



1999 SENATE BILL 31

February 3, 1999 - Introduced by Senators MOEN, DECKER, ERPENBACH, JAUCH, BURKE, GROBSCHMIDT, ROBSON, ROESSLER and ROSENZWEIG, cosponsored by Representatives GUNDERSON, CULLEN, KRUG, TURNER, ZIEGELBAUER, J. LEHMAN, RYBA, KREUSER, BOYLE, PLALE, PLOUFF, BRANDEMUEHL, LASSA, STEINBRINK and BLACK. Referred to Committee on Insurance, Tourism, Transportation and Corrections.

1 **AN ACT to amend** 165.87 (2) (a), 194.41 (1), 302.46 (1) (a), 344.15 (1), 344.15 (2)
2 (intro.), 344.15 (4), 344.15 (5), 344.32 (1) (intro.), 344.33 (1), 344.35 (title),
3 344.35 (1), 344.35 (2), 344.51 (1m), 345.61 (1) (a), 345.61 (2) (c), 345.61 (3),
4 346.73, 814.63 (1) (c), 814.63 (2), 814.634 (1) (a), 814.635 (1) and 814.65 (1); and
5 **to create** 344.10 of the statutes; **relating to:** assuring financial responsibility
6 for the operation of motor vehicles, granting rule-making authority and
7 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the department of transportation (DOT) is required to notify the operator or owner of a motor vehicle that is involved in an accident that results in injury, death or property damage of \$500 or more and to obtain a deposit of security for the accident. A deposit is not required if the person can provide proof of financial responsibility (an applicable motor vehicle liability insurance policy or bond was in effect at the time of the accident providing not less than the following amounts for any single accident: \$25,000 for one person, \$50,000 for more than one person and \$10,000 for property damage).

With certain exceptions, failure to provide proof of financial responsibility or a deposit of security after an accident results in revocation of the operator's motor vehicle operating privilege or of the registration of any vehicles registered by the

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owner of the vehicle involved in the accident. Any revocation continues until the person provides a deposit of security or otherwise clears his or her liability or a year elapses without an action being commenced as a result of the accident.

The person must demonstrate proof of financial responsibility for the future before the person's operating privilege or registration is renewed or reinstated and must maintain that proof for three years. Proof of financial responsibility for the future may be demonstrated by having an insurance policy or bond in the same amounts as are required at the time of an accident or by maintaining a deposit of \$60,000 in cash or securities with DOT.

This bill expands the financial responsibility law by prohibiting any person from operating a motor vehicle upon a highway in this state unless the owner or operator of the vehicle assures financial responsibility for the operation of the vehicle by:

1. Having in effect a motor vehicle liability insurance policy or bond providing not less than the following amounts for any single accident: \$25,000 for one person, \$50,000 for more than one person and \$10,000 for property damage; or
2. Maintaining a deposit of \$60,000 in cash or securities with DOT.

These insurance policy, bond and deposit amounts are the same amounts as are required under current law as proof of financial responsibility for the future. Any person convicted of failing to assure financial responsibility for the operation of a motor vehicle shall forfeit not more than \$500.

The bill provides exceptions for vehicles that are owned by self-insurers, persons who are required to insure the vehicle under other provisions of law or vehicles owned by or leased to a governmental unit, if being operated with the permission of the owner or lessee.

The bill also requires any person operating a motor vehicle upon a highway in this state to carry proof that financial responsibility for the operation of the vehicle has been assured or that he or she is exempt from this financial responsibility requirement, and to provide such proof upon demand from any law enforcement officer. Any person convicted of failing to carry such proof may be required to forfeit \$10, but no additional fees, costs or assessments may be collected. DOT is required to include notification of both of these requirements and penalties with each operator's license that it issues.

Finally, the bill prohibits law enforcement officers from stopping or inspecting a motor vehicle solely to determine whether the vehicle operator has assured financial responsibility for the operation of the vehicle or is in compliance with the requirement of carrying proof with respect to financial responsibility.

