

CHAPTER 344.

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GENERAL PROVISIONS.

344.01 Words and phrases defined. (1) Words and phrases defined in ss. 340.01 and 343.01 are used in the same sense in this chapter unless a different definition is specifically provided.

(2) In this chapter the following words and phrases have the designated meanings:

(a) "Judgment" means a judgment for damages rendered by a court of competent jurisdiction of any state or of the United States upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, including damages for care and for loss of services because of bodily injury to or death of any person and damages because of injury to or destruction of property and the consequent loss of use thereof, which judgment has become final by expiration without appeal of the time within which an appeal might have been perfected or by final affirmation on appeal. "Judgment" also includes a judgment rendered by a court of competent jurisdiction upon a cause of action on an agreement of settlement for damages of the type specified in this paragraph, which judgment has become final within the meaning of this paragraph.

(b) "Motor vehicle" means a self-propelled vehicle and also includes trailers and semitrailers designed for use with such vehicles, except that "motor vehicle" does not include farm tractors, well drillers or road machinery.

(c) "Operator" means a person who is in actual or constructive physical control of a motor vehicle. It includes a person who has parked a motor vehicle. It includes the driver of a vehicle being pushed or towed and, in case there is no person actually doing the driving, the person who is doing the pushing or towing.

(d) "Proof of financial responsibility" or "proof of financial responsibility for the future" means proof of ability to respond in damages for liability on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance or use of a motor vehicle in the amount of \$10,000 because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, in the amount of \$20,000 because of bodily injury to or death of 2 or more persons in any one accident and in the amount of \$5,000 because of injury to or destruction of property of others in any one accident.

(e) "Registration" means, in the case of a person whose vehicle is registered under ch. 341, the registration so issued; in the case of a person whose vehicle is not so registered, it means the privilege to register a vehicle in Wisconsin and the reciprocal privilege granted a nonresident to operate in Wisconsin a vehicle not registered in Wisconsin.

(f) "State" means any state, territory or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

(g) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except vehicles used exclusively upon stationary rails or tracks or vehicles propelled by use of electricity obtained from overhead trolley structures.

344.02 Administration of responsibility law. The commissioner shall administer and enforce this chapter and may, in his discretion, appoint any employe in the department as his representative to affix his signature, including any facsimile signature adopted by him, to the administrative letters, notices and orders to enforce this chapter.

344.03 Judicial review of commissioner's action. Any person aggrieved by any action of the commissioner pursuant to this chapter may, within 10 days after notice thereof, or in any event before the commissioner has revoked or suspended the operating privilege or registration by specific order if preceded by notice mailed at least 10 days prior to said revocation or suspension, file a petition in the circuit court of Dane county for a review thereof as provided in s. 227.16. The court shall summarily hear the petition and may make any appropriate order or decree within the scope of s. 227.20.

History: 1961 c. 662.

344.04 Power of court to stay suspension of registration of vehicles. (1) Notwithstanding any other provision of this chapter, the commissioner shall not revoke or suspend the registration of a vehicle when ordered not to do so by the court wherein the judgment for damages was had or, in a case not involving a judgment, when ordered not to do so by a court pursuant to petition of the registrant in accordance with sub. (2).

(2) Upon receiving information, other than of a judgment for damages in a court of this state, that would be cause for revocation or suspension of registration, the commissioner shall notify the registrant of his intention to revoke or suspend such registration. The registrant may thereupon petition any court of record in his county for an order enjoining the commissioner's contemplated action, whereupon the judge of such court shall grant an order restraining the commissioner in the matter until the petition is finally determined by the court. If such petition and order are served upon the commissioner within 10 days after the date of the commissioner's notice or in any event before the commissioner has revoked or suspended the registration, the commissioner shall await the final determination of the court. The commissioner shall be given notice of the hearing. Upon a showing that it would result in undue hardship upon the petitioner to have any such registration revoked or suspended, the court shall issue an order restraining the commissioner from revoking or suspending the registration.

(3) This section does not authorize a court to stay suspension or revocation of an operator's license.

344.05 Courts to report nonpayment of certain judgments. (1) Whenever any judgment in excess of \$100 for damages arising out of a motor vehicle accident is not satisfied within 30 days after its having become final by expiration without appeal of the time within which an appeal might have been perfected or by final affirmation on appeal, the clerk of the court in which such judgment was rendered, or the judge if the court has no clerk, shall forthwith forward to the commissioner a certified copy of such judgment.

(2) If the defendant named in any certified copy of a judgment reported to the commissioner is a nonresident, the commissioner shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.

344.06 Commissioner to furnish operating record. The commissioner shall upon request furnish any person a certified abstract of the operating record of any person

subject to the provisions of this chapter. If there is no record that such person has been convicted of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by such person, the commissioner shall so certify in the abstract. The abstract of the operating record also shall fully designate the motor vehicles, if any, registered in the name of such person. Such abstract is not admissible in evidence in any action for damages or criminal proceeding arising out of a motor vehicle accident.

344.07 Responsibility law not to prevent other process. Nothing in this chapter shall be construed as preventing the plaintiff in any action at law from relying for relief upon the other processes provided by law.

344.08 Suspension for failure to report accident. (1) The commissioner may suspend the operating privilege or registration of any person who fails to report an accident as required by s. 346.70 or to give correctly the information requested by the commissioner in connection with such report unless, in the judgment of the commissioner, there was excusable cause for such failure or unless the accident did not result in injury or damage to the person or property of anyone other than the person so required to report.

