

1971 Assembly Bill 1216

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CHAPTER 253, Laws of 1971

AN ACT to repeal 346.73 (1); to amend 344.13 (1) and 346.73 (title) and (2); and to create 344.02 and 344.14 (2) (k) of the statutes, relating to deposit of security following an accident.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 344.02 of the statutes is created to read:

**344.02 HEARING ON SUSPENSION.** (1) Whenever the administrator under s. 344.13 gives notice of the amount of security required to be deposited and that an order of suspension will be made if such security is not deposited, he shall afford the person so notified an opportunity for a hearing on the proposed suspension, if written request for such hearing is received by the division prior to the date specified in such notice, or prior to the postponed effective date of suspension if postponement has been granted under s. 344.14 (1). Upon receipt of timely request for hearing, the administrator shall fix the time and place of such hearing and give notice thereof to such person by regular mail. The scope of the hearing shall be limited to the matter set forth in s. 344.14 (2) (k). Any person who fails without reasonable cause to appear at the time and place specified in the notice shall forfeit his right to a hearing.

(2) In connection with such hearings the administrator or his duly authorized representative may administer oaths and issue subpoenas for the attendance of witnesses and the production of documents. No law enforcement officer or other witness called by the person who has requested a hearing to testify on his behalf shall be paid a witness fee by the division nor shall any law enforcement officer called as a witness for the division be paid any witness fee by the division.

(3) Upon completion of the hearing, the division shall make findings of fact, conclusions of law, and a decision, and the administrator shall either proceed to order suspension of the person's operating privilege, or registrations, or both in accordance with s. 344.14, or upon good cause appearing therefor, shall terminate suspension proceedings.

(4) The time during which enforcement of an order of suspension is stayed pending completion of court review thereof shall not be included as part of the 13-month period fixed by s. 344.18 (1) (d).

SECTION 2. 344.13 (1) of the statutes is amended to read:

344.13 (1) The administrator after receipt of a report of an accident of the type specified in s. 344.12 shall determine, with respect to such accident, the amount of security which is sufficient in his judgment to satisfy any judgment for damages resulting from such accident which may be recovered against either operator or owner of the vehicles involved in such accident. Such determination shall be based upon the total property damage suffered by other persons whose property was involved in the accident, not including the vehicle a person was operating when such operation was with the owner's permission, and on the extent of personal injuries, including deaths, involving other parties to the accident. The determination as to the amount of security required ~~shall be made without regard to the fault of the persons involved but~~ shall not be made with respect to operators or owners who are exempt from the requirements of security and suspension under s. 344.14 (2).

SECTION 3. 344.14 (2) (k) of the statutes is created to read:

344.14 (2) (k) To the operator or the owner of a vehicle involved in an accident when it appears to the satisfaction of the administrator that there does not exist a reasonable possibility of a judgment in the amount claimed or in a lesser amount being rendered against such operator or owner as a result of the accident.

SECTION 4. 346.73 (1) of the statutes is repealed.

SECTION 5. 346.73 (title) and (2) of the statutes are amended to read:

**346.73 (title) ACCIDENT REPORTS NOT TO BE USED IN TRIAL.**

(2) ~~No~~ Notwithstanding s. 346.70 (4) (f), written accident ~~report reports~~ required to be filed with the division of motor vehicles or with a county or municipal authority shall not be used as evidence in any judicial trial, civil or criminal, arising out of an accident, except that the such reports may be used as evidence in any administrative proceeding conducted by the division. The division shall furnish upon demand of any person who has or claims to have made such a report, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the division solely to prove a compliance or a failure to comply with the requirement that such a report be made to the division.