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.** 165.87 (2) (a) of the statutes is amended to read:

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1 165.87 (2) (a) Whenever a court imposes a fine or forfeiture for a violation of
2 state law or for a violation of a municipal or county ordinance except for a violation
3 of s. 101.123 (2) (a), (am) 1. or (bm) or (5) or state laws or municipal or county
4 ordinances involving nonmoving traffic violations, financial responsibility violations
5 under s. 344.10 (1) (a) 2. or safety belt use violations under s. 347.48 (2m), there shall
6 be imposed in addition a penalty assessment in an amount of 23% of the fine or
7 forfeiture imposed. If multiple offenses are involved, the penalty assessment shall
8 be based upon the total fine or forfeiture for all offenses. When a fine or forfeiture
9 is suspended in whole or in part, the penalty assessment shall be reduced in
10 proportion to the suspension.

11 **SECTION 2.** 194.41 (1) of the statutes is amended to read:

12 194.41 (1) No permit or vehicle registration may be issued to a common motor
13 carrier of property, contract motor carrier or rental company, no permit or vehicle
14 registration may remain in force to operate any motor vehicle under the authority
15 of this chapter and no vehicle registration may be issued or remain in force for a
16 semitrailer unless the carrier or rental company has on file with the department and
17 in effect an approved certificate for a policy of insurance or other written contract in
18 such form and containing such terms and conditions as may be approved by the
19 department issued by an insurer authorized to do a surety or ~~automobile~~ motor
20 vehicle liability business in this state under which the insurer assumes the liability
21 prescribed by this section with respect to the operation of such motor vehicles. The
22 certificate or other contract is subject to the approval of the department and shall
23 provide that the insurer shall be directly liable for and shall pay all damages for
24 injuries to or for the death of persons or for injuries to or destruction of property that
25 may be recovered against the owner or operator of any such motor vehicles by reason

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1 of the negligent operation thereof in such amount as the department may require.
2 Liability may be restricted so as to be inapplicable to damage claims on account of
3 injury to or destruction of property transported, but the department may require a
4 certificate or other contract protecting the owner of the property transported by
5 carriers from loss or damage in the amount and under the conditions as the
6 department may require. No permit or vehicle registration may be issued to a
7 common motor carrier of passengers by any motor vehicle, or other carrier of
8 passengers by motor bus, except those registered in accordance with s. 341.26 (2) (a)
9 and (d), and no permit or vehicle registration may remain in force to operate any
10 motor vehicle unless it has on file with the department a like certificate or other
11 contract in the form and containing the terms and conditions as may be approved by
12 the department for the payment of damages for injuries to property and injuries to
13 or for the death of persons, including passengers, in the amounts as the department
14 may require.

15 **SECTION 3.** 302.46 (1) (a) of the statutes is amended to read:

16 302.46 (1) (a) ~~On or after October 1, 1987, if~~ If a court imposes a fine or forfeiture
17 for a violation of state law or for a violation of a municipal or county ordinance except
18 for a violation of s. 101.123 (2) (a), (am) 1. or (bm) or (5) or state laws or municipal
19 or county ordinances involving nonmoving traffic violations, financial responsibility
20 violations under s. 344.10 (1) (a) 2. or safety belt use violations under s. 347.48 (2m),
21 the court, in addition, shall impose a jail assessment in an amount of 1% of the fine
22 or forfeiture imposed or \$10, whichever is greater. If multiple offenses are involved,
23 the court shall determine the jail assessment on the basis of each fine or forfeiture.
24 If a fine or forfeiture is suspended in whole or in part, the court shall reduce the jail
25 assessment in proportion to the suspension.

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1 **SECTION 4.** 344.10 of the statutes is created to read:

2 **344.10 Compulsory financial responsibility; limits and penalties. (1)**

3 (a) 1. No person may operate a motor vehicle upon a highway in this state unless the
4 owner or operator has in effect a motor vehicle liability policy or bond for the motor
5 vehicle, which meets the requirements under s. 344.15, insuring against loss
6 resulting from liability imposed by law for bodily injury, death and property damage
7 sustained by any person arising out of the ownership, maintenance, operation or use
8 of the motor vehicle.