(2) Any operating privilege suspended pursuant to this section, or suspended pursuant to any other section for failure to report an accident, shall be reinstated in accordance with s. 344.09 at the end of 13 months following the accident if, during such 13-month period, no notice of action instituted within one year from the date of the accident has been filed with the department in the manner specified in s. 344.18 (1) (d).

344.09 Reinstatement of suspended operating privilege and registration. (1) Whenever the commissioner is satisfied that the reason for suspension of an operating privilege under this chapter has been removed, including satisfaction of any of the requirements of s. 344.18, he shall forthwith order reinstatement of such operating privilege and shall give notice of such reinstatement to the person whose operating privilege has been suspended. Such reinstatement order has the same effect as an automatic reinstatement under s. 343.39.

(2) Whenever an operating privilege suspended or revoked pursuant to this chapter is reinstated, any registration which was suspended or revoked along with the operating privilege is automatically reinstated and the department shall return any surrendered and unexpired registration plate in its possession.

SECURITY FOR PAST ACCIDENTS.

344.12 Applicability of provisions relating to deposit of security for past accidents. Subject to the exceptions contained in s. 344.14, the provisions of this chapter requiring deposit of security and requiring suspension for failure to deposit security apply to the operator and owner of every motor vehicle which is in any manner involved in an accident in this state which has resulted in bodily injury to or death of any person or damage to property of any other person in excess of \$100.

344.13 Commissioner to determine amount of security required following accident and to give notice thereof. (1) The commissioner 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).

(2) The commissioner shall determine the amount of security required to be deposited by each person on the basis of the accident reports or other information submitted. In addition to the accident reports required by law, the commissioner may request from any of the persons, including passengers and pedestrians, involved in such accident such further information, sworn statements or other evidence relating to property damage, personal injury or death in motor vehicle accidents as he deems necessary to aid in determining the amount to be deposited as security under s. 344.14. Failure of a person to comply with such request is grounds for suspending such person's operating privilege but no suspension shall be made on such grounds until one follow-up request has been made and at least 20 days have elapsed since the mailing of the first request.

(3) The commissioner within 60 days after receipt of a report of an accident of the

type specified in s. 344.12 and upon determining the amount of security to be required of any person involved in such accident or to be required of the owner of any vehicle involved in such accident, shall give at least 10 days' written notice to every such person of the amount of security required to be deposited by him. The notice also shall state that an order of suspension will be made as provided in s. 344.14, unless within such time security is deposited as required by the notice. The order of suspension may be made a part of the notice, with a provision that it will take effect on the date specified in this subsection unless security is deposited prior to that date.

History: 1961 c. 662.

344.14 Suspension for failure to deposit security; exceptions. (1) If a person who was given notice pursuant to s. 344.13 (3) fails to deposit security in the amount and by the time specified in the notice, the commissioner shall forthwith suspend his operating privilege if he was the operator of a motor vehicle involved in the accident and all his registrations if he was the owner of a motor vehicle involved in the accident unless he furnishes proof satisfactory to the commissioner that he comes within one of the exceptions set forth in sub. (2). If the owner and operator are separate persons, only one of them need deposit security or the 2 persons may co-operate in depositing security. Upon request of the owner or operator in question, the commissioner may postpone the effective date of a suspension under this section not to exceed 20 days.

(2) The requirements as to security and suspension stated in sub. (1) do not apply:

(a) To the owner of a motor vehicle involved in an accident if the owner had in effect at the time of the accident an automobile liability policy or bond with respect to such motor vehicle, which policy or bond complies with the requirements of s. 344.15.

(b) To the operator who is not the owner of the vehicle involved in the accident if either the owner had in effect an automobile liability policy or bond applying to the operator's operation of the motor vehicle at the time of the accident or there was in effect at the time of the accident an automobile liability policy or bond with respect to the operator's operation of motor vehicles not owned by him, which policy or bond meets the requirements of s. 344.15.

(c) To the operator or owner whose liability for damages resulting from the accident is, in the judgment of the commissioner, covered by any other form of liability insurance policy or bond meeting the requirements of s. 344.15.

(d) To any person qualifying as a self-insurer under s. 344.16 or to any person operating a vehicle for such self-insurer.

(e) To the operator or owner of a vehicle involved in an accident wherein no injury was caused to the person of anyone other than such operator or owner and wherein damage to property of any one person other than such operator or owner did not exceed \$100.

(f) To the operator or owner of a vehicle legally parked at the time of the accident, provided that the operators of the other vehicles involved admit that such vehicle was legally parked or other proof establishing such fact to the commissioner's satisfaction is filed.

(g) To the owner of a vehicle if, at the time of the accident, the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating such vehicle without such permission.

(h) To any person who would otherwise have to deposit security if, prior to the date the commissioner would otherwise suspend such person's operating privilege and registrations under sub. (1), there is filed with the commissioner evidence satisfactory to him that such person has been released from liability or has been finally adjudicated not to be liable or has executed a warrant for confession of judgment payable when and in such instalments as the parties have agreed to or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in instalments with respect to all claims for injuries or damage resulting from the accident. The commissioner may accept a release from liability executed by a parent as natural guardian on behalf of a minor child with respect to property damage or personal injuries sustained by such minor, provided that the total damages, including the cost of medical care, does not exceed \$200 and that, in the case of personal injury, the doctor's certificate of injury filed with the department certifies that such minor received no permanent injury.

(i) To the owner of a vehicle insured as required by s. 40.57, 194.41 or 194.42 or to the operator of such vehicle if operating with the owner's permission at the time of the accident.

