

1999 ASSEMBLY BILL 472

September 16, 1999 – Introduced by Representatives YOUNG, HAHN, URBAN, PORTER, RILEY and COGGS, cosponsored by Senators DARLING and FARROW. Referred to Committee on Highway Safety.

- 1 **AN ACT** *to amend* 346.01 (2); and *to create* 346.735 and 346.74 (6) of the statutes;
2 **relating to:** imposing vehicle owner liability for violations of certain traffic
3 laws relating to accidents and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, the operator of a vehicle involved in an accident that causes injury or death to a person, or damage to an attended or occupied vehicle, must immediately stop his or her vehicle as close as possible to the scene of the accident to identify himself or herself and, if necessary, to render assistance to an injured person. Current law also requires the operator of a vehicle that collides with an unattended vehicle to stop immediately and notify the owner or operator of the unattended vehicle of the accident. The operator of a vehicle involved in an accident resulting only in damage to fixtures or other property on or adjacent to a highway must take reasonable steps to notify the owner of the damaged property.

This bill imposes upon the owner of a vehicle liability for a violation of any of these provisions relating to accidents. Instead of pursuing a vehicle involved in a violation, a traffic officer may, within 72 hours, investigate the violation and prepare a traffic citation for the violation. Any traffic officer employed by the issuing authority may serve it upon the owner of the vehicle. Vehicle owner liability with respect to an accident that causes injury or death to a person, or damage to an attended or occupied vehicle, results in a forfeiture of not more than \$500. Vehicle owner liability relating to an accident involving an unattended vehicle or only property damage may result in a forfeiture of not more than \$200. The vehicle

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owner's operating privilege may not be suspended or revoked, and no demerit points may be recorded against the owner's driving record, for the imposition of vehicle owner liability created by this bill.

The vehicle owner 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 at the time of the violation. Lessors and dealers of vehicles have similar types of 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.** 346.01 (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, 346.457, 346.465, 346.485, 346.505 (3),
6 346.735 and 346.945.

7 **SECTION 2.** 346.735 of the statutes is created to read:

8 **346.735 Vehicle owner's liability relating to accidents.** (1) (a) The owner
9 of a vehicle involved in a violation of any of the provisions of ss. 346.67 to 346.69 shall
10 be presumed liable for the violation as provided in this section.

11 (b) Notwithstanding par. (a), no owner of a vehicle involved in a violation of any
12 of the provisions of ss. 346.67 to 346.69 may be convicted under this section if the
13 person operating the vehicle or having the vehicle under his or her control at the time
14 of the violation has been convicted for the violation under this section or under the
15 applicable provision of ss. 346.67 to 346.69.

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1 **(2)** A traffic officer may proceed under sub. (3) instead of stopping or pursuing
2 the operator of a motor vehicle at the time of a violation of any of the provisions of
3 ss. 346.67 to 346.69.

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

9 (b) If with reasonable diligence the owner cannot be served under par. (a),
10 service may be made by leaving a copy of the citation at the owner's usual place of
11 abode within this state in the presence of a competent member of the family at least
12 14 years of age, who shall be informed of the contents thereof. Service under this
13 paragraph may be made by any traffic officer employed by the authority issuing the
14 citation and shall be performed within 96 hours after the violation was observed.

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

20 **(4)** (a) Except as provided in par. (b), it is not a defense to a violation of this
21 section that the owner of the vehicle was not in possession or control of the vehicle
22 at the time of the violation.

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

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

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1 2. That the vehicle was in the possession of another person at the time of the
2 violation, the owner of the vehicle provides a traffic officer with the name and address
3 of such person and the person so named admits having the vehicle in his or her
4 possession at the time of the violation. In such a case, that person and not the owner
5 shall be charged under this section.

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

10 4. That the vehicle is owned by a dealer as defined in s. 340.01 (11) (intro.) but
11 including the persons specified in s. 340.01 (11) (a) to (d), and at the time of the
12 violation the vehicle was under the control of a person on a trial run and the dealer
13 provides a traffic officer with the name, address and operator's license number of
14 that person. In such a case, that person and not the dealer shall be charged under
15 this section.

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

17 346.74 (6) (a) A vehicle owner or other person found liable under s. 346.735 for
18 a violation of s. 346.67 (1) shall be required to forfeit not more than \$500.

19 (b) A vehicle owner or other person found liable under s. 346.735 for a violation
20 of s. 346.68 or 346.69 may be required to forfeit not more than \$200.

21 (c) Imposition of liability under s. 346.735 shall not result in suspension or
22 revocation of a person's operating license under s. 343.30 or 343.31, nor shall it result
23 in demerit points being recorded on a person's driving record under s. 343.32 (2) (a).

24 **SECTION 4. Initial applicability.**

