

Chapter Trans 100

SAFETY RESPONSIBILITY AND ACCIDENT REPORTING

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Note: Chapter MVD 10 as it existed on October 31, 1985 was repealed and a new chapter Trans 100 was created effective November 1, 1985.

Trans 100.01 Purpose and scope. (1) **STATUTORY AUTHORITY.** As authorized by ss. 85.16 (1), 227.014, and 344.13, Stats., the purpose of this chapter is to establish the department's interpretation of ss. 343.23 (2) and 344.01 to 344.22, Stats., relating to financial responsibility for past accidents and s. 346.70, Stats., relating to reporting accidents.

(2) **APPLICABILITY.** This chapter applies to any person involved in a motor vehicle accident in Wisconsin as specified in ss. 344.12 and 346.70, Stats.

Note: Forms used in this chapter are MV 3008 notice of suspension and possible vehicle impoundment, MV 3009 order of suspension, MV 3010 order of reinstatement, MV 3016 security deposit receipt, MV 3019 driver's report of accident, MV 3033 notice of suspension unless accident report filed, MV 3039 minors release, MV 3041 release of liability, MV 3043 bond under chapter 344 Wisconsin Statutes, MV 3044 evaluation of property damage, MV 3045 evaluation of personal injuries, MV 3046 evaluation of motor vehicle damage, MV 3069 application for self-insurance, MV 3070 safety responsibility self-insurance certificate, MV 3100 notice of incomplete report, MV 3128 installment agreement to pay damages, MV 3343 compliance notification, MV 3347 emergency vehicle involvement, MV 3384 safety responsibility information, MV 3385 informational letter to injured party, and MV 3387 reinstatement instructions, MV 4000 Wisconsin motor vehicle accident report. Forms may be obtained, free of charge, from Wisconsin Department of Transportation, Safety Responsibility Unit, P.O. Box 7919, Madison, WI 53707.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.02 Definitions. As used in this chapter:

(1) "Accident" means an occurrence that originates or terminates on a traffic way, which involves at least one motor vehicle in transport and results in injury or death to any person, or damage to any property. "Accident" includes acts by the operators of motor vehicles which contribute to the cause of an accident regardless of physical contact and, for the purpose of ch. 344, Stats., includes intentional acts.

(2) "Department" means the Wisconsin department of transportation.

(3) "In transport" means the condition of a motor vehicle when it is in use primarily for moving persons or property (including the vehicle itself) from one place to another and is in motion, or in readiness for motion, or on a traffic way, but not legally parked unattended in a designated parking area.

Note: This definition includes parked motor vehicles with doors open into a traffic way or vehicle load extending into a traffic way and driverless motor vehicles which are in motion.

(4) "Legally parked" means a motor vehicle which is parked under ss. 346.03 (2) (a) or 346.51 to s. 346.54 Stats., or is indicated in writing to be legally parked at the time of the accident by the investigating law enforcement agency or other operators involved in the accident. This definition does not include parked motor vehicles with doors open into the traffic way or vehicle load extended into a traffic way.

(5) "Motor vehicle" means a self-propelled vehicle, including trailers and semi-trailers designed for use with such vehicles, but does not include farm tractors, implements of husbandry, road machinery, well drillers or snowmobiles.

(6) "Operator" as defined under s. 344.01 (2) (c), Stats.

(7) "Traffic way" means premises open to the public as a matter of right or custom for use of their motor vehicles whether the premises are publicly or privately owned.

Note: This definition includes driveways, approaches to buildings, shipping and loading docks, service stations, parking stalls and parking aisles of parking lots.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.03 Reporting an accident. (1) The operator of a motor vehicle involved in a reportable accident as defined in s. 346.70 (1), Stats., and the law enforcement agency investigating the accident, shall report the accident to the department as required under s. 346.70, Stats. The department shall assume that an accident is reportable until information is received which proves otherwise.

Note: Forms MV 3019 — Drivers Report of Accident and MV 4000 — Wisconsin Motor Vehicle Accident Report.

(2) If the department receives a written statement that the operator of a vehicle is different from that indicated on the enforcement agency report, the department shall require an amended enforcement agency report or a copy of court findings which identifies the operator of the vehicle at the time of the accident.