(j) To the owner of a vehicle involved in an accident if at the time of the accident such vehicle was owned by or leased to the United States, this state or any county or municipality of this state, or to the operator of such vehicle if operating such vehicle with permission.

(3) A suspension for failing to deposit security under sub. (1) shall suspend only

the operator's license and operating privileges thereunder and shall not suspend a person's chauffeur's license or his operating privilege thereunder when operating a vehicle subject to the requirements of s. 194.41 or 194.42 or a vehicle owned by or leased to the United States, this state or any county or municipality of this state.

344.15 Requirements as to policy or bond. (1) No policy or bond is effective under s. 344.14 unless issued by an insurance company or surety company authorized to do business in this state, except as otherwise provided in sub. (2), nor unless such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than \$10,000 because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, to a limit of not less than \$20,000 because of bodily injury to or death of 2 or more persons in any one accident and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$5,000 because of injury to or destruction of property of others in any one accident.

(2) A policy or bond with respect to a vehicle which was not registered in this state or was registered elsewhere at the time of the effective date of the policy or bond or the most recent renewal thereof may be effective under s. 344.14 even though not issued by an insurance company or surety company authorized to do business in this state if the following conditions are complied with:

(a) The policy or bond either meets the liability limits specified in sub. (1) or meets the liability limits of the equivalent law of the state in which issued and such limits are, in the judgment of the commissioner, adequate to cover any damage or injury involved in the accident in question.

(b) The company which issued the policy or bond executes a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident.

(3) Where service of process is made on the commissioner under a power of attorney filed in accordance with sub. (2), the commissioner shall forthwith mail by registered mail a copy of the process papers to the company at the address given in the filed power of attorney. In all cases of such service, there shall be served the original, one copy for the commissioner's record of service and such additional number of copies as there are defendants so served in the action. The original shall be returned with proper certificate of service attached for filing in court as proof of service of the copies by having mailed them by registered mail to the defendants name therein. The service fee shall be \$2 for each defendant so served.

(4) After receipt of the report of an accident of the type specified in s. 344.12, the commissioner shall forward to the insurance company or surety company named therein, that portion of the report which pertains to an automobile liability policy or bond. The commissioner shall assume that an automobile liability policy or bond as described in this section was in effect and applied to both the owner and operator with respect to the accident unless the insurance company or surety company notifies the commissioner otherwise within 30 days from the mailing to the company of that portion of the report pertaining to the automobile liability policy or bond. Upon receipt of notice from the company that an automobile liability policy or bond was in effect as to the owner only, the operator only or was not in effect as to either of them, the commissioner shall within the remainder of the 60-day period specified in s. 344.13 (3) require the owner or operator or both, whichever is applicable, to deposit security pursuant to this chapter. As respects permission to operate the vehicle, the company may correct the report only if it files with the commissioner within the 30-day period specified in this subsection an affidavit signed by the owner stating that the operator did not have the owner's permission to operate the vehicle. Where the company's failure to notify the commissioner within 30 days of a correction in that portion of the report pertaining to an automobile liability policy or bond is caused by fraud, the company shall notify the commissioner of the correction within 30 days of the time the fraud is discovered.

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

(6) Until July 1, 1958, the commissioner may accept for filing either the form of notice of insurance in use prior to the enactment of ch. 545, laws of 1957 (Form SR-21)

or the form of notice of insurance specified in ch. 545, laws of 1957. In either event, the substantive provisions of ch. 545, laws of 1957, shall apply.

(5) does not require an automobile liability insurer, in case of accident, to notify the state motor vehicle commissioner of an exclusion clause contained in its policy, and permits the insurer to rely on such exclusion without notifying the commissioner of its intention to do so. *Bean v. Kovacik*, 10 W (2d) 646, 103 NW (2d) 899. SR-21 filings discussed. 1959 WLR 552.

344.16 Requirements as to self-insurers. (1) Any person in whose name more than 25 motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the commissioner as provided in sub. (2).

(2) The commissioner may, in his discretion, upon the application of such a person, issue a certificate of self-insurance when he is satisfied that such person is possessed and will continue to be possessed of ability to pay judgments obtained against such person.

(3) Upon not less than 5 days' notice and a hearing pursuant to such notice, the commissioner may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within 30 days after such judgment has become final constitutes a reasonable ground for cancellation of a certificate of self-insurance.

344.17 Requirements as to form and amount of security. (1) The security required under s. 344.14 shall be in such form and in such amount as the commissioner may require but in no case in excess of the limits specified in s. 344.15 (1) with reference to the acceptable limits of a policy or bond. The person depositing security shall specify in writing the person or persons on whose behalf the deposit is made and, at any time while such deposit is in the custody of the commissioner or state treasurer, the person depositing it may, in writing, amend the specification of the persons on whose behalf the deposit is made to include an additional person or persons, subject to the limitation that a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident.

(2) The commissioner may reduce the amount of security ordered in any case if, in his judgment, from evidence submitted, the amount ordered is excessive or has become excessive by filed release on part of the liability or by adjudication reducing the extent of the liability. In case the security originally ordered had been deposited at the time the reduced amount is ordered, the excess over the reduced amount shall be returned to the depositor or his personal representative forthwith, notwithstanding the provisions of s. 344.20.

