

1993 Assembly Bill 281

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1993 WISCONSIN ACT 189

AN ACT *to amend* 346.17 (3) (a) and (b); and *to create* 346.175 of the statutes, **relating to:** fleeing or attempting to elude a traffic officer, imposing liability upon the owner of a vehicle for fleeing a traffic officer and providing penalties.

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

SECTION 1. 346.17 (3) (a) and (b) of the statutes are amended to read:

346.17 (3) (a) Except as provided in par. (b), (c) or (d), any person violating s. 346.04 (3) shall be fined not less than \$300 nor more than ~~\$2,000~~ \$10,000 and may be imprisoned for not more than ~~one year in the county jail~~ 2 years.

(b) If the violation results in bodily harm, as defined in s. 939.22 (4), to another, or causes damage to the property of another, as defined in s. 939.22 (28), the person shall be fined not less than \$500 nor more than ~~\$2,000~~ \$10,000 and may be imprisoned for not more than ~~one year in the county jail~~ 2 years.

SECTION 2. 346.175 of the statutes is created to read:

346.175 Vehicle owner's liability for fleeing a traffic officer. (1) (a) The owner of a vehicle involved in a violation of s. 346.04 (3) for fleeing a traffic officer shall be presumed liable for the violation as provided in this section.

(b) Notwithstanding par. (a), no owner of a vehicle involved in a violation of s. 346.04 (3) for fleeing a traffic officer may be convicted under this section if the person operating the vehicle or having the vehicle under his or her control at the time of the violation has been convicted for the violation under this section or under s. 346.04 (3).

(2) A traffic officer may proceed under sub. (3) instead of pursuing the operator of a motor vehicle who

flees after being given a visual or audible signal by the officer or marked police vehicle.

(3) (a) Within 72 hours after observing the violation, the traffic officer shall investigate the violation and may prepare a uniform traffic citation under s. 345.11 for the violation and, within 96 hours after observing the violation, any traffic officer employed by the authority issuing the citation may personally serve it upon the owner of the vehicle.

(b) If with reasonable diligence the owner cannot be served under par. (a), service may be made by leaving a copy of the citation at the owner's usual place of abode within this state in the presence of a competent member of the family at least 14 years of age, who shall be informed of the contents thereof. Service under this paragraph may be made by any traffic officer employed by the authority issuing the citation and shall be performed within 96 hours after the violation was observed.

(c) If with reasonable diligence the owner cannot be served under par. (a) or (b) or if the owner lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner's last-known address. Service under this paragraph shall be performed by posting the certified mail within 96 hours after the violation was observed.

(4) Defenses to the imposition of liability under this section include:

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

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(b) If the owner of the vehicle provides a traffic officer employed by the authority issuing the citation with the name and address of the person operating the vehicle or having the vehicle under his or her control at the time of the violation and sufficient information for the officer to determine that probable cause does not exist to believe that the owner of the vehicle was operating the vehicle at the time of the violation, then the owner of the vehicle shall not be liable under this section or under s. 346.04 (3).

(c) If the vehicle is owned by a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee, and the lessor provides a traffic officer employed by the authority issuing the citation with the information required under s. 343.46 (3), then the lessee and not the lessor shall be liable under this section or under s. 346.04 (3).

(d) If the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.) but including the persons specified

in s. 340.01 (11) (a) to (d), and at the time of the violation the vehicle was being operated by or was under the control of any person on a trial run, and if the dealer provides a traffic officer employed by the authority issuing the citation with the name, address and operator's license number of the person operating the vehicle, then that person, and not the dealer, shall be liable under this section or under s. 346.04 (3).

(5) Notwithstanding the penalty otherwise specified under s. 346.17 (3) for a violation of s. 346.04 (3):

(a) A vehicle owner or other person found liable under this section for a violation of s. 346.04 (3) shall be required to forfeit not less than \$300 nor more than \$1,000.

(b) Imposition of liability under this section shall not result in suspension or revocation of a person's operating license under s. 343.30 or 343.31, nor shall it result in demerit points being recorded on a person's driving record under s. 343.32 (2) (a).