(3) If the department determines that an accident is not reportable as defined in s. 346.70 (1), Stats., the record of the accident shall be removed from the operator's driving record.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.04 Required accident information. (1) Under s. 346.70 (2) and (3), Stats., the following information shall be completed and submitted by the operator, owner or occupant on a form approved by the department:

- (a) The accident date,
- (b) The accident location,

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- (c) The operator's full name and address,
- (d) The operator's driver license number and issuing state,
- (e) The operator's birth date and sex,
- (f) The vehicle owner's full name and address,
- (g) The vehicle license plate number and issuing state,
- (h) The vehicle make, year and identification number.
- (i) The parts of the vehicle damaged and the approximate cost of repair,
- (j) The owner's insurance company name and policy number,
- (k) The operator's insurance company name and policy number,
- (l) If the vehicle owner is self-insured under s. 344.16, Stats., the number of the self-insurance certificate,
- (m) The policy holders name,
- (n) The known information under pars. (c), (d), (e), (f), (g), (h) and (i) on other parties involved in the accident,
- (o) A description of property damage, other than motor vehicle damage, with the name and address of the property owner and approximate cost of repairing the damage,
- (p) The name and address, sex, and injury severity of all injured parties,
- (q) A description of how the accident occurred, and
- (r) The operator's signature or signature of person who completes the report if the operator does not do so.

Note: Form MV 3100 — Notice of Unacceptable Report.

- (2) The department may accept a report with any item omitted in sub. (1) if the information is provided to the department from another source.

Note: Report form MV 3019.

(3) The department shall assume that the liability insurance policy specified by the owner or operator on the accident report was in force unless the insurer notifies the department that the liability policy was not in force within 30 days of the date the notice is mailed to the insurer. The department will accept a written notice of non-insurance for up to one year following the date of the accident except as provided in s. 344.15 (4), Stats. Upon receipt of written notice the department shall require the operator or owner to deposit security under s. 344.13, Stats.

(4) When the owner is self-insured under s. 344.16, Stats., the department shall forward the insurance portion of the accident report to the address furnished by the self-insured owner. The department shall assume that the operator of the vehicle is exempt from the security requirements under s. 344.14 (2) (d), Stats., unless the self-insured notifies the department otherwise within 30 days of mailing or other information is received by the department indicating that the self-insured certificate does not apply to the operator.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.05 Recording accident on operator's record. All reportable accidents in which the operator was involved shall be recorded on the operator's driving record under s. 343.23 (2), Stats., except when the vehicle was legally parked.

Note: This includes operators of law enforcement vehicles and other emergency vehicles, Form MV 3347 — Emergency Vehicle Involvement.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.06 Determining the reasonable possibility of a judgment. (1) The department may use the following sources of information to determine whether an uninsured person is exempted under s. 344.14 (2) (k), Stats., from the security and suspension requirements in ch. 344, Stats:

(a) Operator reports.

(b) Law enforcement agency reports.

(c) Other information, such as statements of witnesses to the accident and supplementary reports from the investigating law enforcement agency.

(2) An uninsured motorist shall not be required to deposit security when there is no reasonable possibility of a judgment being rendered against the uninsured person. The department shall consider the following factors to determine whether a person is exempt under s. 344.14 (2) (k), Stats., from the security and suspension requirements under ch. 344, Stats.:

(a) Violation of ch. 346, 347, 348 or 350, Stats.

(b) Failure to exercise ordinary care based on information from the sources listed in sub. (1).

(3) If the parties to an accident fail to file a description of the accident and the department does not receive an enforcement agency report which describes the accident, the uninsured person shall comply with the security provisions of s. 344.13, Stats.

(4) If the department requires security under s. 344.13, Stats., and, after receiving additional information, determines that no reasonable possibility of a judgment against the person exists, the department shall rescind the security requirement. The additional information may be in the form of notarized witness statements, enforcement agency reports, coroner reports or investigative reports from independent investigators or the injured party's insurance company.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.07 Determination of security amount. (1) Court costs of 20% of the evaluated damages and injuries not to exceed \$500.00 shall be included when determining the amount of security to be deposited under s. 344.13 (1) and (2), Stats.

(2) The amount of security required under s. 344.13, Stats., for personal injury shall be determined by:

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(a) A certification of personal injury, completed by a person skilled in the evaluation of personal injuries.