(3) In all cases where the commissioner accepts security in the form of a lien on real estate, the party owning such real estate shall prepare the proper instrument to effect such lien, payable to the state and all persons entitled thereto under ch. 344, and shall record such instrument in the office of the register of deeds in the county where the real estate is situated. The commissioner may require the party to furnish the commissioner an abstract of merchantable title showing the lien to be a first lien on the premises. A certified copy of the recorded instrument and abstract, when required, shall be deposited by the commissioner with the state treasurer. In all cases where a judgment has been entered against a person involved in a motor vehicle accident and such judgment remains unsatisfied 60 days after it has become final, the judgment creditor may for his own use and benefit and at his sole expense bring an action to foreclose such lien in the name of the state for his use and benefit under this section. The costs of such foreclosure may be estimated by the commissioner and added to the amount required to be posted. In the foreclosure of such lien, the provisions of ch. 278 on foreclosure of real estate mortgages shall apply as far as possible.

(4) In all cases where the commissioner accepts security in the form of lien on personal property, the party owning such personal property shall prepare the proper instrument to effect such lien payable to the state and all persons entitled thereto under ch. 344 and shall file such instrument in the office of the register of deeds in the county where such property is kept. He shall furnish the commissioner a certified copy of the filed instrument and, if required by the commissioner, a chattel abstract from the register of deeds showing the lien to be a first lien on such property. The certified copy and abstract shall be deposited by the commissioner with the state treasurer. In all cases where a judgment has been entered against a person involved in a motor vehicle accident and it remains unsatisfied 60 days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action to foreclose such lien in the name of the state for his use and benefit under ch. 344. The costs of such foreclosure shall be estimated by the commissioner and added to the amount required to be posted. In foreclosure of such lien the provisions of s. 241.13 on foreclosure of chattel mortgages shall apply as far as possible.

(5) In all cases where the commissioner has accepted security in the form of a lien on

real estate or personal property the state treasurer shall satisfy such lien of record on order of the commissioner to return the security upon the party's compliance with ch. 344. The state treasurer shall execute a satisfaction in legal form in the name of the state by state treasurer, custodian security "Motor Vehicle Responsibility Act." The treasurer shall note on the satisfaction that the commissioner has issued such order, and such notation shall be prima facie evidence of such issuance. The treasurer shall record or file such satisfaction with the proper register of deeds.

344.18 Duration of suspension for failure to deposit security. (1) Any operating privilege or registration suspended as provided in s. 344.14 shall remain suspended and shall not be renewed or reinstated until one of the following requirements has been met:

(a) The person whose operating privilege or registration was suspended deposits the security required under s. 344.14.

(b) There is filed with the commissioner evidence satisfactory to him that the person whose operating privilege or registration was suspended has been released from liability or has been finally adjudicated not to be liable. The commissioner may accept a release executed by a parent on behalf of a minor child only if the release satisfies the requirements specified in s. 344.14 (2) (h).

(c) There is filed with the commissioner evidence satisfactory to him that the person whose operating privilege or registration was suspended has executed a warrant for confession of judgment or duly acknowledged written agreement in accordance with s. 344.14 (2) (h), subject however to the provisions of subs. (2) and (3) of this section.

(d) Thirteen months have elapsed since the date of the accident and, during such period, no notice has been filed with the commissioner by any claimant that an action was instituted by a party in interest by actual service of summons and complaint within the one-year period following the date of the accident or by service of counterclaim or cross-complaint within the 20-day answer period. If the action was commenced in a court of record, the notice required by this paragraph shall include a certified copy of the summons and complaint or counterclaim or cross-complaint and proof of service filed therein. If the action was commenced before a justice of the peace, the notice required by this section shall include a certificate from such justice establishing the fact that the action was so commenced. In all cases of service under s. 345.09 (nonresident service), an additional notice and service must be made under ch. 344 to avail oneself of the provisions of said chapter.

(2) If there is any default in the payment of any instalment under any confession of judgment, the commissioner, upon notice of such default given within the terms of the instalment agreement or in no event later than 30 days after the time for the final instalment, shall forthwith suspend the operating privilege and registrations of the defaulting person, which suspension shall remain in effect until the entire amount provided for in the confession of judgment has been paid.

(3) If there is any default in the payment of any instalment under a duly acknowledged written agreement, the commissioner, upon notice of such default given in no event later than 30 days after the time for final instalment, shall forthwith suspend the operating privilege and registrations of the defaulting person, which suspension shall remain in effect until one of the following requirements has been met:

(a) Such person deposits the security required under s. 344.14.

(b) Thirteen months have elapsed since the date when the security was required and, during such period, no notice has been filed with the commissioner by any claimant that an action was instituted by a party in interest by actual service of summons and complaint within the one-year period following the date when such security was required or by service of counterclaim or cross-complaint within the 20-day answer period. The notice required by this paragraph shall comply with the provisions of sub. (1) (d):

(4) The commissioner shall not suspend, as required by sub. (2) or (3), if the defaulting person has made payments to the extent specified in s. 344.15 (1) with reference to the acceptable limits of a policy or bond.

History: 1961 c. 662.

344.19 Applicability to nonresidents, unlicensed drivers, unregistered motor vehicles and accidents in other states. (1) If the operator or the owner of a motor vehicle involved in an accident within this state has no license or registration, whether because he is a nonresident or because he is a resident who has failed or neglected to obtain a license or registration in this state, he shall not be allowed a license or registration until he has complied with the requirements of this chapter to the same extent as would be necessary if, at the time of the accident, he had held a license and registration in this state.

(2) If the operating privilege or registration of a nonresident is suspended pursuant to s. 344.14, the commissioner shall transmit a certified copy of the record of such

action to the motor vehicle commissioner or equivalent official of the state in which that person resides if the law of the state in which that person resides provides for similar action by the commissioner or equivalent official of that state in the event that a resident of this state has his nonresident's operating privilege or registration in that state suspended or revoked for failure to comply with the safety responsibility law of that state.