9 2. No person may operate a motor vehicle upon a highway in this state unless
10 the person has in his or her immediate possession at all times while operating the
11 vehicle proof that he or she is in compliance with subd. 1. or that the requirements
12 of subd. 1. do not apply to him or her. The operator of the motor vehicle shall display
13 the proof required under this subdivision upon demand from any law enforcement
14 officer.

15 (b) 1. No person charged with violating par. (a) 1. may be convicted if the person
16 produces proof that he or she was in compliance with par. (a) 1. or that the
17 requirements of par. (a) 1. did not apply to him or her at the time of the arrest. Such
18 proof may be produced either at the time of the person's appearance in court in
19 response to the uniform traffic citation, or in the office of the arresting officer within
20 5 days after the date of issuance of the uniform traffic citation.

21 2. Proof of compliance with par. (a) 1. may be evidenced by display of the motor
22 vehicle policy or bond in effect for the motor vehicle under s. 344.15, a copy of that
23 policy or bond or an identification card issued to the person by the insurer indicating
24 that the policy or bond is in effect or by display of certification of insurance under s.
25 344.31 or a copy of that certification.

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1 3. The department shall promulgate a rule specifying the form of proof that
2 may be displayed by a person under par. (c) to show that the requirements under par.
3 (a) 1. do not apply to him or her.

4 (c) Paragraph (a) 1. does not apply to:

5 1. Any person operating a vehicle owned by a self-insurer under s. 344.16 if
6 operating with the owner's permission.

7 2. Any person operating a vehicle insured as required by s. 121.53, 194.41 or
8 194.42 if operating with the owner's permission.

9 3. Any person who has filed proof of financial responsibility as provided under
10 sub. (2) or any person operating a vehicle owned by the person who has deposited
11 money or security if operating with the owner's permission.

12 4. The operator of a vehicle owned by or leased to the United States, this or
13 another state or any county or municipality of this or another state if operating with
14 the owner's or lessee's permission.

15 **(2)** Proof of financial responsibility may be evidenced by a deposit of money or
16 securities in the amount, form and manner specified in s. 344.37.

17 **(3)** Notwithstanding s. 349.02, a law enforcement officer may not stop or
18 inspect a vehicle solely to determine compliance with sub. (1) (a) 1. or 2. or both or
19 a local ordinance in conformity with sub. (1) (a) 1. or 2. or both. This subsection does
20 not limit the authority of a law enforcement officer to issue a citation for a violation
21 of sub. (1) (a) 1. or 2. or both or a local ordinance in conformity with sub. (1) (a) 1. or
22 2. or both observed in the course of a stop or inspection made for other purposes,
23 except that a law enforcement officer may not take a person into physical custody
24 solely for a violation of sub. (1) (a) 1. or 2. or both or a local ordinance in conformity
25 with sub. (1) (a) 1. or 2. or both.

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1 (4) The department shall include with each operator's license issued under ch.
2 343 notification of the requirements and penalties under this section.

3 (5) (a) Any person who violates sub. (1) (a) 1. shall forfeit not more than \$500.

4 (b) Any person who violates sub. (1) (a) 2. may be required to forfeit \$10.

5 **SECTION 5.** 344.15 (1) of the statutes is amended to read:

6 344.15 (1) No policy or bond is effective under s. 344.10 or 344.14 unless issued
7 by an insurer authorized to do ~~an automobile~~ a motor vehicle liability or surety
8 business in this state, except as provided in sub. (2), or unless the policy or bond is
9 subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of
10 interest and costs, of not less than \$25,000 because of bodily injury to or death of one
11 person in any one accident and, subject to that limit for one person, to a limit of not
12 less than \$50,000 because of bodily injury to or death of 2 or more persons in any one
13 accident and, if the accident has resulted in injury to or destruction of property, to
14 a limit of not less than \$10,000 because of injury to or destruction of property of
15 others in any one accident.