Note: Form MV 3045 — Evaluation of Personal Injuries.

(b) A certification of loss of wages as a result of the accident based on written information provided by the claimant's employer.

(c) A computation of an amount sufficient to satisfy a court award for pain and suffering of the injured person. The department may consider the following factors when computing an amount for pain and suffering:

1. The location, permanency, and potential cost of cosmetic surgery of scars resulting from the accident,
2. The age of the injured person,
3. The occupation and lifestyle of the injured person, if the occupation or lifestyle of the injured person will be affected,
4. The duration and severity of pain, and degree of consciousness of the injured party,
5. The length and type of temporary or permanent disability, and
6. The diagnosis of the injury.

(3) The amount of security required under s. 344.13, Stats., for property damage shall be determined by:

(a) A certification of motor vehicle damage, not to exceed the value of the vehicle prior to the accident, completed by an authorized damage appraiser.

Note: Form MV 3046 — Evaluation of Motor Vehicle Damage.

(b) A certification of property damage, not to exceed the value of the property prior to the accident, completed by a person skilled in the evaluation of damages to the type of property damaged.

Note: Form MV 3044 — Evaluation of Property Damage.

(4) The amount of security required when a death is involved will be the minimum provided for under s. 344.15 (1), Stats.

(5) If a report of an accident is received by the department within one year of the date of the accident, the department shall determine the amount of security required within 90 days after receipt of the report, if possible, but failure to do so does not relieve an uninsured motorist from the duty to comply with the provisions of ch. 344, Stats.

Note: Reference DOT vs. Warner 102 W(2d) 232 (CTApp. 1981).

(6) Property damage and personal injury evaluations which are received by the department within 21 calendar days from the date the evaluations are mailed by the department shall be considered in determining the security required. Evaluations received after the 21 calendar day period may be considered if the final determination of the security amount has not been established by the department and less than one year has elapsed since the date of the accident.

Note: Form MV 3384 — Safety Responsibility Information.

(7) The amount of security required under this section may be increased only when the amount is incorrect due to administrative error on the part of the department, or when previously unreported damages or injuries are reported to the department. This subsection does not apply to a person who has complied with a previous notice of suspension for the same accident after one year from the date of the accident.

(8) Damage to a motor vehicle which was operated without the owner's permission shall be included in the amount of security if proof of operating without permission as specified in s. Trans 100.09 is filed with the department.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.08 Security deposit. (1) Acceptable forms of security required under ss. 344.14 and 344.17, Stats., include:

- (a) Cash.
- (b) A cashiers check.
- (c) A money order.
- (d) A financial institution draft.
- (e) A certified personal or business check.
- (f) An attorney trust account draft.
- (g) A surety bond.

Note: Forms MV 3016 — Security Deposit Receipt, MV 3043 — Bond Under Chapter 344 Stats., and MV 3385 — Informational Letter to Injured Parties.

(2) A person other than the uninsured owner or operator may deposit security if the person specifies in writing on whose behalf the deposit is made and to whom the deposit should be returned.

(3) Unless otherwise specified in writing by the depositor, security deposits shall be returned as required under s. 344.20 (3), Stats.

(4) Security deposits returned shall be valued at the same amount as when received by the department. No interest or dividends shall be paid to the depositor.

(5) If the owner and operator are separate persons, the deposit may be made by one of them, or they may cooperate in depositing the security. The security may be applied to the payment of judgments for damages arising out of the accident rendered against either operator or owner regardless of who made the deposit.

(6) If notice of a court action is filed with the department, under s. 344.18 (1) (d), Stats., the security deposit shall be retained pending further order of the court. The deposit shall not be returned to the depositor until a certified copy of the satisfaction of judgment or dismissal of the court action is filed with the department

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.09 Proof of operating without permission. The owner of a motor vehicle involved in an accident is exempted under s. 344.14 (2) (g), Stats., from depositing security if the owner produces proof that the vehicle was operated without permission. Acceptable proof includes:

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(1) A letter from the law enforcement agency of the municipality where the offense occurred stating that the vehicle was reported stolen prior to the accident or that the law enforcement agency investigated the report and found it to be a stolen vehicle, or

(2) A letter from the district attorney that the owner has filed a complaint against the operator and that the operator is being charged with operating without the owner's consent, or an affidavit signed by the operator stating that the vehicle was being operated without the owner's expressed or implied consent. An affidavit does not exempt an owner who is the sponsor of an operator, as defined in s. 343.15, Stats., or

(3) Under s. 344.15 (4), Stats., an affidavit signed by the owner that the operator did not have permission to operate the vehicle. In a lease situation the department may accept an affidavit signed by the lessee as agent of the owner of the vehicle.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.10 Hearing on suspension. (1) Any person desiring a hearing as provided in s. 344.02, Stats., shall file a written request for a hearing with the department within 14 days following the suspension date.

