



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0502/1
EVM&TKK:sac&kjf:rs

2015 ASSEMBLY BILL 92

March 12, 2015 - Introduced by Representatives SANFELIPPO, SPIROS, WEATHERSTON, T. LARSON, KAPENGA, J. OTT and BRANDTJEN, cosponsored by Senator NASS. Referred to Committee on Judiciary.

1 **AN ACT** *to renumber and amend* 344.25 (except 344.25 (title)) and 344.65 (1)
2 (a); *to amend* 344.25 (title), 344.26 (1) (a), 344.26 (1) (b) (intro.), 344.26 (1) (b)
3 1., 344.65 (1) (b) and 344.65 (2); *to repeal and recreate* 344.26 (title); and *to*
4 **create** 344.25 (2m), 344.26 (1) (am), 344.65 (1) (a) 2., 344.65 (1) (a) 3. and
5 895.0485 of the statutes; **relating to:** penalties for violations related to the
6 motor vehicle liability insurance requirement, proof of financial responsibility,
7 and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits, with certain exceptions, a person from operating a motor vehicle on a highway unless the vehicle owner or operator has in effect a motor vehicle liability insurance policy with respect to the motor vehicle. Any person who violates this requirement may be required to forfeit not more than \$500. Current law also prohibits a person from operating a motor vehicle on a highway unless the person has in his or her immediate possession proof that he or she is in compliance with the insurance requirement. Any person who violates this provision may be required to forfeit \$10.

Also under current law, a person may not do any of the following for purposes of creating the appearance of satisfying the insurance requirement:

1. Forge, falsify, counterfeit, or fraudulently alter an insurance document.

ASSEMBLY BILL 92

2. Possess any forged, falsified, fictitious, counterfeit, or fraudulently altered insurance document.

3. Represent that an insurance document is valid and in effect, knowing or having reason to believe that the document is not valid or not in effect.

Any person who violates this provision may be required to forfeit not more than \$5,000.

This bill alters the penalties for violations of the motor vehicle insurance requirements. Under this bill, a person who violates the requirement that the owner or operator of a motor vehicle be insured is subject to the following penalties:

1. A forfeiture of not less than \$1,000 and not more than \$5,000 for a first offense.

2. A forfeiture of not less than \$2,500 nor more than \$7,500 for a second or subsequent offense occurring within three years.

3. If the person, in the course of the violation, causes bodily harm to another or damage to the property of another, a forfeiture of not less than \$5,000 nor more than \$7,500. If, however, the person committing the violation knows at the time of the violation that he or she is not appropriately insured, the person committing the violation is guilty of a Class I felony, punishable by a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both.

4. If the person, in the course of the violation, causes the death of another, a forfeiture of not less than \$7,500 nor more than \$10,000. If, however, the person committing the violation knows at the time of the violation that he or she is not appropriately insured, the person committing the violation is guilty of a Class H felony, punishable by a fine not to exceed \$10,000 or imprisonment not to exceed six years, or both.

Also under this bill, a person who violates the possession of proof of insurance requirement may be required to forfeit not less than \$25 nor more than \$125 for a first offense, not less than \$150 nor more than \$300 for the second offense occurring within three years, and not less than \$250 nor more than \$500 for the third or subsequent offense occurring within three years.

This bill also provides that a person who violates a prohibition on improperly creating the appearance of satisfying the insurance requirement may be required to forfeit not less than \$1,000 nor more than \$5,000 for a first offense and not less than \$2,500 nor more than \$7,500 for a second or subsequent offense occurring within three years.

Also under current law, if the Department of Transportation (DOT) receives a certified copy of a judgment for damages of \$500 or more arising out of a motor vehicle accident, DOT must, with certain exceptions, immediately suspend the operating privilege and all registrations of the person against whom the judgment was rendered unless the person can provide proof of financial responsibility. Proof of financial responsibility may be given by filing certification of coverage under a motor vehicle liability insurance policy with minimum limits for any single accident of \$25,000 for bodily injury to or death of one person, \$50,000 for bodily injury to or death of more than one person, and \$10,000 for property damage. Alternatively, proof of financial responsibility may be furnished by depositing with DOT \$60,000

ASSEMBLY BILL 92

in cash or certain securities with a market value of \$60,000. DOT must then hold the deposit of cash or securities to satisfy any judgment against the person making the deposit for damages resulting from the ownership, maintenance, use, or operation of a motor vehicle, including damages for bodily injury, death, or property damage.

