

2007 DRAFTING REQUEST

Bill

Received: **01/08/2007**

Received By: **bbalinsk**

Wanted: **As time permits**

Identical to LRB: **05-2159**

For: **John Lehman (608) 266-1832**

By/Representing: **Mike Brown**

This file may be shown to any legislator: **NO**

Drafter: **bbalinsk**

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles**
Transportation - miscellaneous

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **Sen.Lehman@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Compulsory financial responsibility for the operation of motor vehicles.

Instructions:

Redraft 05-AB-391 (LRB 05-2159)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	bbalinsk 02/01/2007	kfollett 02/08/2007		_____			S&L
/P1			nmatzke 02/08/2007	_____	mbarman 02/08/2007		S&L
/P2	bbalinsk 02/26/2007	kfollett 02/27/2007	rschluet 02/27/2007	_____	sbasford 02/27/2007		S&L
/1	bbalinsk	kfollett	jfrantze	_____	mbarman	cduerst	

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	11/29/2007	11/29/2007	11/29/2007 _____		11/29/2007	12/05/2007	

FE Sent For: "1" @ intro. 1-4-08 <END>

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Handwritten signatures and initials, including "2277" at the bottom.

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FE Sent For:

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IN 2/1/07

Thurs, 2/8

PWF

D-NOTE

2005 ASSEMBLY BILL 391

April 27, 2005 - Introduced by Representatives LEHMAN, BLACK, CULLEN, GUNDERSON, KRUSICK, PETROWSKI, SEIDEL, SINICKI, VAN AKKEREN and TOLES, cosponsored by Senators WIRCH, CARPENTER and ROESSLER. Referred to Committee on Insurance.

Regen

1 AN ACT *to amend* 85.55, 194.41 (1), 302.46 (1) (a), 344.15 (1), 344.15 (2) (intro.),
2 344.15 (4), 344.15 (5), 344.32 (1) (intro.), 344.33 (1), 344.35 (title), 344.35 (1),
3 344.35 (2), 344.51 (1m), 345.61 (1) (a), 345.61 (2) (c), 345.61 (3), 346.73, 757.05
4 (1) (a), 814.63 (1) (c), 814.63 (2), 814.65 (1), 814.85 (1) (a) and 814.86 (1); and *to*
5 **create** 344.10 of the statutes; **relating to:** compulsory financial responsibility
6 for the operation of motor vehicles, granting rule-making authority, and
7 providing a penalty.

which is that includes

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 \$1,000 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 suspension 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 suspension 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.

Under current law, ~~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 (compulsory financial responsibility) 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. 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. Any person convicted of failing to comply with this compulsory financial responsibility requirement shall forfeit not more than \$500.

The bill also requires any person operating a motor vehicle upon a highway in this state to carry proof of compulsory financial responsibility for the operation of the vehicle (such as an insurance card) or proof 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 compulsory financial responsibility requirement has been complied with or whether the operator is in compliance with the requirement of carrying proof with respect to such financial responsibility. An officer may, however, issue a citation for a violation observed in the course of a stop or inspection made for other purposes, but may not take the person into physical custody solely for the violation.

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:

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1 **SECTION 1.** 85.55 of the statutes is amended to read:

2 **85.55 Safe-ride grant program.** The department may award grants to any
3 county or municipality or to any nonprofit corporation, as defined in s. 66.0129 (6)
4 (b), to cover the costs of transporting persons suspected of having a prohibited alcohol
5 concentration, as defined in s. 340.01 (46m), from any premises licensed under ch.
6 125 to sell alcohol beverages to their places of residence. The amount of a grant under
7 this section may not exceed 50% of the costs necessary to provide the service. The
8 liability of a provider of a safe-ride program to persons transported under the
9 program is limited to the amounts required for ~~an automobile~~ a motor vehicle
10 liability policy under s. 344.15 (1). Grants awarded under this section shall be paid
11 from the appropriation under s. 20.395 (5) (ek).