(2) The department shall refer all timely requests for hearing to the office of the commissioner of transportation. If the person's operating privilege and registrations have not been suspended the department shall delay further action on the suspension pending the decision of the office of the commissioner.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.11 Notice of subrogation or assignment. In all cases of subrogation claim or assignment under ch. 344, Stats., a signed copy of the subrogation or assignment of the claim shall be filed with the department. If the person has complied with a previous notice of suspension for the same claim the notice of subrogation or assignment is untimely and no action shall be taken by the department.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.12 Release of liability. (1) Satisfactory evidence of release of liability under ss. 344.14 (2) (h) and 344.18 (1) (b), Stats., shall be a written release agreement between the uninsured person and the injured party which includes an exchange of money or something that has money value.

Note: Forms MV 3039 — Minors Release, and MV 3041 — Release of Liability.

(2) If the injured party sustains property damage or personal injuries, the release shall include:

(a) The witnessed or notarized signature of the injured party, or

(b) The witnessed or notarized signature of a parent with legal custody or a guardian as described in s. 807.10, Stats., when the injured party is a minor or incompetent. If the damages are estimated by the department to be \$5,000.00 or more, the release shall be accompanied by a copy of a court order approving the settlement on behalf of the minor or mentally incompetent person.

(3) If the injured party died as a result of the accident, the release shall include one of the following:

(a) The witnessed or notarized signature of the personal representative or administrator of the estate of the deceased accompanied by a copy of the court order appointing the personal representative or administrator,

(b) The witnessed or notarized signature of parents with legal custody or the legal guardian of the deceased when the deceased was a minor at the time of the accident,

(c) The witnessed or notarized signature of the primary heir of the estate of the deceased accompanied by an affidavit of heirship from the releasing party and assurance that the estate will be settled without appointment of a personal representative. Acceptable assurance shall be:

1. A copy of a petition filed under ch. 867, Stats., or
2. A court order assigning property under ch. 867, Stats.

(d) The witnessed or notarized signature of the primary heir of the estate of the deceased accompanied by an affidavit of heirship from the releasing party and a certified medical statement attesting that the deceased had no pain and suffering.

(4) In addition to a release agreement described in subs. (1), (2) and (3), the department may accept the following evidence that a person has been released from liability or adjudicated not to be liable:

(a) A certified copy of a bankruptcy petition or discharge and bankruptcy schedule A-3 listing the claims of all persons who have verified the damages or injuries, or

(b) A certified copy of the summons, complaint and judgment rendered in favor of the uninsured person against a person who has verified the damages or injuries, or

(c) A certified copy of the summons, complaint and order of final dismissal of a lawsuit involving the uninsured person and a person who has verified the damages or injuries.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.13 Written installment agreement. (1) For the purpose of s. 344.14 (2) (h), Stats., the written agreement providing for payment in installments of an agreed amount for all claims for injury or damage resulting from the accident shall contain:

(a) An amount of money or something that has money value agreed to by all parties to the agreement as settlement for all claims by the parties for damages or injuries arising out the accident,

(b) At least 2 installment payments,

(c) The notarized or duly acknowledged signature of the uninsured operator or owner making the payments, and

(d) The witnessed signatures of all parties who are accepting the agreed amount in installment payments.

Note: Form MV 3128 — Installment Agreement to Pay Damages.

(2) An amended agreement shall be accepted if the original agreement filed is valid and the amended agreement is signed by all parties to the original agreement.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.14 Suspension and reinstatement. (1) The department shall not suspend a person's privileges for failure to file an accident report if no further information is needed from the person who failed to file the report.