Under this bill, if DOT receives a record of conviction for operating a motor vehicle on a highway without having in effect a motor vehicle liability insurance policy with respect to the vehicle, DOT must suspend the person's operating privilege and all registrations of the person unless the person can provide proof of financial responsibility. The proof of financial responsibility requirement remains in effect for five years from the date of conviction.

Finally, this bill prohibits a person who violates the requirement that the owner or operator of a motor vehicle be insured from recovering noneconomic damages in an action arising from a motor vehicle accident involving an insured person, regardless of who is at fault in the accident.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 344.25 (title) of the statutes is amended to read:

2 **344.25 (title) Suspension for nonpayment of judgment or certain**
3 **financial responsibility violations; exceptions.**

4 **SECTION 2.** 344.25 (except 344.25 (title)) of the statutes is renumbered 344.25
5 (1), and 344.25 (1) (f), as renumbered, is amended to read:

6 344.25 (1) (f) Notwithstanding par. (e), pars. (b) and (c) apply to a damage
7 judgment in accordance with s. 344.05 against a resident of this state which has been
8 entered by an Indian tribal court in this state.

9 **SECTION 3.** 344.25 (2m) of the statutes is created to read:

ASSEMBLY BILL 92

1 344.25 **(2m)** The secretary shall suspend a person's operating privilege and all
2 registrations of the person upon receiving a record of conviction showing that the
3 person has been convicted of an offense under s. 344.62 (1).

4 **SECTION 4.** 344.26 (title) of the statutes is repealed and recreated to read:

5 **344.26 (title) Term of suspension.**

6 **SECTION 5.** 344.26 (1) (a) of the statutes is amended to read:

7 344.26 **(1)** (a) Subject to the exceptions stated in ss. 344.25 ~~(2)~~ (1) (b) and 344.27
8 (2), any operating privilege or registration suspended or revoked under s. 344.25 (1)
9 shall remain suspended or revoked for 5 years from the date of entry of judgment or
10 until the judgment is stayed, satisfied, or discharged, whichever is earlier, and,
11 unless 3 years have elapsed since the date on which the judgment was stayed,
12 satisfied, or discharged or 8 years have elapsed since the date of entry of judgment,
13 whichever is earlier, or unless the person is a nonresident, until the person whose
14 operating privilege and registration was suspended or revoked furnishes and
15 maintains in effect proof of financial responsibility for the future.

16 **SECTION 6.** 344.26 (1) (am) of the statutes is created to read:

17 344.26 **(1)** (am) Any operating privilege or registration suspended under s.
18 344.25 (2) shall remain suspended for 5 years from the date of conviction or until the
19 person whose operating privilege and registration was suspended furnishes and
20 maintains in effect proof of financial responsibility for the future.

21 **SECTION 7.** 344.26 (1) (b) (intro.) of the statutes is amended to read:

22 344.26 **(1)** (b) (intro.) If suspension of any operating privilege or registration
23 under s. 344.25 (1) was terminated before 5 years from the date of entry of judgment
24 because an exception under s. 344.25 ~~(2)~~ (1) (b) or 344.27 (2) applied and the
25 judgment debtor's operating privilege or registration is subsequently suspended

ASSEMBLY BILL 92

1 under s. 344.25 ~~(2)~~ (1) (b) or 344.27 (3), the operating privilege or registration shall
2 remain suspended for all of the following periods:

3 **SECTION 8.** 344.26 (1) (b) 1. of the statutes is amended to read:

4 344.26 (1) (b) 1. Five years from the date of suspension under s. 344.25 ~~(2)~~ (1)
5 (b) or 344.27 (3) or until the judgment is stayed, satisfied, or discharged, whichever
6 is earlier. A suspension period that commences on the date of suspension under s.
7 344.25 ~~(2)~~ (1) (b) or 344.27 (3) under this subdivision shall be reduced by the amount
8 of time that the judgment debtor's operating privilege or registration was suspended
9 under s. 344.25 (1) before one of the exceptions under s. 344.25 ~~(2)~~ (1) (b) or 344.27
10 (2) was satisfied.

