



2017 SENATE BILL 25

February 8, 2017 - Introduced by Senators KAPENGA, CRAIG, MARKLEIN, MOULTON and TESTIN, cosponsored by Representatives SANFELIPPO, SPIROS, BRANDTJEN, JACQUE, KREMER, KUGLITSCH, MURSAU, OTT, SKOWRONSKI, THIESFELDT, TUSLER and WEATHERSTON. Referred to Committee on Insurance, Housing and Trade.

1 **AN ACT to repeal** 344.62 (2), 344.64, 344.65 (1) (b) and 344.65 (2); **to renumber**
2 **and amend** 344.25 and 344.65 (1) (a); **to amend** 165.755 (1) (b), 302.46 (1) (a),
3 344.25 (title), 344.26 (1) (a), 344.26 (1) (b) (intro.), 344.26 (1) (b) 1., 344.62 (1),
4 344.65 (1) (c), 757.05 (1) (a), 814.63 (1) (c), 814.63 (2), 814.65 (1), 814.85 (1) (a)
5 and 814.86 (1); **to repeal and recreate** 344.26 (title); and **to create** 343.21 (1)
6 (jg), 344.25 (2m), 344.26 (1) (am), 344.65 (1) (a) 2., 344.65 (1) (a) 3. and 344.65
7 (1) (a) 4. of the statutes; **relating to:** penalties for violations related to the
8 motor vehicle liability insurance requirement, proof of financial responsibility,
9 making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill changes certain penalties and requirements related to operating a motor vehicle without sufficient liability insurance.

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 sufficient 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

SENATE BILL 25

unless the person has in his or her immediate possession proof that he or she is in compliance with the insurance requirement.

Under this bill, persons who are operating a motor vehicle on certain nonhighway areas, including certain parking areas, are also required to have in effect insurance with respect to the motor vehicle.

This bill repeals the requirement that a person have in his or her immediate possession proof of compliance with insurance requirements. However, under this bill, a traffic officer must cite a person for operating without insurance if the traffic officer does not know that the person is in compliance with the insurance requirements and the person does not have in his or her immediate possession proof of compliance. A person, though, may not be convicted of operating without insurance if the person produces proof that he or she was in compliance with the insurance requirements at the time he or she was issued a citation for a violation.

This bill also alters the penalties for operating without insurance. 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 \$100 for a first offense.
2. A forfeiture of not less than \$250 nor more than \$750 for a second or subsequent offense occurring within three years.
3. If the person, in the course of a second or subsequent violation, causes great bodily harm to another, a forfeiture of not less than \$250 nor more than \$2,500.
4. If the person, in the course of violation, causes the death of another, a forfeiture of not less than \$500 nor more than \$7,500.

This bill also provides that, for a first offense, if a person obtains sufficient motor vehicle liability insurance before the person's appearance in court, the court may not impose a penalty.

This bill also eliminates the exemption of operating without insurance offenses from certain surcharges and fees that generally must be paid by persons who violate traffic laws.

Currently, if the Department of Transportation 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 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

SENATE BILL 25

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 one year for a first offense and for two years for a second or subsequent offense from the date of conviction.

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.** 165.755 (1) (b) of the statutes is amended to read:

2 165.755 (1) (b) A court may not impose the crime laboratories and drug law
3 enforcement surcharge under par. (a) for a violation of s. 101.123 (2) or (2m), ~~for a~~
4 ~~financial responsibility violation under s. 344.62 (2),~~ or for a violation of a state law
5 or municipal or county ordinance involving a nonmoving traffic violation, a violation
6 under s. 343.51 (1m) (b), or a safety belt use violation under s. 347.48 (2m).

7 **SECTION 2.** 302.46 (1) (a) of the statutes is amended to read:

8 302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law
9 or for a violation of a municipal or county ordinance except for a violation of s. 101.123
10 (2) or (2m), ~~for a financial responsibility violation under s. 344.62 (2),~~ or for a violation
11 of state laws or municipal or county ordinances involving nonmoving traffic
12 violations, violations under s. 343.51 (1m) (b), or safety belt use violations under s.
13 347.48 (2m), the court, in addition, shall impose a jail surcharge under ch. 814 in an
14 amount of 1 percent of the fine or forfeiture imposed or \$10, whichever is greater.
15 If multiple offenses are involved, the court shall determine the jail surcharge on the
16 basis of each fine or forfeiture. If a fine or forfeiture is suspended in whole or in part,
17 the court shall reduce the jail surcharge in proportion to the suspension.