16 **SECTION 6.** 344.15 (2) (intro.) of the statutes is amended to read:

17 344.15 (2) (intro.) A policy or bond with respect to a vehicle which was not
18 registered in this state or was registered elsewhere at the time of the effective date
19 of the policy or bond or the most recent renewal thereof may be effective under s.
20 344.10 or 344.14 even though not issued by an insurer authorized to do ~~an automobile~~
21 a motor vehicle liability or surety business in this state if the following conditions are
22 complied with:

23 **SECTION 7.** 344.15 (4) of the statutes is amended to read:

24 344.15 (4) After receipt of the report of an accident of the type specified in s.
25 344.12, the secretary may forward to the insurer named therein, that portion of the

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1 report or other notice which pertains to ~~an automobile~~ a motor vehicle liability policy
2 or bond. The secretary shall assume that ~~an automobile~~ a motor vehicle liability
3 policy or bond as described in this section was in effect and applied to both the owner
4 and operator with respect to the accident unless the insurer notifies the secretary
5 otherwise within 30 days from the mailing to the insurer of that portion of the report
6 or other notice pertaining to the ~~automobile~~ motor vehicle liability policy or bond.
7 Upon receipt of notice from the insurer that ~~an automobile~~ a motor vehicle liability
8 policy or bond was in effect as to the owner only, the operator only or was not in effect
9 as to either of them, the secretary shall within the remainder of the 90-day period
10 specified in s. 344.13 (3) require the owner or operator or both, whichever is
11 applicable, to deposit security pursuant to this chapter. As respects permission to
12 operate the vehicle, the insurer may correct the report or other notice only if it files
13 with the secretary within the 30-day period specified in this subsection an affidavit
14 signed by the owner stating that the operator did not have the owner's permission
15 to operate the vehicle. Where the insurer's failure to notify the secretary within 30
16 days of a correction in that portion of the report or other notice pertaining to ~~an~~
17 ~~automobile~~ a motor vehicle liability policy or bond is caused by fraud, the insurer
18 shall notify the secretary of the correction within 30 days of the time the fraud is
19 discovered.

20 **SECTION 8.** 344.15 (5) of the statutes is amended to read:

21 344.15 (5) Nothing in this chapter shall be construed to impose any obligation
22 not otherwise assumed by the insurer in its ~~automobile~~ motor vehicle liability policy
23 or bond except that if no correction is made in the report or other notice within 30
24 days after it is mailed to the insurer, the insurer, except in case of fraud, whenever
25 such fraud may occur, is estopped from using as a defense to its liability the insured's

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1 failure to give permission to the operator or a violation of the purposes of use specified
2 in the automobile motor vehicle liability policy or bond or the use of the vehicle
3 beyond agreed geographical limits.

4 **SECTION 9.** 344.32 (1) (intro.) of the statutes is amended to read:

5 344.32 (1) (intro.) A nonresident may give proof of financial responsibility by
6 filing with the secretary a written certification of an insurer authorized to transact
7 ~~an automobile~~ a motor vehicle liability or surety business in the state in which the
8 person resides or by transmitting such certification to the secretary by another
9 means approved by the secretary, provided the certification otherwise conforms to
10 this chapter. The secretary shall accept the certification if the insurer complies with
11 the following with respect to the policies so certified:

12 **SECTION 10.** 344.33 (1) of the statutes is amended to read:

13 344.33 (1) CERTIFICATION. In ~~this chapter~~ ss. 344.30 to 344.34, “motor vehicle
14 liability policy” means a motor vehicle policy of liability insurance, certified as
15 provided in s. 344.31 or 344.32 as proof of financial responsibility for the future, and
16 issued, except as otherwise provided in s. 344.32, by an insurer authorized to do ~~an~~
17 ~~automobile~~ a motor vehicle liability business in this state to or for the benefit of the
18 person named in the policy as the insured.

19 **SECTION 11.** 344.35 (title) of the statutes is amended to read:

20 **344.35** (title) ~~This chapter~~ **Section 344.33 not to affect other policies.**

21 **SECTION 12.** 344.35 (1) of the statutes is amended to read:

22 344.35 (1) ~~This chapter~~ Section 344.33 does not apply to or affect policies of
23 ~~automobile~~ motor vehicle insurance against liability which may now or hereafter be
24 required by any other law of this state. If such policies contain an agreement or are

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1 endorsed to conform to the requirements of ~~this chapter~~ s. 344.33, they may be
2 certified as proof of financial responsibility under this chapter.

