



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3418/1  
ARG:kjf:jm

## 2011 SENATE BILL 478

February 15, 2012 - Introduced by Senators S. FITZGERALD and OLSEN, by request of Sheriff of Dodge County, Todd M. Nehls. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

1     **AN ACT to amend** 346.70 (title), 346.70 (1), 346.70 (3) and 346.74 (2); and **to**  
2             **create** 343.32 (2) (bk), 346.70 (1m), 346.74 (2g) and 346.74 (2r) of the statutes;  
3             **relating to:** giving notice of, and providing assistance after, a motor vehicle  
4             accident and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if an operator of a vehicle has an accident resulting in personal injury or vehicle damage, the 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 an operator of a vehicle has an accident with an unattended vehicle or with property on or adjacent to a highway, the operator must immediately stop and fulfill certain obligations to provide notice of the vehicle operator's identity. The operator of a vehicle involved in an accident resulting in injury or death to a person or damage to property in specified amounts (reportable accident) must also immediately give notice of the accident to law enforcement, by the quickest means of communication. Within ten days after an accident, the vehicle operator must also make a written report of the accident to the Department of Transportation (DOT) unless a report has already been made by a law enforcement agency. If the vehicle operator is physically incapable of giving the immediate notice, and making the written report, after an accident, the owner of the vehicle involved in the accident must give the notice and make the report. If the vehicle owner is physically or mentally incapable of giving the notice and making the report and there was an occupant in the vehicle at the time of the accident capable

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of giving the notice and making the report, the occupant must give the notice and make the report.

Under current law, if a vehicle operator fails to give immediate notice after an accident, the vehicle operator may be required to forfeit not less than \$40 nor more than \$200 for the first offense and may be required to forfeit not less than \$100 nor more than \$500 for the second or subsequent conviction within a year. A vehicle owner or occupant required to give notice after an accident, when the vehicle operator is incapable of doing so, is subject to this same penalty.

Also under current law, DOT may adopt, by rule, a demerit point system for the purpose of determining when to suspend a person's operating privilege for being a habitually reckless or negligent driver or repeatedly violating traffic laws. Under this system, DOT may assess demerit points against the driving record of a person convicted of violations of certain traffic laws. Despite DOT's general discretion to develop a demerit point scale assigning demerit point amounts for specific violations, there are certain violations for which DOT is required by statute to assess a specific number of demerit points and certain violations for which DOT is prohibited from assessing demerit points.

This bill requires a motor vehicle occupant, as well as the motor vehicle operator, to immediately give notice to law enforcement after a reportable accident. The bill also increases the penalty for violating this notice requirement to a forfeiture of not less than \$200 nor more than \$500 for the first offense and not less than \$300 nor more than \$500 for the second or subsequent conviction within a year. The bill also requires DOT to assess six demerit points against the driving record of a vehicle operator who fails to give notice as required.

The bill also creates certain requirements applicable to those who render assistance after a reportable accident. Under the bill, a person in the business of towing, recovery, or repair of motor vehicles may not contract for retrieval, recovery, or removal from the scene of a reportable accident of any motor vehicle that has sustained damage unless the person has been contacted by a law enforcement agency. Moreover, a person in the business of towing, recovery, or repair of motor vehicles may not retrieve, recover, or remove from the scene of a reportable accident any motor vehicle that has sustained damage unless a law enforcement officer is present or has given prior approval. However, these provisions do not apply if removal of the vehicle from the roadway at the scene of the accident is necessary to avoid imminent danger to motorists or other persons. In addition, under the bill, a person may not assist an operator or occupant of a motor vehicle involved in a reportable accident unless the person has first reported the accident to a law enforcement agency or has verified that another person has already reported the accident to a law enforcement agency. However, there are exceptions to this requirement for persons whose profession involves rendering medical assistance; persons who are not related by blood or marriage to, or closely acquainted with, the operator or occupant of the motor vehicle; and persons who have no knowledge that there was a traffic accident. A person who violates these new requirements applicable to those who render assistance after a reportable accident may be required to forfeit not less than \$40 nor more than \$200.

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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.** 343.32 (2) (bk) of the statutes is created to read:

2           343.32 (2) (bk) The scale adopted by the secretary shall assess, for each  
3 conviction, 6 demerit points for a violation of s. 346.70 (1) by the operator of a vehicle.

