



## 2005 ASSEMBLY BILL 966

January 31, 2006 – Introduced by Representatives WIECKERT, ZEPNICK, PETTIS, OTT, OWENS, TOWNSEND, BIES, KREIBICH and LOTHIAN, cosponsored by Senators ROESSLER and GROTHMAN. Referred to Committee on Judiciary.

- 1     **AN ACT to amend** 346.01 (2); and **to create** 346.675 and 346.74 (6) of the statutes;  
2             **relating to:** vehicle owner liability for violations arising from the failure to stop  
3             at the scene of an accident and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Current law imposes, with exceptions, liability on the owner of a vehicle that is observed violating certain traffic laws, including: fleeing a traffic officer; illegally passing a school bus or fire truck; illegally crossing a railroad crossing or controlled school crossing; and failing to yield the right-of-way to an emergency vehicle or a funeral procession. The owner of a vehicle used to commit these traffic violations is subject to specified penalties, but the owner's motor vehicle operating privilege may not be revoked or suspended and no demerit points may be assessed against the owner's driving record. The vehicle owner may assert certain defenses to owner liability.

Also under current law, if a vehicle operator has an accident resulting in personal injury or vehicle damage, the vehicle operator must immediately stop the vehicle at or near the scene of the accident, provide certain information, and render reasonable assistance to any injured person. If a vehicle operator has an accident with an unattended vehicle or with property on or adjacent to a highway, the vehicle operator must immediately stop and fulfill certain obligations to provide notice of the vehicle operator's identity. The penalty for a failure-to-stop violation involving an unattended vehicle or property other than a vehicle is a forfeiture of not more than \$200, and the penalty for other failure-to-stop violations ranges from a fine of not

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less than \$300 nor more than \$1,000 or imprisonment for not more than six months or both if no personal injury occurs to a fine of not more than \$100,000 or imprisonment for not more than 25 years or both if the accident involves the death of a person.

This bill imposes liability upon the owner of a vehicle operated in the commission of a failure-to-stop violation. Any person who observes a failure-to-stop violation may, within 24 hours after observing the violation, report the violation to a traffic officer of the county or municipality in which the violation occurred. If the report contains specified information, the traffic officer may, within 72 hours after receiving the report, investigate the violation and, after verifying certain information and determining that there is probable cause to believe that a failure-to-stop violation has occurred, prepare a uniform traffic citation and serve it upon the owner of the vehicle being operated in the commission of the failure-to-stop violation. The owner is liable for the failure-to-stop violation, subject to certain limited defenses. Although an owner may not assert as a defense that the owner was not operating the vehicle at the time of the failure-to-stop violation, the owner has a defense to liability 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 at the time of the violation and there is not probable cause to believe that the vehicle owner was operating the vehicle at the time of the violation. Lessors and dealers of vehicles may assert similar types of defenses. The owner also may not be liable if the vehicle operator has been convicted of the failure-to-stop violation. If an owner is liable for a failure-to-stop violation involving an unattended vehicle or damage to property other than a vehicle, the owner is subject to a forfeiture of not more than \$100. If an owner is liable for any other failure-to-stop violation, the owner is subject to a forfeiture of not more than \$1,000. The owner's operating privilege may not be suspended or revoked and no demerit points may be recorded against the owner's driving record.

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

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

1           **SECTION 1.** 346.01 (2) of the statutes is amended to read:

2           346.01 (2) In this chapter, notwithstanding s. 340.01 (42), "owner" means, with  
3           respect to a vehicle that is registered, or is required to be registered, by a lessee of  
4           the vehicle under ch. 341, the lessee of the vehicle for purposes of vehicle owner  
5           liability under ss. 346.175, 346.195, 346.205, 346.452, 346.457, 346.465, 346.485,  
6           346.505 (3), 346.675, and 346.945.

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1           **SECTION 2.** 346.675 of the statutes is created to read:

2           **346.675 Vehicle owner's liability for failing to stop at the scene of an**  
3           **accident.** (1) Subject to s. 346.01 (2), the owner of a vehicle operated in the  
4           commission of a violation of s. 346.67 (1), 346.68, or 346.69 shall be liable for the  
5           violation as provided in this section.

6           (2) Any person who observes a violation of s. 346.67 (1), 346.68, or 346.69 may,  
7           within 24 hours after observing the violation, report the violation to a traffic officer  
8           of the county or municipality in which the violation occurred. If possible, the report  
9           shall contain the following information:

10           (a) A description of the violation alleged.

11           (b) The time and the approximate location at which the violation occurred.

12           (c) The vehicle registration number and color of all vehicles involved in the  
13           violation.

14           (d) Identification of each vehicle involved in the violation as an automobile,  
15           station wagon, motor truck, motor bus, motorcycle, or other type of vehicle.

16           (e) If the violation included damage to property other than a vehicle, a  
17           description of such property.

18           (3) (a) Within 72 hours after receiving a report containing all of the information  
19           in sub. (2), the traffic officer may investigate the violation and, after verifying the  
20           information provided under sub. (2) (c) to (e) and determining that there is probable  
21           cause to believe that a violation of s. 346.67 (1), 346.68, or 346.69 has occurred, may  
22           prepare a uniform traffic citation under s. 345.11 and personally serve it upon the  
23           owner of the vehicle being operated in the commission of the violation of s. 346.67 (1),  
24           346.68, or 346.69.

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

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

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

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

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

14 2. If the owner of the vehicle, including a lessee specified in subd. 3., or a person  
15 on a trial run specified in subd. 4. provides a traffic officer with the name and address  
16 of the person operating the vehicle at the time of the violation and sufficient  
17 information for the officer to determine that probable cause does not exist to believe  
18 that the owner of the vehicle was operating the vehicle at the time of the violation,  
19 then the person operating the vehicle shall be charged under s. 346.67 (1), 346.68,  
20 or 346.69 and the owner, including a lessee, or person on a trial run shall not be  
21 charged under this section.

22 3. Subject to subd. 2., if the vehicle is owned by a lessor of vehicles and at the  
23 time of the violation the vehicle was in the possession of a lessee, and the lessor  
24 provides a traffic officer with the information required under s. 343.46 (3), then the  
25 lessee and not the lessor shall be charged under this section.

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1           4. Subject to subd. 2., if the vehicle is owned by a dealer as defined in s. 340.01  
2           (11) (intro.) but including the persons specified in s. 340.01 (11) (a) to (d), and at the  
3           time of the violation the vehicle was being operated by any person on a trial run, and  
4           if the dealer provides a traffic officer with the name, address, and operator's license  
5           number of the person authorized to operate the vehicle on the trial run, then this  
6           person, and not the dealer, shall be charged under this section.

7           5. That another person has been convicted under s. 346.67 (1), 346.68, or 346.69  
8           for the violation of s. 346.67 (1), 346.68, or 346.69 specified in sub. (1).

9           **SECTION 3.** 346.74 (6) of the statutes is created to read:

10           346.74 **(6)** (a) A vehicle owner or other person found liable under s. 346.675  
11           with respect to a violation of s. 346.67 (1) may be required to forfeit not more than  
12           \$1,000.

13           (b) A vehicle owner or other person found liable under s. 346.675 with respect  
14           to a violation of s. 346.68 or 346.69 may be required to forfeit not more than \$100.

15           (c) Imposition of liability under s. 346.675 shall not result in suspension or  
16           revocation of a person's operating privilege under s. 343.30 or 343.31, nor shall it  
17           result in demerit points being recorded on a person's driving record under s. 343.32  
18           (2) (a).

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(END)