3 **SECTION 13.** 344.35 (2) of the statutes is amended to read:

4 344.35 (2) ~~This chapter~~ Section 344.33 does not apply to or affect policies
5 insuring solely the insured named in the policy against liability resulting from the
6 maintenance or use by persons in the insured's employ or on the insured's behalf of
7 motor vehicles not owned by the insured.

8 **SECTION 14.** 344.51 (1m) of the statutes is amended to read:

9 344.51 (1m) No lessor or rental company may for compensation rent or lease
10 any motor vehicle unless there is filed with the department on a form prescribed by
11 the department a certificate for a good and sufficient bond or policy of insurance
12 issued by an insurer authorized to do ~~an automobile~~ a motor vehicle liability
13 insurance or surety business in this state. The certificate shall provide that the
14 insurer which issued it will be liable for damages caused by the negligent operation
15 of the motor vehicle in the amounts set forth in s. 344.01 (2) (d). No lessor or rental
16 company complying with this subsection, and no lessor or rental company entering
17 into or acquiring an interest in any contract for the rental or leasing of a motor vehicle
18 for which any other lessor or rental company has complied with this subsection, is
19 liable for damages caused by the negligent operation of the motor vehicle by another
20 person.

21 **SECTION 15.** 345.61 (1) (a) of the statutes is amended to read:

22 345.61 (1) (a) Any domestic or foreign surety company which has qualified to
23 transact surety business in this state may, in any year, become surety in an amount
24 not to exceed \$200 with respect to any guaranteed arrest bond certificates issued in
25 such year by an automobile club, association or by an insurance company authorized

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1 to write ~~automobile~~ motor vehicle liability insurance within this state, by filing with
2 the commissioner of insurance an undertaking thus to become surety.

3 **SECTION 16.** 345.61 (2) (c) of the statutes is amended to read:

4 345.61 (2) (c) "Guaranteed arrest bond certificate" as used in this section means
5 any printed card or other certificate issued by an automobile club, association or
6 insurance company to any of its members or insureds, which card or certificate is
7 signed by the member or insureds and contains a printed statement that the
8 automobile club, association or insurance company and a surety company, or an
9 insurance company authorized to transact both ~~automobile~~ motor vehicle liability
10 insurance and surety business, guarantee the appearance of the persons whose
11 signature appears on the card or certificate and that they will in the event of failure
12 of the person to appear in court at the time of trial, pay any fine or forfeiture imposed
13 on the person, including the penalty assessment required by s. 165.87, the jail
14 assessment required by s. 302.46 (1), the railroad crossing improvement assessment
15 required by s. 346.177, 346.495 or 346.65 (4r) and the crime laboratories and drug
16 law enforcement assessment required by s. 165.755, in an amount not exceeding
17 \$200, or \$1,000 as provided in sub. (1) (b).

18 **SECTION 17.** 345.61 (3) of the statutes is amended to read:

19 345.61 (3) Any guaranteed arrest bond certificate with respect to which a
20 surety company has become surety, or a guaranteed arrest bond certificate issued by
21 an insurance company authorized to transact both ~~automobile~~ motor vehicle liability
22 insurance and surety business within this state as herein provided, shall, when
23 posted by the person whose signature appears thereon, be accepted in lieu of cash bail
24 or other bond in an amount not to exceed \$200, or \$1,000 as provided in sub. (1) (b),
25 as a bail bond, to guarantee the appearance of such person in any court in this state,

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1 including all municipal courts in this state, at such time as may be required by such
2 court, when the person is arrested for violation of any vehicle law of this state or any
3 motor vehicle ordinance of any county or municipality in this state except for the
4 offense of driving under the influence of intoxicating liquors or of drugs or for any
5 felony committed prior to the date of expiration shown on such guaranteed arrest
6 bond certificates; provided, that any such guaranteed arrest bond certificates so
7 posted as bail bond in any court in this state shall be subject to the forfeiture and
8 enforcement provisions with respect to bail bonds in criminal cases as otherwise
9 provided by law or as hereafter may be provided by law, and that any such
10 guaranteed arrest bond certificate posted as a bail bond in any municipal court of this
11 state shall be subject to the forfeiture and enforcement provisions, if any, of the
12 charter or ordinance of the particular county or municipality pertaining to bail bonds
13 posted.