4           **SECTION 2.** 346.70 (title) of the statutes is amended to read:

5           **346.70 (title) Duty to report accident; assistance following accident.**

6           **SECTION 3.** 346.70 (1) of the statutes is amended to read:

7           346.70 (1) IMMEDIATE NOTICE OF ACCIDENT. The operator or occupant of a vehicle  
8 involved in an accident resulting in injury to or death of any person, any damage to  
9 state or other government-owned property, except a state or other  
10 government-owned vehicle, to an apparent extent of \$200 or more, or total damage  
11 to property owned by any one person or to a state or other government-owned vehicle  
12 to an apparent extent of \$1,000 or more shall immediately by the quickest means of  
13 communication give notice of such accident to the police department, the sheriff's  
14 department or the traffic department of the county or municipality in which the  
15 accident occurred or to a state traffic patrol officer. In this subsection, "injury" means  
16 injury to a person of a physical nature resulting in death or the need of first aid or  
17 attention by a physician or surgeon, whether or not first aid or medical or surgical  
18 treatment was actually received; "total damage to property owned by one person"  
19 means the sum total cost of putting the property damaged in the condition it was  
20 before the accident, if repair thereof is practical, and if not practical, the sum total  
21 cost of replacing such property. For purposes of this subsection if any property which

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1 is damaged is held in a form of joint or multiple ownership, the property shall be  
2 considered to be owned by one person.

3 **SECTION 4.** 346.70 (1m) of the statutes is created to read:

4 346.70 **(1m)** ASSISTANCE FOLLOWING AN ACCIDENT. (a) 1. No person in the  
5 business of towing, recovery, or repair of motor vehicles may contract for retrieval,  
6 recovery, or removal from the scene of a traffic accident described in sub. (1) of any  
7 motor vehicle that has sustained damage unless the person has been contacted by  
8 a law enforcement agency.

9 2. No person in the business of towing, recovery, or repair of motor vehicles may  
10 retrieve, recover, or remove from the scene of a traffic accident described in sub. (1)  
11 any motor vehicle that has sustained damage unless a law enforcement officer is  
12 present or has given prior approval for the retrieval, recovery, or removal of the  
13 vehicle.

14 3. This paragraph does not apply with respect to removal of a motor vehicle  
15 from the roadway at the scene of an accident if such removal is necessary to avoid  
16 imminent danger to motorists or other persons.

17 (b) No person may assist, by any means, an operator or occupant of a motor  
18 vehicle involved in an accident as described in sub. (1) unless the person has first  
19 reported the accident to a law enforcement agency or has verified that another  
20 person has already reported the accident to a law enforcement agency. This  
21 paragraph does not apply to any of the following:

22 1. A physician, nurse, or other person whose profession involves rendering  
23 medical assistance.

24 2. Any person who is not related by blood or marriage to, or closely acquainted  
25 with, the operator or occupant of the motor vehicle.

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1           3. Any person who has no knowledge that there was a traffic accident.

2           **SECTION 5.** 346.70 (3) of the statutes is amended to read:

3           346.70 (3) WHO TO REPORT WHEN OPERATOR UNABLE. Whenever the operator of  
4 a vehicle is physically incapable of giving the notice and making the report required  
5 by subs. (1) and (2), the owner of the vehicle involved in the accident shall give the  
6 notice and make the report required by subs. (1) and (2). If the owner of the vehicle  
7 is physically or mentally incapable of ~~giving the notice and~~ making the report  
8 required by ~~subs. (1) and sub.~~ (2), and if there was another occupant in the vehicle  
9 at the time of the accident capable of ~~giving the notice and~~ making the report, the  
10 occupant shall ~~give the notice and~~ make the report.

11           **SECTION 6.** 346.74 (2) of the statutes is amended to read:

12           346.74 (2) Any person violating s. 346.70 (1), (2) or (3), 346.71 or 346.73 may  
13 be required to forfeit not less than \$40 nor more than \$200 for the first offense and  
14 may be required to forfeit not less than \$100 nor more than \$500 for the 2nd or  
15 subsequent conviction within a year.

16           **SECTION 7.** 346.74 (2g) of the statutes is created to read:

17           346.74 (2g) Any operator of a vehicle, and any occupant of a vehicle who is at  
18 least 16 years of age, who violates s. 346.70 (1) may be required to forfeit not less than  
19 \$200 nor more than \$500 for the first offense and may be required to forfeit not less  
20 than \$300 nor more than \$500 for the 2nd or subsequent conviction within a year.

21           **SECTION 8.** 346.74 (2r) of the statutes is created to read:

22           346.74 (2r) Any person violating s. 346.70 (1m) may be required to forfeit not  
23 less than \$40 nor more than \$200.

24           **SECTION 9. Initial applicability.**