(3) Upon receipt of such certification from another state to the effect that the operating privilege or registration of a resident of this state has been suspended or revoked in such other state pursuant to a law providing for its suspension or revocation for failure to deposit security for payment of judgments arising out of a motor vehicle accident, under circumstances which would require the commissioner to suspend a nonresident's operating privilege or registration had the accident occurred in this state, the commissioner shall suspend the license of such resident if he was the operator and all of his registrations if he was the owner of a motor vehicle involved in such accident. The department may accept a certification which is in the form of a combined notice of required security and suspension or revocation order, but shall not suspend a resident's operating privilege or registration on the basis of such order until at least 30 days have elapsed since the time for depositing security in the other state expired. A suspension under this section shall continue until such resident furnishes evidence of his compliance with the law of the other state relating to the deposit of security.

344.20 Custody, disposition and return of security. (1) Security deposited in compliance with this chapter shall be placed by the commissioner in the custody of the state treasurer and shall be applied only as provided in this section. When placing security in the custody of the state treasurer, the commissioner shall also file with the state treasurer a memorandum specifying the respective portions of such deposit required because of property damage or personal injuries, including deaths, suffered by each person who will be entitled to a portion of such deposit in the event of a judgment against either operator or owner for the damages resulting from such accident.

(2) The state treasurer shall apply the security only to the payment of judgments and assignments and only as provided in this subsection:

(a) The security may be applied to the payment of judgments for damages arising out of the accident in question rendered against either operator or owner for the damages resulting from such accident in an action at law begun not later than one year after the date of the accident or not later than one year after the date of deposit of any security under s. 344.18 (2). Any party to such action in favor of whom a judgment was rendered may move to have the court order the state treasurer to transmit to the court for application to the payment of the judgment the money or securities available for such purpose, and the court may so order. A certified copy of the order shall be served upon the state treasurer, which service shall be by mail only. Upon being so served, the state treasurer shall transmit to the clerk of the court the money or securities in the amount authorized by par. (c) or in the amount specified in the court order if less than the amount so authorized. Securities transmitted shall be valued at the same amount as when received from the department. The state treasurer shall have no further responsibility for the amount of the deposit so transmitted and the court shall determine and direct the application thereof. Any excess shall be returned by the court to the state treasurer to be held by him subject to the provisions of this chapter.

(b) Subject to the restrictions imposed by par. (c), the security may be applied to the payment of a duly acknowledged assignment by the person who made the deposit, provided the assignment is accompanied by releases signed by all parties in interest and releasing the assignor from all liability to such parties on account of damages arising out of the accident in question.

(c) No amount in excess of the portion designated in the commissioner's filed security memorandum as having been deposited on account of damages suffered by the assignee or judgment creditor or person representing either of them shall be paid out on behalf of such person unless the depositor has been released from liability by all other parties in interest. In the latter event, the deposit may be applied to the payment of the judgment or assignment in question without regard to the designations in the security memorandum.

(3) The deposit of security or any balance thereof shall be returned to the depositor or his personal representative when evidence satisfactory to the commissioner has been filed with him that one of the contingencies specified in s. 344.18 (1) (b), (c) or (d) or (3) (b) has occurred.

History: 1961 c. 662.

344.21 Matters not to be evidence in civil suits. Neither the report required following an accident, the action taken by the commissioner pursuant to this chapter, the

findings, if any, upon which such action is based nor the security filed as provided in this chapter shall be referred to in any way or be any evidence of the negligence or due care of either party at the trial of any action at law to recover damages, but this shall not be construed to exclude a notice of insurance filed pursuant to s. 344.15 (4) from being admissible in evidence where it would otherwise be material and admissible under the rules of evidence.

344.22 Short title. Sections 344.12 to 344.22 and the general provisions applicable thereto may be cited as the safety responsibility law.

PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE.

344.24 Applicability of sections relating to proof of financial responsibility for the future. Sections 344.29 to 344.41 are applicable in all cases in which a person is required to deposit proof of financial responsibility for the future, including those cases in which a person is required to deposit proof of financial responsibility for the future under ss. 344.25 to 344.27 and those cases in which the deposit of proof of financial responsibility for the future is a condition precedent to reinstatement of an operating privilege revoked pursuant to ch. 343.

344.25 Revocation of license and registration for nonpayment of judgment; exceptions. Upon the receipt, pursuant to s. 344.05, of a certified copy of a judgment for damages in excess of \$100 arising out of a motor vehicle accident, the commissioner shall forthwith revoke the operating privilege and all registrations of the person against whom such judgment was rendered, subject to the following exceptions:

(1) If the judgment arose out of an accident caused by the ownership or operation, with permission, of a vehicle owned by or leased to the United States, this state or any county or municipality of this state or a vehicle subject to the requirements of ss. 40.57, 194.41 or 194.42, the commissioner shall not revoke such license or registration.

(2) If the judgment creditor consents in writing in such form as the commissioner may prescribe that the judgment debtor be allowed to retain or reinstate his operating privilege and registrations, the same may be allowed by the commissioner, in his discretion, for 6 months from the date of such consent and thereafter until such consent is revoked in writing, notwithstanding default in the payment of such judgment or of any instalments thereof as prescribed in s. 344.27, provided the judgment debtor furnishes proof of financial responsibility for the future and maintains such proof at all times when such license and registrations are in effect during a period of 3 years following the entry of the judgment.