14 **SECTION 18.** 346.73 of the statutes is amended to read:

15 **346.73 Accident reports not to be used in trial.** Notwithstanding s. 346.70
16 (4) (f), accident reports required to be filed with or transmitted to the department or
17 a county or municipal authority shall not be used as evidence in any judicial trial,
18 civil or criminal, arising out of an accident, except that such reports may be used as
19 evidence in a trial for a violation of s. 344.10 or in any administrative proceeding
20 conducted by the department. The department shall furnish upon demand of any
21 person who has or claims to have made such a report, or upon demand of any court,
22 a certificate showing that a specified accident report has or has not been made to the
23 department solely to prove a compliance or a failure to comply with the requirement
24 that such a report be made to the department.

25 **SECTION 19.** 814.63 (1) (c) of the statutes is amended to read:

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1 814.63 (1) (c) This subsection does not apply to an action for a violation of s.
2 101.123 (2) (a), (am) 1. or (bm) or (5), a financial responsibility violation under s.
3 344.10 (1) (a) 2. or a safety belt use violation under s. 347.48 (2m).

4 **SECTION 20.** 814.63 (2) of the statutes is amended to read:

5 814.63 (2) Upon the disposition of a forfeiture action in circuit court for
6 violation of a county, town, city, village, town sanitary district or public inland lake
7 protection and rehabilitation district ordinance, except an action for a financial
8 responsibility violation under s. 344.10 (1) (a) 2. or a safety belt use violation under
9 s. 347.48 (2m), the county, town, city, village, town sanitary district or public inland
10 lake protection and rehabilitation district shall pay a nonrefundable fee of \$5 to the
11 clerk of circuit court.

12 **SECTION 21.** 814.634 (1) (a) of the statutes is amended to read:

13 814.634 (1) (a) Except for an action for a financial responsibility violation
14 under s. 344.10 (1) (a) 2. or a safety belt use violation under s. 347.48 (2m), the clerk
15 of circuit court shall charge and collect a \$40 court support services fee from any
16 person, including any governmental unit as defined in s. 108.02 (17), paying a fee
17 under s. 814.61 (1) (a), (3) or (8) (am) or 814.63 (1).

18 **SECTION 22.** 814.635 (1) of the statutes is amended to read:

19 814.635 (1) Except for an action for a financial responsibility violation under
20 s. 344.10 (1) (a) 2. or a safety belt use violation under s. 347.48 (2m), the clerk of
21 circuit court shall charge and collect a \$7 justice information system fee from any
22 person, including any governmental unit as defined in s. 108.02 (17), paying a fee
23 under s. 814.61 (1) (a), (3) or (8) (am), 814.62 (1), (2) or (3) (a) or (b) or 814.63 (1). The
24 justice information system fee is in addition to the other fees listed in this section.

25 **SECTION 23.** 814.65 (1) of the statutes is amended to read:

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1 814.65 (1) COURT COSTS. In a municipal court action, except an action for
2 violation of an ordinance in conformity with s. 344.10 (1) (a) 2. or 347.48 (2m), the
3 municipal judge shall collect a fee of not less than \$15 nor more than \$23 on each
4 separate matter, whether it is on default of appearance, a plea of guilty or no contest,
5 on issuance of a warrant or summons or the action is tried as a contested matter. Of
6 each fee received by the judge under this subsection, the municipal treasurer shall
7 pay monthly \$5 to the state treasurer for deposit in the general fund and shall retain
8 the balance for the use of the municipality.

SECTION 24. Nonstatutory provisions; transportation.

9
10 (1) The department of transportation shall submit in proposed form the rule
11 required under section 344.10 (1) (b) 3. of the statutes, as created by this act, to the
12 legislative council staff under section 227.15 (1) of the statutes no later than the first
13 day of the 9th month beginning after the effective date of this subsection.

14 **SECTION 25. Effective dates.** This act takes effect on the first day of the 12th
15 month commencing after publication, except as follows:

16 (1) SECTION 24 of this act takes effect on the day after publication.

17 **(END)**