12 **SECTION 2.** 194.41 (1) of the statutes is amended to read:

13 194.41 (1) No permit or vehicle registration may be issued to a common motor
14 carrier of property, contract motor carrier, ^{or plain} or rental company, no permit or vehicle
15 registration may remain in force to operate any motor vehicle under the authority
16 of this chapter, ^{or plain} and no vehicle registration may be issued or remain in force for a
17 semitrailer unless the carrier or rental company has on file with the department and
18 in effect an approved certificate for a policy of insurance or other written contract in
19 such form and containing such terms and conditions as may be approved by the
20 department issued by an insurer authorized to do a surety or ~~automobile~~ motor
21 vehicle liability business in this state under which the insurer assumes the liability
22 prescribed by this section with respect to the operation of such motor vehicles. The
23 certificate or other contract is subject to the approval of the department and shall
24 provide that the insurer shall be directly liable for and shall pay all damages for
25 injuries to or for the death of persons or for injuries to or destruction of property that

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SECTION 2

and with respect to a carrier transporting a building, as defined in s. 348.27 (12m) (a) 1., shall require,

1 may be recovered against the owner or operator of any such motor vehicles by reason
 2 of the negligent operation thereof in such amount as the department may require.
 3 Liability may be restricted so as to be inapplicable to damage claims on account of
 4 injury to or destruction of property transported, but the department may require a
 5 certificate or other contract protecting the owner of the property transported by
 6 carriers from loss or damage in the amount and under the conditions as the
 7 department may require. No permit or vehicle registration may be issued to a
 8 common motor carrier of passengers by any motor vehicle, or other carrier of
 9 passengers by motor bus, except those registered in accordance with s. 341.26 (2) (a)
 10 and (d), and no permit or vehicle registration may remain in force to operate any
 11 motor vehicle unless it has on file with the department a like certificate or other
 12 contract in the form and containing the terms and conditions as may be approved by
 13 the department for the payment of damages for injuries to property and injuries to
 14 or for the death of persons, including passengers, in the amounts as the department
 15 may require. This subsection does not apply to a motor carrier that is registered by
 16 another state under a single-state registration system consistent with the standards
 17 under 49 USC 14504.

SECTION 3. 302.46 (1) (a) of the statutes is amended to read:

18

19 302.46 (1) (a) ~~On or after October 1, 1987, if~~ *if* a court imposes a fine or
 20 forfeiture for a violation of state law or for a violation of a municipal or county
 21 ordinance except for a violation of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv)
 22 or (5), for a financial responsibility violation under s. 344.10 (1) (a) 2., or for a first
 23 violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the
 24 person who committed the violation had a blood alcohol concentration of 0.08 or more
 25 but less than 0.1 at the time of the violation, or for a violation of state laws or

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plain

Violations under s. 343.51(1m)(b),

1 municipal or county ordinances involving nonmoving traffic violations or safety belt
 2 use violations under s. 347.48 (2m), the court, in addition, shall impose a jail
 3 surcharge under ch. 814 in an amount of ^{1 percent ← plain} ~~1%~~ of the fine or forfeiture imposed or \$10,
 4 whichever is greater. If multiple offenses are involved, the court shall determine the
 5 jail surcharge on the basis of each fine or forfeiture. If a fine or forfeiture is
 6 suspended in whole or in part, the court shall reduce the jail surcharge in proportion
 7 to the suspension.

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

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

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

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

(b) 1. No person charged with violating par. (a) ^{✓ 2} 1. may be convicted if the person
 produces proof that he or she was in compliance with par. (a) [✓] 1. or that the
 requirements of par. (a) 1. did not apply to him or her at the time of the arrest. Such
 proof may be produced either at the time of the person's appearance in court in

ASSEMBLY BILL 391**SECTION 4**

1 response to the uniform traffic citation, or in the office of the arresting officer within
2 5 days after the date of issuance of the uniform traffic citation.

3 2. Proof of compliance with par. (a) [✓]1. may be evidenced by display of the motor
4 vehicle policy or bond in effect for the motor vehicle under s. 344.15, a copy of that
5 policy or bond, or an identification card issued to the person by the insurer indicating
6 that the policy or bond is in effect or by display of certification of insurance under s.
7 344.31 or a copy of that certification.

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

11 (c) Paragraph (a) [✓]1. does not apply to any of the following:

12 1. A person operating a vehicle owned by a self-insurer under s. 344.16 if
13 operating with the owner's permission.

14 2. A person operating a vehicle insured as required by s. 121.53, 194.41, or
15 194.42 if operating with the owner's permission.