18 **SECTION 3.** 343.21 (1) (jg) of the statutes is created to read:

SENATE BILL 25**SECTION 3**

1 343.21 (1) (jg) In addition to any other fee under this subsection, for
2 reinstatement of an operating privilege previously revoked or suspended resulting
3 from the conviction of an offense under s. 344.62 (1), \$18.

4 **SECTION 4.** 344.25 (title) of the statutes is amended to read:

5 **344.25 (title) Suspension for nonpayment of judgment or certain**
6 **financial responsibility violations; exceptions.**

7 **SECTION 5.** 344.25 of the statutes is renumbered 344.25 (1), and 344.25 (1) (f),
8 as renumbered, is amended to read:

9 344.25 (1) (f) Notwithstanding sub. (5), ~~subs. (2) and (3)~~ par. (e), pars. (b) and
10 (c) apply to a damage judgment in accordance with s. 344.05 against a resident of this
11 state which has been entered by an Indian tribal court in this state.

12 **SECTION 6.** 344.25 (2m) of the statutes is created to read:

13 **344.25 (2m)** The secretary shall suspend a person's operating privilege and all
14 registrations of the person upon receiving a record of conviction showing that the
15 person has been convicted of an offense under s. 344.62 (1).

16 **SECTION 7.** 344.26 (title) of the statutes is repealed and recreated to read:

17 **344.26 (title) Term of suspension.**

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

19 344.26 (1) (a) Subject to the exceptions stated in ss. 344.25 ~~(2)~~ (1) (b) and 344.27
20 (2), any operating privilege or registration suspended or revoked under s. 344.25 (1)
21 shall remain suspended or revoked for 5 years from the date of entry of judgment or
22 until the judgment is stayed, satisfied, or discharged, whichever is earlier, and,
23 unless 3 years have elapsed since the date on which the judgment was stayed,
24 satisfied, or discharged or 8 years have elapsed since the date of entry of judgment,
25 whichever is earlier, or unless the person is a nonresident, until the person whose

SENATE BILL 25

1 operating privilege and registration was suspended or revoked furnishes and
2 maintains in effect proof of financial responsibility for the future.

3 **SECTION 9.** 344.26 (1) (am) of the statutes is created to read:

4 344.26 (1) (am) 1. Any operating privilege or registration suspended under s.
5 344.25 (2m) for a first offense under s. 344.62 (1) shall remain suspended for one year
6 from the date of conviction or until the person whose operating privilege and
7 registration was suspended furnishes and maintains in effect proof of financial
8 responsibility for the future.

9 2. Any operating privilege or registration suspended under s. 344.25 (2m) for
10 a 2nd or subsequent offense under s. 344.62 (1) shall remain suspended for 2 years
11 from the date of conviction or until the person whose operating privilege and
12 registration was suspended furnishes and maintains in effect proof of financial
13 responsibility for the future.

14 **SECTION 10.** 344.26 (1) (b) (intro.) of the statutes is amended to read:

15 344.26 (1) (b) (intro.) If suspension of any operating privilege or registration
16 under s. 344.25 (1) was terminated before 5 years from the date of entry of judgment
17 because an exception under s. 344.25 ~~(2)~~ (1) (b) or 344.27 (2) applied and the
18 judgment debtor's operating privilege or registration is subsequently suspended
19 under s. 344.25 ~~(2)~~ (1) (b) or 344.27 (3), the operating privilege or registration shall
20 remain suspended for all of the following periods:

21 **SECTION 11.** 344.26 (1) (b) 1. of the statutes is amended to read:

22 344.26 (1) (b) 1. Five years from the date of suspension under s. 344.25 ~~(2)~~ (1)
23 (b) or 344.27 (3) or until the judgment is stayed, satisfied, or discharged, whichever
24 is earlier. A suspension period that commences on the date of suspension under s.
25 344.25 ~~(2)~~ (1) (b) or 344.27 (3) under this subdivision shall be reduced by the amount

SENATE BILL 25**SECTION 11**

1 of time that the judgment debtor's operating privilege or registration was suspended
2 under s. 344.25 (1) before one of the exceptions under s. 344.25 ~~(2)~~ (1) (b) or 344.27
3 (2) was satisfied.

