



1995 ASSEMBLY BILL 61

January 26, 1995 - Introduced by Representatives HAHN, HARS DORF, SILBAUGH, AINSWORTH, MUSSER, OTTE and BOYLE. Referred to Committee on Highways and Transportation.

- 1 **AN ACT to create** 346.195 and 346.22 (3m) of the statutes; **relating to:** imposing
2 liability upon the owner of a vehicle failing to yield the right-of-way to an
3 authorized emergency vehicle and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the operator of a vehicle is required to yield the right-of-way to an authorized emergency vehicle that is approaching and using its siren. Authorized emergency vehicles include police vehicles, fire department vehicles and ambulances. The operator of a vehicle that fails to yield the right-of-way to an authorized emergency vehicle may be required to forfeit not less than \$30 nor more than \$300.

This bill imposes liability upon the owner of a vehicle when the operator of that vehicle fails to yield the right-of-way to an authorized emergency vehicle if, within 24 hours after observing the violation, the operator of an authorized emergency vehicle reports the violation to a traffic officer and, within 48 hours after receiving the report, the traffic officer prepares a traffic citation for the violation.

The owner of any vehicle that fails to yield the right-of-way, or any other person found liable for failing to yield the right-of-way, to an authorized emergency vehicle may be required to forfeit not less than \$30 nor more than \$300. The operating privilege of the person may not be suspended or revoked for the violation, nor may any demerit points be recorded against that liable person's operating record for that violation.

The owner of the vehicle has a defense to liability for the violation if the vehicle had been stolen at the time of the violation or if the owner provides the traffic officer with the name and address of the person who was operating the vehicle or who had the vehicle under his or her control at the time of the violation and that person admits operating the vehicle or having the vehicle under his or her control. Lessors and dealers of vehicles have similar defenses.

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.** 346.195 of the statutes is created to read:

2 **346.195 Owner's liability for vehicle failing to yield the right-of-way**
3 **to an authorized emergency vehicle.** (1) The owner of a vehicle involved in a
4 violation of s. 346.19 (1) for failing to yield the right-of-way to an authorized
5 emergency vehicle shall be liable for the violation as provided in this section.

6 (2) The operator of an authorized emergency vehicle who observes a violation
7 of s. 346.19 (1) for failing to yield the right-of-way to an authorized emergency
8 vehicle may prepare a written report indicating that a violation has occurred. If
9 possible, the report shall contain the following information:

10 (a) The time and the approximate location at which the violation occurred.

11 (b) The license number and color of the vehicle involved in the violation.

12 (c) Identification of the vehicle as an automobile, station wagon, motor truck,
13 motor bus, motorcycle or other type of vehicle.

14 (3) Within 24 hours after observing the violation, the operator of the authorized
15 emergency vehicle may deliver the report to a traffic officer of the county or
16 municipality in which the violation occurred. A report that does not contain all the
17 information in sub. (2) shall, nevertheless, be delivered and shall be maintained by
18 the county or municipality for statistical purposes.

19 (4) (a) Within 48 hours after receiving a report containing all the information
20 in sub. (2), the traffic officer may prepare a uniform traffic citation under s. 345.11
21 and may personally serve it upon the owner of the vehicle.

1 (b) If with reasonable diligence the owner cannot be served under par. (a),
2 service may be made by leaving a copy of the citation at the owner's usual place of
3 abode within this state in the presence of a competent member of the family at least
4 14 years of age, who shall be informed of the contents thereof.

5 (c) If with reasonable diligence the owner cannot be served under par. (a) or (b)
6 or if the owner lives outside of the jurisdiction of the issuing authority, service may
7 be made by certified mail addressed to the owner's last-known address.

8 **(5)** (a) Except as provided in par. (b), it shall be no defense to a violation of this
9 section that the owner was not operating the vehicle at the time of the violation.

10 (b) The following are defenses to a violation of this section:

11 1. That a report that the vehicle was stolen was given to a traffic officer before
12 the violation occurred or within a reasonable time after the violation occurred.

13 2. That the owner of the vehicle provides a traffic officer with the name and
14 address of the person operating the vehicle at the time of the violation and the person
15 so named admits operating the vehicle at the time of the violation. In such case, the
16 person operating the vehicle and not the owner shall be charged under this section.

17 3. That the vehicle is owned by a lessor of vehicles and at the time of the
18 violation the vehicle was in the possession of a lessee, and the lessor provides a traffic
19 officer with the information required under s. 343.46 (3). In such case, the lessee and
20 not the lessor shall be charged under this section.

21 4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.) but
22 including the persons specified in s. 340.01 (11) (a) to (d), and at the time of the
23 violation the vehicle was being operated by any person on a trial run, and the dealer
24 provides a traffic officer with the name, address and operator's license number of the

1 person operating the vehicle. In such case, the person operating the vehicle, and not
2 the dealer, shall be charged under this section.

3 **SECTION 2.** 346.22 (3m) of the statutes is created to read:

4 346.22 **(3m)** A vehicle owner or other person found liable under s. 346.195 may
5 be required to forfeit not less than \$30 nor more than \$300. Imposition of liability
6 under s. 346.195 shall not result in suspension or revocation of a person's operating
7 license under s. 343.30, and shall not result in demerit points being recorded on a
8 person's driving record under s. 343.32 (2) (a).

9 **(END)**