16 3. A person who has filed proof of financial responsibility as provided under
17 sub. (2) or a person operating a vehicle owned by the person who has deposited money
18 or security if operating with the owner's permission.

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

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

24 (3) Notwithstanding s. 349.02, a law enforcement officer may not stop or
25 inspect a vehicle solely to determine compliance with sub. (1) (a) 1. or 2. or both or

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1 a local ordinance in conformity with sub. (1) (a) 1. or 2. or both. This subsection does
2 not limit the authority of a law enforcement officer to issue a citation for a violation
3 of sub. (1) (a) 1. or 2. or both or a local ordinance in conformity with sub. (1) (a) 1. or
4 2. or both observed in the course of a stop or inspection made for other purposes,
5 except that a law enforcement officer may not take a person into physical custody
6 solely for a violation of sub. (1) (a) 1. or 2. or both or a local ordinance in conformity
7 with sub. (1) (a) 1. or 2. or both.

8 (4) The department shall include with each operator's license issued under ch.
9 343 notification of the requirements and penalties under this section.

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

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

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

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

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

24 344.15 (2) (intro.) A policy or bond with respect to a vehicle which was not
25 registered in this state or was registered elsewhere at the time of the effective date

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SECTION 6

1 of the policy or bond or the most recent renewal thereof may be effective under s.
2 344.10 or 344.14 even though not issued by an insurer authorized to do ~~an automobile~~
3 a motor vehicle liability or surety business in this state if the following conditions are
4 complied with:

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

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

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1 shall notify the secretary of the correction within 30 days of the time the fraud is
2 discovered.

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

4 344.15 (5) Nothing in this chapter shall be construed to impose any obligation
5 not otherwise assumed by the insurer in its automobile motor vehicle liability policy
6 or bond except that if no correction is made in the report or other notice within 30
7 days after it is mailed to the insurer, the insurer, except in case of fraud, whenever
8 such fraud may occur, is estopped from using as a defense to its liability the insured's
9 failure to give permission to the operator or a violation of the purposes of use specified
10 in the automobile motor vehicle liability policy or bond or the use of the vehicle
11 beyond agreed geographical limits.

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

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

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

21 344.33 (1) CERTIFICATION. In this chapter ss. 344.30 to 344.34, "motor vehicle
22 liability policy" means a motor vehicle policy of liability insurance, certified as
23 provided in s. 344.31 or 344.32 as proof of financial responsibility for the future, and
24 issued, except as otherwise provided in s. 344.32, by an insurer authorized to do an

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SECTION 10

1 ~~automobile~~ [✓] a motor vehicle liability business in this state to or for the benefit of the
2 person named in the policy as the insured.

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

4 **344.35** (title) ~~This chapter~~ [✓] **Section 344.33 not to affect other policies.**

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

6 344.35 (1) ~~This chapter~~ [✓] Section 344.33 does not apply to or affect policies of
7 ~~automobile~~ motor vehicle insurance against liability which may now or hereafter be
8 required by any other law of this state. If such policies contain an agreement or are
9 endorsed to conform to the requirements of ~~this chapter~~ [✓] s. 344.33, they may be
10 certified as proof of financial responsibility under this chapter.

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

12 344.35 (2) ~~This chapter~~ [✓] Section 344.33 does not apply to or affect policies
13 insuring solely the insured named in the policy against liability resulting from the
14 maintenance or use by persons in the insured's employ or on the insured's behalf of
15 motor vehicles not owned by the insured.

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

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

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1 for which any other lessor or rental company has complied with this subsection, is
2 liable for damages caused by the negligent operation of the motor vehicle by another
3 person.

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

5 345.61 (1) (a) Any domestic or foreign surety company ~~which~~ that has qualified
6 to transact surety business in this state may, in any year, become surety in an amount
7 not to exceed \$200 with respect to any guaranteed arrest bond certificates issued in
8 such year by an automobile club, by an association, or by an insurance company
9 authorized to write ~~automobile~~ motor vehicle liability insurance within this state, by
10 filing with the commissioner of insurance an undertaking thus to become surety.