4 **SECTION 12.** 344.62 (1) of the statutes is amended to read:

5 344.62 (1) Except as provided in s. 344.63, no person may operate a motor
6 vehicle upon a highway or upon premises held out to the public for the use of their
7 motor vehicles, premises provided by employers to employees for the use of their
8 motor vehicles, or premises provided to tenants of rental housing in buildings of 4 or
9 more units for the use of their motor vehicles in this state unless the owner or
10 operator of the vehicle has in effect a motor vehicle liability policy with respect to the
11 vehicle being operated. A traffic officer shall cite a person under this subsection if
12 the traffic officer does not know that the person is operating his or her motor vehicle
13 in compliance with this subsection and the person does not have in his or her
14 immediate possession proof of compliance with this subsection. At the time that a
15 citation is issued for a violation of this subsection, the law enforcement officer issuing
16 the citation shall inform the person to whom the citation is issued that the penalty
17 amount may be reduced if the person obtains a motor vehicle liability policy with
18 respect to the motor vehicle operated in the violation no later than the time of the
19 person's appearance in court.

20 **SECTION 13.** 344.62 (2) of the statutes is repealed.

21 **SECTION 14.** 344.64 of the statutes is repealed.

22 **SECTION 15.** 344.65 (1) (a) of the statutes is renumbered 344.65 (1) (a) 1. and
23 amended to read:

24 344.65 (1) (a) 1. Any Except as provided in subds. 2. to 4., any person who
25 violates s. 344.62 (1) may shall be required to forfeit ~~not more than \$500~~ \$100 for a

SENATE BILL 25

1 first offense and not less than \$250, plus costs, fees, and surcharges as provided in
2 s. 345.47 (1), nor more than \$750, plus costs, fees, and surcharges as provided in s.
3 345.47 (1), for a 2nd or subsequent offense occurring within 3 years.
4 Notwithstanding s. 345.47 (1), the court may not impose costs, fees, or surcharges for
5 a first offense under this subdivision.

6 **SECTION 16.** 344.65 (1) (a) 2. of the statutes is created to read:

7 344.65 (1) (a) 2. Any person who commits a 2nd or subsequent violation of s.
8 344.62 (1) and, in the course of the violation, causes great bodily harm, as defined in
9 s. 939.22 (14), to another person may be required to forfeit not less than \$250, plus
10 costs, fees, and surcharges as provided in s. 345.47 (1), nor more than \$2,500, plus
11 costs, fees, and surcharges as provided in s. 345.47 (1).

12 **SECTION 17.** 344.65 (1) (a) 3. of the statutes is created to read:

13 344.65 (1) (a) 3. Any person who violates s. 344.62 (1) and, in the course of the
14 violation, causes the death of another person may be required to forfeit not less than
15 \$500, plus costs, fees, and surcharges as provided in s. 345.47 (1), nor more than
16 \$7,500, plus costs, fees, and surcharges as provided in s. 345.47 (1).

17 **SECTION 18.** 344.65 (1) (a) 4. of the statutes is created to read:

18 344.65 (1) (a) 4. If, no later than the time of the person's appearance in court,
19 the person provides proof that he or she currently has in effect a motor vehicle
20 liability policy with respect to the motor vehicle operated in the alleged violation of
21 s. 344.62 (1) for a person's first violation of s. 344.62 (1) in the person's lifetime, the
22 court may not impose a penalty or any cost, fee, or surcharge associated with the
23 violation. This proof may be provided to the clerk of courts in the county where the
24 offense allegedly occurred. This subdivision does not apply to a violation to which
25 subd. 3. applies.

SENATE BILL 25**SECTION 19**

1 **SECTION 19.** 344.65 (1) (b) of the statutes is repealed.

2 **SECTION 20.** 344.65 (1) (c) of the statutes is amended to read:

3 344.65 (1) (c) No person charged with violating s. 344.62 ~~(2)~~ (1) may be
4 convicted if the person produces proof that he or she was in compliance with s. 344.62
5 (1) at the time the person was issued a uniform traffic citation for ~~violating s. 344.62~~
6 ~~(2) the violation~~. This proof may be produced ~~either~~ at the time of the person's
7 appearance in court in response to the citation; if provided before the time of the
8 person's appearance in court, to the clerk of courts in the county where the offense
9 allegedly occurred; or, if provided within 10 days of the citation, in the office of the
10 traffic officer issuing the citation. This proof may be produced in either paper or
11 electronic format, including by display of electronic images on a cellular telephone
12 or other electronic device. If this proof is displayed in electronic format on any
13 cellular telephone or other electronic device, the person to whom the proof is
14 displayed may not view, and producing proof in electronic format is not considered
15 consent for the person to view, any content on the telephone or other device except
16 the proof required ~~under s. 344.62 (2)~~ to demonstrate compliance with s. 344.62 (1).