11 **SECTION 9.** 344.65 (1) (a) of the statutes is renumbered 344.65 (1) (a) 1. and
12 amended to read:

13 344.65 (1) (a) 1. Any Except as provided in subs. 2. and 3., any person who
14 violates s. 344.62 (1) may be required to forfeit not less than \$1,000 nor more than
15 \$500 \$5,000 for a first offense and not less than \$2,500 nor more than \$7,500 for a
16 second or subsequent offense occurring within 3 years.

17 **SECTION 10.** 344.65 (1) (a) 2. of the statutes is created to read:

18 344.65 (1) (a) 2. Any person who violates s. 344.62 (1) and, in the course of the
19 violation, causes bodily harm, as defined in s. 939.22 (4), to another person or damage
20 to the property of another person may be required to forfeit not less than \$5,000 nor
21 more than \$7,500, except that, if the person knows at the time of the violation that
22 he or she does not have in effect a motor vehicle liability policy with respect to the
23 vehicle being operated, the person is guilty of a Class I felony.

24 **SECTION 11.** 344.65 (1) (a) 3. of the statutes is created to read:

ASSEMBLY BILL 92

1 344.65 (1) (a) 3. Any person who violates s. 344.62 (1) and, in the course of the
2 violation, causes the death of another person may be required to forfeit not less than
3 \$7,500 nor more than \$10,000, except that, if the person knows at the time of the
4 violation that he or she does not have in effect a motor vehicle liability policy with
5 respect to the vehicle being operated, the person is guilty of a Class H felony.

6 **SECTION 12.** 344.65 (1) (b) of the statutes is amended to read:

7 344.65 (1) (b) Except as provided in par. (c), any person who violates s. 344.62
8 (2) may be required to forfeit \$10 not less than \$25 nor more than \$125 for the first
9 offense, not less than \$150 nor more than \$300 for the 2nd offense occurring within
10 3 years, and not less than \$250 nor more than \$500 for the 3rd or subsequent offense
11 occurring within 3 years.

12 **SECTION 13.** 344.65 (2) of the statutes is amended to read:

13 344.65 (2) Any person who violates s. 344.64 may be required to forfeit not less
14 than \$1,000 nor more than \$5,000 for a first offense and not less than \$2,500 nor more
15 than \$7,500 for a 2nd or subsequent offense occurring within 3 years.

16 **SECTION 14.** 895.0485 of the statutes is created to read:

17 **895.0485 Recovery by uninsured operator.** (1) In this section:

18 (a) "Motor vehicle" has the meaning given in s. 344.01 (2) (b).

19 (b) "Motor vehicle liability policy" has the meaning given in s. 344.61 (2).

20 (c) "Operator" has the meaning given in s. 344.01 (2) (c).

21 (d) "Uninsured operator" means any of the following:

22 1. A person who owns and operates a motor vehicle in violation of s. 344.62 (1).

23 2. A person who operates a motor vehicle in violation of s. 344.62 (1).

24 **(2)** An uninsured operator of a motor vehicle which is involved in an accident
25 with a motor vehicle operated by an operator in compliance with s. 344.62 (1) may

ASSEMBLY BILL 92

1 not recover noneconomic damages arising from the accident from the operator of the
2 motor vehicle operated in compliance with s. 344.62 (1), regardless of fault.

3 **(3)** In an action brought by an uninsured operator against the operator of a
4 motor vehicle in compliance with s. 344.62 (1), all of the following apply:

5 (a) Any award of damages in favor of the uninsured operator shall be reduced
6 by an amount equal to that portion of the award consisting of compensation for
7 noneconomic damages.

8 (b) If the action is tried by jury, the jury shall not be informed, directly or
9 indirectly, of the effect of operating a motor vehicle that is not in compliance with s.
10 344.62 (1) has on the recovery of noneconomic damages under this section.

11 **SECTION 15. Initial applicability.**

12 (1) The treatment of sections 344.25 (2m), 344.26 (1) (am), and 344.65 (1) (a)
13 1., 2., and 3. and (b) and (2) of the statutes first applies to violations committed on
14 the effective date of this subsection, but does not preclude the counting of other
15 violations as prior violations for purposes of sentencing a person.

16 (2) The treatment of section 895.0485 of the statutes first applies to actions or
17 special proceedings commenced on the effective date of this subsection.

18

(END)