11 **SECTION 16.** 345.61 (2) (c) of the statutes is amended to read:

12 345.61 (2) (c) “Guaranteed arrest bond certificate,” as used in this section,
13 means any printed card or other certificate issued by an automobile club, association,
14 or insurance company to any of its members or insureds, which card or certificate is
15 signed by the member or insureds and contains a printed statement that the
16 automobile club, association, or insurance company and a surety company, or an
17 insurance company authorized to transact both ~~automobile~~ motor vehicle liability
18 insurance and surety business, guarantee the appearance of the persons whose
19 signature appears on the card or certificate and that they will, in the event of failure
20 of the person to appear in court at the time of trial, pay any fine or forfeiture imposed
21 on the person, plus costs, fees, and surcharges imposed under ch. 814, in an amount
22 not exceeding \$200, or \$1,000 as provided in sub. (1) (b).

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

24 345.61 (3) Any guaranteed arrest bond certificate with respect to which a
25 surety company has become surety, or a guaranteed arrest bond certificate issued by

ASSEMBLY BILL 391**SECTION 17**

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

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

20 **346.73 Accident reports not to be used in trial.** Notwithstanding s. 346.70
21 (4) (f), accident reports required to be filed with or transmitted to the department or
22 a county or municipal authority shall not be used as evidence in any judicial trial,
23 civil or criminal, arising out of an accident, [✓] except that such reports may be used as
24 evidence in a trial for a violation of s. 344.10 or in any administrative proceeding
25 conducted by the department. The department shall furnish upon demand of any

ASSEMBLY BILL 391

1 person who has or claims to have made such a report, or upon demand of any court,
2 a certificate showing that a specified accident report has or has not been made to the
3 department solely to prove a compliance or a failure to comply with the requirement
4 that such a report be made to the department.

5 **SECTION 19.** 757.05 (1) (a) of the statutes is amended to read:

6 757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of
7 state law or for a violation of a municipal or county ordinance except for a violation
8 of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), for a financial responsibility
9 violation under s. 344.10 (1) (a) 2., or for a first violation of s. 23.33 (4c) (a) 2., 30.681
10 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation
11 had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the
12 violation, or for a violation of state laws or municipal or county ordinances involving
13 nonmoving traffic violations or safety belt use violations under s. 347.48 (2m), there
14 shall be imposed in addition a penalty surcharge under ch. 814 in an amount of 24%
15 of the fine or forfeiture imposed. If multiple offenses are involved, the penalty
16 surcharge shall be based upon the total fine or forfeiture for all offenses. When a fine
17 or forfeiture is suspended in whole or in part, the penalty surcharge shall be reduced
18 in proportion to the suspension.

Violations under s. 343.51(1m)(b) ← plain
26 ↓
45 percent

19 **SECTION 20.** 814.63 (1) (c) of the statutes is amended to read:

20 814.63 (1) (c) This subsection does not apply to an action for a violation of s.
21 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), for a financial responsibility
22 violation under s. 344.10 (1) (a) 2., for a first violation of s. 23.33 (4c) (a) 2., 30.681
23 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation
24 had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the
25 violation, or for a violation of a safety belt use violation under s. 347.48 (2m).

under s. 343.51 (1m)(b) or
↑ plain

ASSEMBLY BILL 391

SECTION 21

1 SECTION 21. 814.63 (2) of the statutes is amended to read:

2 814.63 (2) Upon the disposition of a forfeiture action in circuit court for
3 violation of a county, town, city, village, town sanitary district or public inland lake
4 protection and rehabilitation district ordinance, except for an action for a first
5 violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the
6 person who committed the violation had a blood alcohol concentration of 0.08 or more
7 but less than 0.1 at the time of the violation, for a financial responsibility violation
8 under s. 344.10 (1) (a) 2., or for a safety belt use violation under s. 347.48 (2m), the
9 county, town, city, village, town sanitary district or public inland lake protection and
10 rehabilitation district shall pay a nonrefundable fee of \$5 to the clerk of circuit court.

