

2001 ASSEMBLY BILL 803

February 12, 2002 – Introduced by Representatives J. LEHMAN, KRUG, CULLEN, RYBA, GUNDERSON, MILLER and BLACK, cosponsored by Senators GROBSCHMIDT, KANAVAS, DECKER, PLACHE, ROESSLER and ERPENBACH. Referred to Committee on Transportation.

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 that 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, as affected by 2001 Wisconsin Act 16,
16 is amended to read:

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

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1 in whole or in part, the court shall reduce the jail assessment in proportion to the
2 suspension.

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

4 **344.10 Compulsory financial responsibility; limits and penalties. (1)**

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

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

17 (b) 1. No person charged with violating par. (a) 1. may be convicted if the person
18 produces proof that he or she was in compliance with par. (a) 1. or that the
19 requirements of par. (a) 1. did not apply to him or her at the time of the arrest. Such
20 proof may be produced either at the time of the person's appearance in court in
21 response to the uniform traffic citation, or in the office of the arresting officer within
22 5 days after the date of issuance of the uniform traffic citation.

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

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1 that the policy or bond is in effect or by display of certification of insurance under s.
2 344.31 or a copy of that certification.

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

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

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

9 2. Any person operating a vehicle insured as required by s. 121.53, 194.41 or
10 194.42 if operating with the owner's permission.

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

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

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

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

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1 solely for a violation of sub. (1) (a) 1. or 2. or both or a local ordinance in conformity
2 with sub. (1) (a) 1. or 2. or both.

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

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

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

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

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

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

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

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

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1 344.15 (4) After receipt of the report of an accident of the type specified in s.
2 344.12, the secretary may forward to the insurer named therein, that portion of the
3 report or other notice which pertains to ~~an automobile~~ a motor vehicle liability policy
4 or bond. The secretary shall assume that ~~an automobile~~ a motor vehicle liability
5 policy or bond as described in this section was in effect and applied to both the owner
6 and operator with respect to the accident unless the insurer notifies the secretary
7 otherwise within 30 days from the mailing to the insurer of that portion of the report
8 or other notice pertaining to the ~~automobile~~ motor vehicle liability policy or bond.
9 Upon receipt of notice from the insurer that ~~an automobile~~ a motor vehicle liability
10 policy or bond was in effect as to the owner only, the operator only or was not in effect
11 as to either of them, the secretary shall within the remainder of the 90-day period
12 specified in s. 344.13 (3) require the owner or operator or both, whichever is
13 applicable, to deposit security pursuant to this chapter. As respects permission to
14 operate the vehicle, the insurer may correct the report or other notice only if it files
15 with the secretary within the 30-day period specified in this subsection an affidavit
16 signed by the owner stating that the operator did not have the owner's permission
17 to operate the vehicle. Where the insurer's failure to notify the secretary within 30
18 days of a correction in that portion of the report or other notice pertaining to an
19 ~~automobile~~ a motor vehicle liability policy or bond is caused by fraud, the insurer
20 shall notify the secretary of the correction within 30 days of the time the fraud is
21 discovered.

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

23 344.15 (5) Nothing in this chapter shall be construed to impose any obligation
24 not otherwise assumed by the insurer in its ~~automobile~~ motor vehicle liability policy
25 or bond except that if no correction is made in the report or other notice within 30

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1 days after it is mailed to the insurer, the insurer, except in case of fraud, whenever
2 such fraud may occur, is estopped from using as a defense to its liability the insured's
3 failure to give permission to the operator or a violation of the purposes of use specified
4 in the ~~automobile~~ motor vehicle liability policy or bond or the use of the vehicle
5 beyond agreed geographical limits.

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

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

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

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

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

22 **344.35 (title) This chapter Section 344.33 not to affect other policies.**

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

24 344.35 (1) ~~This chapter Section 344.33~~ does not apply to or affect policies of
25 ~~automobile~~ motor vehicle insurance against liability which may now or hereafter be

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1 required by any other law of this state. If such policies contain an agreement or are
2 endorsed to conform to the requirements of ~~this chapter s. 344.33~~, they may be
3 certified as proof of financial responsibility under this chapter.