(3) The commissioner shall not revoke such license or registrations if the judgment debtor obtains a court order for instalment payments and furnishes proof of financial responsibility as provided in s. 344.27.

(4) The commissioner shall not revoke the chauffeur's license of a debtor, his operating privilege thereunder or his registration with respect thereto when the debtor is operating a vehicle subject to the requirements of s. 194.41 or 194.42 or a vehicle owned by or leased to the United States, this state or any county or municipality of this state.

(5) When the commissioner receives certification of the entry of a damage judgment in accordance with s. 344.05 against a resident of this state which has been entered by a court in another jurisdiction, he shall give notice to such person that he has received such certification of judgment. If satisfaction of such judgment is not made and copy of such satisfaction filed with the commissioner within 30 days from the date such notice was given, the commissioner shall revoke the license and registrations of such judgment debtor.

History: 1961 c. 662.

344.26 Revocation to continue until judgment paid and proof of financial responsibility given. (1) Subject to the exceptions stated in ss. 344.25 (2) and 344.27 (2), any operating privilege or registration revoked pursuant to s. 344.25 shall remain revoked until every judgment mentioned in s. 344.25 is stayed, satisfied or discharged and, unless 3 years have elapsed since the date of entry of the judgment which was the cause for revocation, until the person whose operating privilege and registration was revoked furnishes proof of financial responsibility for the future and maintains such proof at all times during such 3-year period when the operating privilege or registration is in effect.

(2) A discharge in bankruptcy following the rendering of any such judgment does not relieve the judgment debtor from any of the requirements of this section.

(3) Judgments in excess of the amounts specified in s. 344.01 (2) (d) shall, for the purpose of this section only, be deemed satisfied when payments in the amounts so specified have been credited thereon. Payments made in settlement of any claims because of

bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the respective amounts so specified.

344.27 Instalment payment of judgments; revocation upon default. (1) A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in instalments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the instalments.

(2) The commissioner shall not revoke the operating privilege or registration and shall restore any operating privilege or registration revoked following nonpayment of a judgment when the judgment debtor obtains such order permitting the payment of the judgment in instalments and, unless 3 years have elapsed since the entry of judgment, furnishes and maintains proof of financial responsibility for the future.

(3) If the judgment debtor fails to pay any instalment as specified by such order, the commissioner, upon notice of such default, shall forthwith revoke the operating privilege and registrations of the judgment debtor until such judgment is satisfied as provided in s. 344.26.

344.29 Proof of financial responsibility required for each registered vehicle. Proof of financial responsibility for the future shall be furnished for each motor vehicle registered by any person required to give such proof.

344.30 Alternate methods of giving proof of financial responsibility. Whenever the owner or operator of a motor vehicle is required under chs. 343 or 344 to give proof of financial responsibility for the future, such proof may be given by filing:

- (1) A certificate of insurance as provided in s. 344.31 or 344.32; or
- (2) A bond as provided in s. 344.36; or
- (3) A certificate of deposit of money or securities as provided in s. 344.37; or
- (4) A certificate of self-insurance as provided in s. 344.16, supplemented by an agreement by the self-insurer that, with respect to accidents occurring while the certificate is in force, he will pay the same amounts that an insurer would have been obligated to pay under an owner's motor vehicle liability policy if it had issued such a policy to such self-insurer.

344.31 Certificate of insurance as proof. (1) Proof of financial responsibility for the future may be furnished by filing with the commissioner the written certificate of any insurance carrier duly authorized to do business in this state certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle.

(2) No motor vehicle shall be or continue to be registered in the name of any person required to file proof of financial responsibility unless such motor vehicle is so designated in such a certificate.

344.32 Certificate furnished by nonresidents as proof. (1) The nonresident owner of a motor vehicle not registered in this state may give proof of financial responsibility by filing with the commissioner a written certificate of an insurance carrier authorized to transact business in the state in which the motor vehicle described in such certificate is registered or, if such nonresident does not own a motor vehicle, then in the state in which the insured resides, provided such certificate otherwise conforms to the provisions of this chapter. The commissioner shall accept the certificate only upon condition that such insurance carrier complies with the following provisions with respect to the policies so certified:

(a) Such insurance carrier shall execute a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state.

(b) Such insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of this state relating to the terms of motor vehicle liability policies issued herein.

(2) If any insurance carrier not authorized to transact business in this state, which has qualified to furnish proof of financial responsibility, defaults in any such undertakings or agreements, the commissioner shall not thereafter accept as proof any certificate

of such carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues.

344.33 "Motor vehicle liability policy" defined. (1) **CERTIFICATION.** A "motor vehicle liability policy" as that term is used in this chapter means an owner's policy or an operator's policy of liability insurance, certified as provided in s. 344.31 or 344.32 as proof of financial responsibility for the future, and issued, except as otherwise provided in s. 344.32, by an insurance carrier duly authorized to transact business in this state to or for the benefit of the person named therein as insured.

(2) **OWNER'S POLICY.** An owner's policy of liability insurance:

(a) Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

(b) Shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: \$10,000 because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, \$20,000 because of bodily injury to or death of 2 or more persons in any one accident, and \$5,000 because of injury to or destruction of property of others in any one accident.

(3) **OPERATOR'S POLICY.** An operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth in sub. (2) with respect to an owner's policy of liability insurance.

(4) **REQUIRED STATEMENTS IN POLICY.** Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter with respect to bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

(5) **CERTAIN TYPES OF COVERAGE EXCLUDED.** Such motor vehicle liability policy shall not insure any liability under any workmen's compensation law as provided in ch. 102, nor any liability on account of bodily injury to or death of any employe of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such motor vehicle or any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(6) **PROVISIONS INCORPORATED IN POLICY BY LAWS.** Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

(a) The policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of any injury or damage covered by such motor vehicle liability policy.