11 SECTION 22. 814.65 (1) of the statutes is amended to read:

12 814.65 (1) COURT COSTS. In a municipal court action, except for an action for
13 a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1)
14 (b), if the person who committed the violation had a blood alcohol concentration of
15 0.08 or more but less than 0.1 at the time of the violation, for a financial responsibility
16 violation under s. 344.10 (1) (a) 2., or for a violation of an ordinance in conformity with
17 s. 347.48 (2m), the municipal judge shall collect a fee of not less than \$15 nor more
18 than \$28 on each separate matter, whether it is on default of appearance, a plea of
19 guilty or no contest, on issuance of a warrant or summons, or the action is tried as
20 a contested matter. Of each fee received by the judge under this subsection, the
21 municipal treasurer shall pay monthly \$5 to the secretary of administration for
22 deposit in the general fund and shall retain the balance for the use of the
23 municipality.

24 SECTION 23. 814.85 (1) (a) of the statutes is amended to read:

ASSEMBLY BILL 391

1 814.85 (1) (a) Except for an action for a first violation of s. 23.33 (4c) (a) 2.,
 2 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the
 3 violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the
 4 time of the violation, ~~for a financial responsibility violation under s. 344.10 (1) (a) 2.,~~
 5 ~~or for a safety belt use violation under s. 347.48 (2m),~~ the clerk of circuit court shall
 6 charge and collect a \$68 court support services surcharge from any person, including
 7 any governmental unit as defined in s. 108.02 (17), paying a fee under s. 814.61 (1)
 8 (a), (3), or (8) (am) or 814.63 (1).

SECTION 24. 814.86 (1) of the statutes is amended to read:

10 814.86 (1) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681
 11 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation
 12 had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the
 13 violation, ~~for a financial responsibility violation under s. 344.10 (1) (a) 2., or for a~~
 14 ~~safety belt use violation under s. 347.48 (2m),~~ the clerk of circuit court shall charge
 15 and collect a \$12 ~~justice information system surcharge~~ ~~from any person, including any~~
 16 governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a),
 17 (3), or (8) (am), 814.62 (1), (2), or (3) (a) or (b), or 814.63 (1). The justice information
 18 system surcharge is in addition to the surcharge listed in sub. (1m).

SECTION 25. Nonstatutory provisions: ~~transportation.~~

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

24 **SECTION 26. Effective dates.** This act takes effect on the first day of the 12th
 25 month commencing after publication, except as follows:

S.

a violation under s. 343.51 (1m)(b) or ← plain

a violation under s. 343.51 (1m)(b) or ← plain

\$12 ← plain

plain ↓

15

19

ASSEMBLY BILL 391

↓ a.f.

1 (1) SECTION 25 of this act takes effect on the day after publication.

2 (END)

D-NOTE

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1411/??
BAB: E

P1
EJF

Date

2005 Act 250 to s. 194.41 (1) and

ATTN: Mike Brown

X The attached draft has been prepared in preliminary form. Please review the draft carefully to ensure that it is consistent with your intent. Pursuant to your instructions I have redrafted 2005 AB 391 (LRB no. 05-2159/1) but with several changes, including incorporating changes made by 2005 Act 455 to s. 302.46 (1) (a), 757.05 (1) (a), 814.63 (1) (c), 814.63 (2), 814.65 (1), 814.85 (1) (a), and 814.86 (1).

I have also changed s. 344.10 (1) (b) to address violations of par. (a) 2., rather than par. (a) 1., as it is a driver's failure to produce proof of financial responsibility, rather than the failure to obtain adequate financial responsibility, that will be the violation for which a law enforcement officer will issue a citation. Is this acceptable?

X I note that the original version of this draft, LRB 05-2159, does not address s. 165.755 (1) (b), which imposes a crime laboratories and drug enforcement surcharge for various violations and is similar in substance and form to s. 814.85 (1) (a) and 814.86 (1), amended in this draft. Do you wish for me to give similar treatment to s. 165.755 (1) (b) and amend it to exclude financial responsibility violations under s. 344.10 (1) (a) 2. from those violations subject to the surcharge?

X This draft gives DOT 9 months after publication to submit a proposed rule regarding the form of proof of financial responsibility and the act takes effect 12 months after publication. Given that it may take more than 3 months for the administrative rule under this act to be promulgated, that might result in the act taking effect without the necessary proof form being finalized. Would you like to require DOT to submit the rule within 6 months after publication, which should eliminate that issue?