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

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

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

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

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

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

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1 such year by an automobile club, association, or by an insurance company authorized
2 to write ~~automobile~~ motor vehicle liability insurance within this state, by filing with
3 the commissioner of insurance an undertaking thus to become surety.

4 **SECTION 16.** 345.61 (2) (c) of the statutes, as affected by 2001 Wisconsin Act 16,
5 is amended to read:

6 345.61 (2) (c) “Guaranteed arrest bond certificate” as used in this section means
7 any printed card or other certificate issued by an automobile club, association, or
8 insurance company to any of its members or insureds, which card or certificate is
9 signed by the member or insureds and contains a printed statement that the
10 automobile club, association, or insurance company and a surety company, or an
11 insurance company authorized to transact both ~~automobile~~ motor vehicle liability
12 insurance and surety business, guarantee the appearance of the persons whose
13 signature appears on the card or certificate and that they will in the event of failure
14 of the person to appear in court at the time of trial, pay any fine or forfeiture imposed
15 on the person, including the penalty assessment required by s. 757.05, the truck
16 driver education assessment required by s. 349.04, the jail assessment required by
17 s. 302.46 (1), the railroad crossing improvement assessment required by s. 346.177,
18 346.495 or 346.65 (4r), and the crime laboratories and drug law enforcement
19 assessment required by s. 165.755, in an amount not exceeding \$200, or \$1,000 as
20 provided in sub. (1) (b).

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

22 345.61 (3) Any guaranteed arrest bond certificate with respect to which a
23 surety company has become surety, or a guaranteed arrest bond certificate issued by
24 an insurance company authorized to transact both ~~automobile~~ motor vehicle liability
25 insurance and surety business within this state as herein provided, shall, when

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1 posted by the person whose signature appears thereon, be accepted in lieu of cash bail
2 or other bond in an amount not to exceed \$200, or \$1,000 as provided in sub. (1) (b),
3 as a bail bond, to guarantee the appearance of such person in any court in this state,
4 including all municipal courts in this state, at such time as may be required by such
5 court, when the person is arrested for violation of any vehicle law of this state or any
6 motor vehicle ordinance of any county or municipality in this state except for the
7 offense of driving under the influence of intoxicating liquors or of drugs or for any
8 felony committed prior to the date of expiration shown on such guaranteed arrest
9 bond certificates; provided, that any such guaranteed arrest bond certificates so
10 posted as bail bond in any court in this state shall be subject to the forfeiture and
11 enforcement provisions with respect to bail bonds in criminal cases as otherwise
12 provided by law or as hereafter may be provided by law, and that any such
13 guaranteed arrest bond certificate posted as a bail bond in any municipal court of this
14 state shall be subject to the forfeiture and enforcement provisions, if any, of the
15 charter or ordinance of the particular county or municipality pertaining to bail bonds
16 posted.

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

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

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1 department solely to prove a compliance or a failure to comply with the requirement
2 that such a report be made to the department.

3 **SECTION 19.** 814.63 (1) (c) of the statutes, as affected by 2001 Wisconsin Act 16,
4 is amended to read:

5 814.63 (1) (c) This subsection does not apply to an action for a violation of s.
6 101.123 (2) (a), (am) 1., (ar), (bm), or (br) or (5), a financial responsibility violation
7 under s. 344.10 (1) (a) 2., or a safety belt use violation under s. 347.48 (2m).

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

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

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

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

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

23 814.635 (1) Except for an action for a financial responsibility violation under
24 s. 344.10 (1) (a) 2. or a safety belt use violation under s. 347.48 (2m), the clerk of
25 circuit court shall charge and collect a \$7 justice information system fee from any

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1 person, including any governmental unit as defined in s. 108.02 (17), paying a fee
2 under s. 814.61 (1) (a), (3), or (8) (am), 814.62 (1), (2), or (3) (a) or (b), or 814.63 (1).
3 The justice information system fee is in addition to the other fees listed in this
4 section.

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

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

14 **SECTION 24. Nonstatutory provisions; transportation.**

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

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

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

22 (END)