17 **SECTION 21.** 344.65 (2) of the statutes is repealed.

18 **SECTION 22.** 757.05 (1) (a) of the statutes is amended to read:

19 757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of
20 state law or for a violation of a municipal or county ordinance except for a violation
21 of s. 101.123 (2) or (2m), ~~for a financial responsibility violation under s. 344.62 (2),~~
22 or for a violation of state laws or municipal or county ordinances involving
23 nonmoving traffic violations, violations under s. 343.51 (1m) (b), or safety belt use
24 violations under s. 347.48 (2m), there shall be imposed in addition a penalty
25 surcharge under ch. 814 in an amount of 26 percent of the fine or forfeiture imposed.

SENATE BILL 25

1 If multiple offenses are involved, the penalty surcharge shall be based upon the total
2 fine or forfeiture for all offenses. When a fine or forfeiture is suspended in whole or
3 in part, the penalty surcharge shall be reduced in proportion to the suspension.

4 **SECTION 23.** 814.63 (1) (c) of the statutes is amended to read:

5 814.63 (1) (c) This subsection does not apply to an action for a violation of s.
6 101.123 (2) or (2m), ~~for a financial responsibility violation under s. 344.62 (2), for a~~
7 violation under s. 343.51 (1m) (b), or for a safety belt use violation under s. 347.48
8 (2m).

9 **SECTION 24.** 814.63 (2) of the statutes is amended to read:

10 814.63 (2) Upon the disposition of a forfeiture action in circuit court for
11 violation of a county, town, city, village, town sanitary district, or public inland lake
12 protection and rehabilitation district ordinance, ~~except for an action for a financial~~
13 ~~responsibility violation under s. 344.62 (2) or for a violation under s. 343.51 (1m) (b)~~
14 or a safety belt use violation under s. 347.48 (2m), the county, town, city, village, town
15 sanitary district, or public inland lake protection and rehabilitation district shall pay
16 a nonrefundable fee of \$5 to the clerk of circuit court.

17 **SECTION 25.** 814.65 (1) of the statutes is amended to read:

18 814.65 (1) COURT COSTS. In a municipal court action, ~~except for a financial~~
19 ~~responsibility violation under s. 344.62 (2) or for a violation of an ordinance in~~
20 conformity with s. 343.51 (1m) (b) or 347.48 (2m), the municipal judge shall collect
21 a fee of not less than \$15 nor more than \$38 on each separate matter, whether it is
22 on default of appearance, a plea of guilty or no contest, on issuance of a warrant or
23 summons, or the action is tried as a contested matter. Of each fee received by the
24 judge under this subsection, the municipal treasurer shall pay monthly \$5 to the

SENATE BILL 25**SECTION 25**

1 secretary of administration for deposit in the general fund and shall retain the
2 balance for the use of the municipality.

3 **SECTION 26.** 814.85 (1) (a) of the statutes is amended to read:

4 814.85 (1) (a) ~~Except for an action for a financial responsibility violation under~~
5 ~~s. 344.62 (2), or~~ for a violation under s. 343.51 (1m) (b) or a safety belt use violation
6 under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$68 court
7 support services surcharge from any person, including any governmental unit as
8 defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am) or 814.63
9 (1).

10 **SECTION 27.** 814.86 (1) of the statutes is amended to read:

11 814.86 (1) ~~Except for an action for a financial responsibility violation under s.~~
12 ~~344.62 (2), or~~ for a violation under s. 343.51 (1m) (b) or a safety belt use violation
13 under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$21.50 justice
14 information system surcharge from any person, including any governmental unit, as
15 defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62
16 (1), (2), or (3) (a) or (b), or 814.63 (1). The justice information system surcharge is in
17 addition to the surcharge listed in sub. (1m).

18 **SECTION 28. Nonstatutory provisions.**

19 (1) Notwithstanding section 16.42 (1) (e) of the statutes, if this subsection takes
20 effect in fiscal year 2016-17, in submitting information under section 16.42 of the
21 statutes for purposes of the 2017-19 biennial budget bill, the department of
22 transportation shall submit information concerning the appropriation under section
23 20.395 (5) (cq) of the statutes as though the increase in the dollar amount of that
24 appropriation by SECTION 29 (1) of this act had not been made.

25 **SECTION 29. Fiscal changes.**