(b) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage.

(c) The insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in sub. (2) (b).

(d) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this chapter constitutes the entire contract between the parties.

(7) **EXCESS OR ADDITIONAL COVERAGE.** Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage is not subject to the provisions of this chapter. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" applies only to that part of the coverage which is required by this section.

(8) **REIMBURSEMENT PROVISION PERMITTED.** Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this section.

(9) **PRORATION OF INSURANCE PERMITTED.** Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(10) **MULTIPLE POLICIES.** The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

(11) **BINDERS.** Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

344.34 Notice of cancellation or termination of certified policy. When an insurance carrier has certified a motor vehicle liability policy under s. 344.31 or a policy under s. 344.32, the insurance so certified shall not be canceled or terminated until at least 10 days after a notice of cancellation or termination of the insurance so certified has been filed in the office of the commissioner, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

344.35 This chapter not to affect other policies. (1) This chapter does not apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this state. If such policies contain an agreement or are endorsed to conform to the requirements of this chapter, they may be certified as proof of financial responsibility under this chapter.

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

344.36 Bond as proof. (1) Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within this state or a bond with at least 2 individual sureties each owning real estate within this state and together having equities equal in value to at least twice the amount of the bond, which real estate shall be scheduled in the bond approved by a judge of a court of record. Such bond shall be conditioned for the payment of the amounts specified in s. 344.01 (2) (d). The bond shall be filed with the commissioner and shall not be cancellable except after 10 days' written notice to the commissioner.

(2) The bond constitutes a lien in favor of the state upon any surety's real estate which is scheduled in the bond and which is not exempt by law from execution. Such lien is effective as of the time when the commissioner records the bond in the office of the register of deeds of the county wherein such real estate is located, as provided in s. 235.45. Such lien exists in favor of any holder of a final judgment against the person who filed such bond, for damages resulting from the ownership, maintenance, use or operation of a motor vehicle after such bond was recorded, including damages for care and for loss of services because of bodily injury to or death of any person and damages because of injury to or destruction of property and the consequent loss of use thereof.

(3) If the judgment rendered against the principal on the bond is not satisfied within 60 days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action in the name of the state against the company or persons executing the bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond. In the foreclosure of such lien, ch. 278 on the foreclosure of real estate mortgages shall apply as far as possible.

344.37 Money or securities as proof. (1) Proof of financial responsibility for the future may be evidenced by the certificate of the state treasurer that the person named therein has deposited with him \$25,000 in cash, or in securities such as may legally be purchased by savings banks or for trust funds of a market value of \$25,000. The state treasurer shall not accept any such deposit and issue a certificate therefor and the commissioner shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(2) Deposits made under this section shall be held by the state treasurer to satisfy, in accordance with this chapter, any execution on a judgment issued against the person making the deposit, for damages resulting from the ownership, maintenance, use or operation of a motor vehicle after such deposit was made, including damages for care and for loss of services because of bodily injury to or death of any person and damages because of injury to or destruction of property and the consequent loss of use thereof. Money or securities so deposited are not subject to attachment or execution unless such attachment or execution arises out of a suit for damages as set forth in this section.

344.38 Owner may give proof for others. Whenever any person required to give proof of financial responsibility for the future under this chapter is or later becomes an

operator in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the commissioner shall accept proof given by such owner in lieu of proof by such other person. When proof has been given as provided in this section, the person on whose behalf such owner gave proof may be granted a license, but only to operate those vehicles for which proof was so given. The department shall note such restriction on the person's license, including a designation of each vehicle for which proof was given.

344.39 Substitution of proof. The commissioner shall consent to the cancellation of any bond or certificate of insurance or the commissioner shall direct and the state treasurer shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

344.40 Suspension for failure to maintain proof; other proof may be required. (1) Whenever any person who has furnished proof of financial responsibility fails to maintain such proof at any time during the period when proof of financial responsibility is required, the commissioner shall revoke such person's operating privilege and registration for a period of time running from the date of revocation until such time as either satisfactory proof of financial responsibility is again furnished or the period during which proof was required to be furnished has expired.

(2) Whenever any proof of financial responsibility filed under this chapter no longer fulfills the purposes for which required, the commissioner shall require other proof meeting the requirements of this chapter and shall suspend the operating privilege and registration pending the filing of such other proof.

344.41 Duration of proof; when proof may be canceled or returned. (1) Subject to the exceptions set forth in sub. (2), the commissioner shall, upon request, consent to the immediate cancellation of any bond or certificate of insurance, shall direct the state treasurer to return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility (with which directive the state treasurer shall comply) and shall waive any requirement of the filing of proof of financial responsibility whenever any of the following events has occurred:

- (a) The period during which proof of financial responsibility is required has expired;
- or
- (b) The person on whose behalf such proof was filed has died or has become permanently incapacitated to operate a motor vehicle; or
- (c) The person who has given proof surrenders his license and registration to the commissioner.

(d) If a person required to furnish proof of financial responsibility has more than one motor vehicle registered in his name and does not intend to use all of the vehicles he has registered, he may surrender the valid registration plates for the vehicle or vehicles not being used and continue his filing of proof of financial responsibility only on the vehicle on which registration plates are retained by him.