(2) A suspension under s. 344.08, Stats., for failure to report an accident remains in effect until the required report is filed or until one year has elapsed since the effective date of the suspension order.

Note: Forms MV 3033 — Notice of Suspension unless accident report filed, and MV 3009 — Order of Suspension.

(3) The operating privileges suspended by the department under s. 344.14, Stats., shall be reinstated when the reinstatement fee required under s. 343.21 (1) (k), Stats., has been paid and:

(a) The person meets one of the exceptions under s. 344.14 (2), Stats., or

(b) The person meets one of the conditions specified in s. 344.18 (1), Stats.

Note: Form MV 3010 — Order of Reinstatement.

(4) The operating privileges or registration suspended by the department under s. 344.18 (3), Stats., shall be reinstated when the reinstatement fee required under s. 343.21 (1) (k), Stats., has been paid and:

(a) The person meets one of the conditions specified in s. 344.18 (3), Stats., or

(b) The person files an acceptable release of liability as specified in s. Trans 100.12.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.15 Reinstatement fee. (1) Any person reinstating their operating privilege that was suspended under ch. 344, Stats., shall pay the reinstatement fee under s. 343.21 (k), Stats. No fee is required when:

(a) The person is suspended under s. 344.08, Stats.,

(b) The person is suspended under s. 344.19, Stats.,

(c) The person is subject to a reinstatement fee in accordance with s. 343.21 (1) (e), Stats.,

(d) The person files bankruptcy prior to the suspension, or

(e) The suspension is a result of administrative error on the part of the department.

(2) The reinstatement fee shall be paid for each type of license suspended regardless of the number of suspensions under ch. 344, Stats.

Note: Forms MV 3387 — Reinstatement Instructions.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.16 Self-insurance. The department shall issue a certificate of self-insurance to a person under the following conditions:

- (a) The person owns more than 25 motor vehicles which are registered in Wisconsin;
- (b) An application for self-insurance is completed, and
- (c) The persons application and a financial statement, signed during the last calendar year, indicate that the person has and will continue to have the ability to pay judgments arising out of motor vehicle accidents.

Note: Forms MV 3069 — Application for Self-Insurance and MV 3070 — Safety Responsibility Self-Insurance Certificate.

- (2) Self-insurance certificates shall be issued for a period of three years.
- (3) Renewal of a certificate requires submittal of a new self-insurance application and a financial statement.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.17 Transfer of vehicle ownership. (1) A transfer of ownership of any vehicle whose registration is suspended or subject to suspension under s. 344.14, Stats., shall not be allowed if the owner whose registration is suspended or subject to suspension continues to have possession of, use of, or receive any benefit from the operation of the vehicle.

(2) A person's registration shall be considered subject to suspension under s. 344.14, Stats., when written notice of a security requirement under s. 344.13, Stats. is issued by the department.

Note: Form MV 3008 — Notice of Suspension and Possible Vehicle Impoundment.

- (3) An application for transfer of ownership shall be accepted when:
 - (a) The vehicle is repossessed by a person who, pursuant to the terms or conditions of any written instrument is given a right of repossession; or
 - (b) The purchaser does not reside at the same address as the seller and the full value of the vehicle has been paid to the seller. The department may require proof of payment or an affidavit from the buyer or seller as evidence that the proposed transfer is in good faith.

(4) If the department refuses to allow a transfer of ownership, the department shall:

- (a) Create a new title, without charge, in the name of the seller and send it to the seller with a letter explaining why the transfer of ownership was refused.
- (b) Return all fees submitted by the purchaser with an explanation why the transfer of ownership was refused. If the title and registration were issued after the written notice of security was issued to the seller but prior to the suspension of registrations, the fees shall be returned only after the purchaser complies with the department request for return of the title and any registration plates issued.

(c) Notify, in writing, any secured party shown on the purchaser's application for transfer of ownership that the transfer of ownership was refused.

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History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.

Trans 100.18 File purge criteria. (1) The accident entry shall be purged from the driver record after 4 years from the date of the accident.

(2) The safety responsibility case entry shall be purged from the driver record after 4 years from the suspension termination date.

(3) The safety responsibility case entry shall be purged from the driver record after 5 years from the suspension date if all reinstatement requirements, except payment of the reinstatement fee required under s. 343.21 (1) (k), Stats., have been met.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85.