maintenance of the sign. The directional sign shall show the name of the city, village or town. For the purpose

**86.19 MISCELLANEOUS HIGHWAY PROVISIONS**

of this subsection, the term "intersection" includes exit ramps from any expressway or freeway or interstate highway.

**History:** 1975 c. 169; 1977 c. 29 s. 1654 (8) (c); 1977 c. 188; 1983 a. 92; 1987 a. 137 s. 6; 1987 a. 205; 1993 a. 246; 1999 a. 9; 1999 a. 150 s. 672.

**Cross Reference:** See also chs. Trans 200 and 201, Wis. adm. code.

**86.191 Advertising in highways prohibited, where.**

(1) No person shall erect, or cause to be erected, any advertising, direction, guide, warning or other sign or marker within any public highway within a distance of 1,000 feet from the intersection of any 2 or more highways, when such intersection is beyond the corporate limits of any city or villages, unless permission is first obtained from the officials charged with the maintenance of such highways. The name of a newspaper on a newspaper tube or receptacle shall not be deemed to be any advertising, direction, guide, warning or other sign or marker within the meaning of this section.

(2) In case any person shall violate the provisions of this section, the authorities in charge of the maintenance of the highway upon which such violation occurs shall promptly remove such advertising, direction, guide, warning or other sign or marker.

(3) If any signs at present exist in the public right-of-way on any highway within 1,000 feet of the intersection of any 2 or more highways or streets beyond the limits of any incorporated city or village which are, in the opinion of the officials in charge of the maintenance of such highway, a menace to the safety of the public traveling along such highways, said officials shall notify the owners of such signs to remove the same, or to remove the danger producing features, and in case the owners do not do so, or in case the owners cannot be found with reasonable effort, the authorities in charge of said highway shall remove said signs from within the right-of-way.

(4) The triangles bounded by any 2 adjacent intersecting highways and a line drawn between the points on the center lines of said highways 1,000 feet from the intersection of their center lines, are declared prohibited ground for the erection of any danger producing advertising signs, when such intersection is beyond the corporate limits of any city or village. No advertising sign, design or insignia shall hereafter be erected within said triangles which will endanger the safety of the public traveling along any highways, and if there now exist in any such triangle any advertising signs, designs, or insignia endangering the safety of the public traveling along such highways, the authorities in charge of the maintenance of such highways shall take up the matter with the owner of the sign and with the owner of the land, and shall cause the same to be removed, or to be so altered as to remove the danger producing features. Within the same triangles the authorities in charge of maintaining any road shall require the property owner to minimize the obstruction to the view across the triangle insofar as is possible, and shall make such arrangements with the property owner as will make travel on the intersecting highways as safe as is reasonably possible.

(5) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than \$25 nor more than \$100 for each offense, or by imprisonment in the county jail for a period not exceeding 30 days, or by both such fine and imprisonment in the discretion of the court.

**History:** 1991 a. 316; 1993 a. 490.

**Cross Reference:** See also ss. Trans 200.02 and 200.04, Wis. adm. code.

**86.192 Penalty for injuring guide board, markers, etc.**

(1) No person may injure, deface or remove any sign, guide board, mile post, signal or marker erected by the state or by any municipality thereof for the warning, instruction or information of the public. The following warning shall be affixed to the front of each such sign, guide board, mile post, signal or marker: "WARNING: \$25 to \$100 fine or imprisonment for removing or tampering with this sign."

(1m) No person may possess any sign, guide board, mile post, signal or marker of the type erected by the state or by any municipi-

ality for the warning, instruction or information of the public, unless the person can demonstrate that he or she obtained it in a legal manner. Possession of such a sign, guide board, mile post, signal or marker creates a rebuttable presumption of illegal possession. In this subsection, "possession" means the presence of such a sign, guide board, mile post, signal or marker on premises owned or controlled by the person, including but not limited to a rented apartment, rented room or dormitory room. Persons who voluntarily notify a law enforcement agency of the presence on their premises of such a sign, guide board, mile post, signal or marker shall be exempt from prosecution under this subsection.

(2) Any person who violates this section shall be fined \$25 for the first violation, \$100 for a subsequent violation, or imprisoned not exceeding 30 days for the first violation, or 60 days for a subsequent violation, or both fined and imprisoned in the discretion of the court. The court may, in addition, order any such person either to restore or replace any such damaged sign, mile post, signal or marker, or to pay the cost thereof.

(3) On conviction of any person of a violation of this section, the person or persons who informed against and aided in the prosecution of such offense to conviction shall be paid by the court one-half of the amount of the fine paid into the court.

(4) Any person who violates this section is guilty of a Class H felony if the injury, defacement or removal causes the death of a person.

**History:** 1975 c. 169, 421; 1997 a. 283; 2001 a. 109.

**86.195 Specific information signs. (1) DEFINITIONS.**

Unless defined differently in this section, the terms used in this section are defined in accordance with the manual of uniform traffic control devices adopted by the department under s. 84.02 (4) (e). In this section:

(am) "Business" includes an attraction, whether public or private, described in sub. (3) (e).

(ar) "Business sign" means a separately attached sign mounted on the rectangular sign panel to show the brand, symbol, trademark, or name, or combination of these, for a motorist service available on a crossroad at or near an interchange or an intersection.

(c) "Motorist service" means a business which qualifies under sub. (3).

(d) "Specific information sign" means a rectangular sign panel which displays:

1. One or more of the words "GAS", "FOOD", "LODGING", "CAMPING", or "ATTRACTION";
2. Directional information; and
3. One or more business signs.

(2) **SIGNS AND FEES.** (a) Except as provided in par. (ag), the department may authorize the erection and maintenance of a specific information sign upon the request of any person within the right-of-way of a federal-aid primary highway or within the right-of-way of a federal-aid secondary highway under the jurisdiction of the department, except that no specific information sign may be erected within any city, village or town unless the specific information sign is erected in compliance with rules promulgated by the department for such signs in a city, village or town.

(ag) On and after May 8, 1990, the department may not authorize the erection of a specific information sign under par. (a) unless the highway is one of the following highways under the jurisdiction of the department:

1. I 43 from I 90 at Beloit to USH 41 at Green Bay.
2. I 90 from the state line in Rock County to the state line in La Crosse County.
3. I 94 from the state line in Kenosha County to the state line in St. Croix County.
4. STH 11 from STH 81 west of Monroe to I 43 at Delavan.
5. STH 11 from I 43 at Elkhorn to STH 32 at Racine.