(2) The commissioner shall not consent to the cancellation of any bond or the return of any money or securities if any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or if the person who filed the bond or deposited the money or securities has, within one year immediately preceding the request for cancellation of the bond or return of the money or securities, been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable for such injury or damages is sufficient evidence thereof in the absence of evidence to the contrary in the records of the commissioner.

(3) Whenever any person whose proof has been canceled or returned under sub. (1) (c) desires reinstatement of his license or registration prior to the expiration of the period during which proof of financial responsibility is required, he shall again furnish proof of financial responsibility. Thereupon his license is automatically reinstated as provided in s. 343.39 and the department shall return his registration plates, if not expired.

History: 1961 C. 662.

PENALTIES FOR VIOLATIONS OF CHAPTER.

344.45 Surrender of license, and registration upon suspension. (1) Whenever a person's operating privilege or registration is revoked or suspended pursuant to this chapter, the commissioner shall also order such person to surrender to the department his license and the registration plates and certificates of registration of the vehicles for which

registration was revoked or suspended. If such person fails forthwith to return such license, registration plates or certificates of registration to the department, the commissioner shall direct a traffic officer to take possession thereof and return them to the department.

(2) Any person who intentionally fails or refuses to return a license, registration plate or certificate of registration as required by this section may be fined not more than \$100 or imprisoned not more than 6 months or both.

344.46 Transfer of vehicle ownership to defeat purpose of chapter. (1) No owner of a motor vehicle involved in an accident in this state which is reportable under s. 346.70 shall transfer the ownership or registration of such vehicle until this chapter has been complied with or until the commissioner is satisfied that such transfer is proposed in good faith and not for the purpose or with the effect of defeating the purposes of this chapter.

(2) Any person violating this section may be fined not more than \$200 or imprisoned not more than 6 months or both.

(3) This section does not apply to or affect the registration of any vehicle sold by a person who, pursuant to the terms or conditions of any written instrument giving a right of repossession, has exercised such right and has repossessed such vehicle from a person whose registration has been suspended pursuant to this chapter.

344.47 Operating vehicle after suspension or revocation. (1) No person whose registration has been revoked or suspended pursuant to this chapter shall, during such revocation or suspension, operate or knowingly permit the operation of any motor vehicle owned by him, except as permitted under this chapter.

(2) Any person violating this section may be fined not less than \$50 nor more than \$200 or imprisoned not more than 6 months or both.

344.48 Forged proof. (1) No person shall:

(a) Forge or, without authority, sign any notice provided for in s. 344.15 (4) to the effect that a policy or bond is in effect or, knowing or having reason to believe that such notice has been forged or signed without authority, file or offer such notice for filing; or

(b) Forge or, without authority, sign any evidence of proof of financial responsibility or, knowing or having reason to believe that such evidence has been forged or signed without authority, file or offer such evidence for filing.

(c) Sign or file the affidavit mentioned in s. 344.15 (4), knowing that it contains a false statement.

(2) Any person violating this section may be fined not more than \$1,000 or imprisoned not more than one year or both.

FINANCIAL RESPONSIBILITY FOR RENTED VEHICLES.

344.51 Financial responsibility for domestic rent-a-cars. (1) No person shall for compensation rent any motor vehicle to be operated by or with the consent of the person renting such vehicle unless there is filed with the department a good and sufficient bond or policy of insurance or certificate issued by a company or exchange organized under the laws of this state or duly authorized to transact business in this state. Such bond, policy, or certificate shall provide that the company or exchange which issued it will be liable for damages caused by the negligent operation of such motor vehicle in the amounts set forth in s. 344.01 (2) (d).

(2) Any person failing to comply with this section is directly liable for all damages caused by the negligence of the person operating such rented vehicle to the extent that such liability could have been established if this section had been complied with.

(3) Any person violating this section may be fined not more than \$200 or imprisoned not more than 6 months or both.

(4) In this section, "motor vehicle" means a self-propelled vehicle.

344.52 Financial responsibility for foreign rent-a-cars. (1) Whenever any motor vehicle rented for compensation outside this state is operated in this state, the lessor of such motor vehicle is directly liable for all damages to persons or property caused by the negligent operation of such rented vehicle unless, at the time when such damage or injury occurs, the operation of the vehicle is effectively covered by a policy of insurance which provides coverage at least in the amounts specified in s. 344.01 (2) (d) for property damage, personal injury or death suffered by any person on account of the negligent operation of such vehicle. The amount of liability imposed upon the lessor by this section in the absence of insurance coverage shall not exceed the limits set forth in s. 344.01 (2) (d) with respect to the acceptable limits of liability when furnishing proof of financial responsibility. The fact that the rented vehicle is operated in this state contrary to any under-

standing or agreement with the lessor is not a defense to any liability imposed by this section.

(2) If a motor vehicle rented for compensation outside this state is operated in this state, the lessor of such vehicle is deemed to have irrevocably appointed the commissioner as his agent or attorney upon whom legal process may be served in any action or proceeding against such lessor or his executor, administrator, personal representative, successors or assigns, growing out of the operation of such rented motor vehicle in this state. Such appointment is binding upon the lessor's executor, administrator, personal representative, successors or assigns. The operation of such rented motor vehicle in this state is a signification of the lessor's agreement that such legal process or notice may be served upon him or his executor, administrator, personal representative, successors or assigns and that process or notice so served has the same legal force as if personally served upon him or them in this state. Service of such process or notice shall be made as provided in s. 345.09. This section does not affect the right to serve process or notice on the non-resident operator of the rented motor vehicle as provided in s. 345.09.

(3) In this section, "motor vehicle" means a self-propelled vehicle.