SIX

Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1411/P1dn
BAB:kjf:nwn

February 8, 2007

ATTN: Mike Brown

The attached draft has been prepared in preliminary form. Please review the draft carefully to ensure that it is consistent with your intent. Pursuant to your instructions I have redrafted 2005 AB 391 (LRB-2159/1) but with several changes, including incorporating changes made by 2005 Act 250 to s. 194.41 (1) and 2005 Act 455 to ss. 302.46 (1) (a), 757.05 (1) (a), 814.63 (1) (c), 814.63 (2), 814.65 (1), 814.85 (1) (a), and 814.86 (1).

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Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

Balinsky, Brett

From: Browne, Michael
Sent: Wednesday, February 21, 2007 1:34 PM
To: Balinsky, Brett
Subject: FW: drafter's note on lrb 1411 mandatory auto insurance

Brett,

To continue our exchange I'll go through the points in the same order

- 1) Language you have drafted will be fine
- 2) John does not want to have people getting pulled over for no other reason than to produce proof of insurance, however it needs to be phrased in order to ensure this does not happen is fine. John also does not want people to have to pay surcharges on this violation as they would be paying surcharges on the other violation(s) for which they were pulled over, in essence no "double surcharging".
- 3) Fine.

Thanks.

Mike

From: Lehman, John
Sent: Friday, February 16, 2007 10:17 PM
To: Browne, Michael
Subject: RE: drafter's note on lrb 1411 mandatory auto insurance

Mike- if 344.10(1) allows a person to get their license from home within a reasonable time we can live with that as the same procedure for folks being allowed to show proof of insurance even if they are not carrying it in the car with them. I just don't want people fined for not having the proof in the car when they are actually covered.
J.

From: Browne, Michael
Sent: Friday, February 16, 2007 11:43 AM
To: Lehman, John
Subject: FW: drafter's note on lrb 1411 mandatory auto insurance

John – drafter's reply on questions about mandatory insurance draft

From: Balinsky, Brett
Sent: Wednesday, February 14, 2007 3:43 PM
To: Browne, Michael
Subject: RE: drafter's note on lrb 1411 mandatory auto insurance

Hi Mike,

I'll address your points in order:

- 1) Please see created s. 344.10 (1) (b) (1), which does address this issue in a similar manner to violations for failure to have a driver's license in the driver's immediate possession. If the violation is for the failure to have insurance or sufficient other financial responsibility, that makes enforcement complicated as it puts extra burden on the investigating law enforcement officer to determine if there is compliance and potentially requires the officer to make difficult judgment calls

as to whether any particular offer of proof by the driver will be sufficient. By making the violation for failing to show proof, it places the burden on the driver and simplifies the process.

2) A proof of insurance violation will be primary enforcement unless it is expressly designated as secondary. For this sort of violation, there is no particular need to make this a secondary violation, like a seatbelt violation. The surcharges are independent of the primary-secondary enforcement issue and if you would like, we could have proof of insurance violations expressly excepted from some or all of the surcharges.

3) We could authorize DOT to use the administrative rules they submit to the Legislative Council as emergency rules pending the final promulgation of the administrative rules, which would eliminate the issue of the initial applicability date arriving before the rules have been approved.

Please let me know how you would like to proceed on this. Thanks.

Brett Balinsky

From: Browne, Michael
Sent: Wednesday, February 14, 2007 11:32 AM
To: Balinsky, Brett
Subject: drafter's note on lrb 1411 mandatory auto insurance

Hi Brett,

A couple of follow-ups/clarification on your drafter's note ...

- 1) RE: the technical language violation and related issues ... John is concerned that people could end up being cited for failing to have a piece of paper in the car instead of the fact that they do not have insurance (or other sufficient financial responsibility) which is what he's really trying to get at. Is there a mechanism whereby people could produce proof of insurance or financial responsibility within a reasonable post citation period and have the fine rescinded?
- 2) Is it correct to say that since proof of insurance is not a primary enforcement violation it is exempted from additional surcharges? This provision would be consistent with other violations that are not primary enforcement?
- 3) Is the concern over timeline on rules promulgation that 3 months would not be enough to have a permanent rule in place or that DOT would not have enough time to have even an emergency rule prepared?

Thanks for your help.

Mike Browne
Office of Senator John Lehman
310 South, State Capitol
(608) 266-1832
michael.browne@legis.wisconsin.gov