# CHAPTER 345

# VEHICLES — CIVIL AND CRIMINAL LIABILITY

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## SUBCHAPTER I

## GENERAL PROVISIONS

**345.01 Words and phrases defined.** Words and phrases defined in s. 340.01 are used in the same sense in this chapter unless a different definition is specifically provided.

## SUBCHAPTER II

## CIVIL LIABILITY

**345.05 Municipal liability for motor vehicle accidents.** **(1)** In this section the following terms have the designated meanings:

(am) "Business" means any business whether governmental or proprietary.

(b) "Governing body" means the county board with reference to counties, the town board with reference to towns, the legislative body of a city or village with reference to cities and villages and the board of any district, center or other municipality with reference to other municipalities enumerated in par. (c).

(bm) "Motor vehicle" does not include a vehicle that is exempt from registration under s. 341.05.

(c) "Municipality" means any county, city, village, town, school district as enumerated in s. 67.01 (5), sewer district, drainage district, commission formed by a contract under s. 66.0301 (2), and, without restriction because of failure of enumeration, any other political subdivision of the state.

**(2)** A person suffering any damage proximately resulting from the negligent operation of a motor vehicle owned and operated by a municipality, which damage was occasioned by the operation of the motor vehicle in the course of its business, may file a claim for damages against the municipality concerned and the governing body of the municipality may allow, compromise, settle and pay the claim. In this subsection, a motor vehicle is deemed owned and operated by a municipality if the vehicle is either being rented or leased, or is being purchased under a contract whereby the municipality will acquire title.

**(3)** A claim under this section shall be filed in the manner, form and place specified in s. 893.80. The limitations under s. 893.80 (3) are applicable to a claim under this section, except that the amount recoverable by any person for any damages, injuries or death in any action shall not exceed $250,000.

**(4)** In this section, judgments against municipalities shall be certified, filed and collected as provided in s. 66.0117 whether named therein or not.

**(5)** If the allowance of claim is by or the judgment is against any municipality lying in more than one town, city, village or county, the governing body of the debtor municipality shall prorate the amount of the claim allowed or the judgment and so certify to the proper officials for tax levy, so that the taxable property of the debtor municipality will equitably bear the amount of the claim or judgment.

**History:** 1975 c. 200; 1977 c. 285; 1979 c. 32 s. 92 (5); 1979 c. 221, 323, 355; 1983 a. 189 ss. 252, 329 (7), (31); 1983 a. 192; 1987 a. 377; 1999 a. 9, 85; 1999 a. 150 s. 672; 2001 a. 30; 2003 a. 321; 2009 a. 28; 2011 a. 32.

This section is applicable when the injury can be traced to incidents of vehicle operation on the highway rather than a collateral use such as loading. Rabe v. Outagamie County, 72 Wis. 2d 492, 241 N.W.2d 428 (1976).

This section did not apply to an injury caused by negligent supervision of bus passengers. Hamed v. Milwaukee County, 108 Wis. 2d 257, 321 N.W.2d 199 (1982).

Though owned by the driver and not the county, a vehicle used to conduct actual business activity of a municipality is a motor vehicle under sub. (2). Manor v. Hanson, 123 Wis. 2d 524, 368 N.W.2d 41 (1985).

Compliance with this section is a prerequisite for an action against a municipal employee. Gonzalez v. Teskey, 160 Wis. 2d 1, 465 N.W.2d 525 (Ct. App. 1990).

Discretionary act immunity under s. 893.80 is inapplicable to s. 345.05 claims. Frostman v. State Farm Mut. Ins. Co. 171 Wis. 2d 138, 491 N.W.2d 100 (Ct. App. 1992).

A machine specifically included in the list of road machinery under s. 340.01 (52) is not a motor vehicle under this section regardless of its use. Schanke v. Wisconsin County Mut. Ins. Corp. 177 Wis. 2d 746, 502 N.W.2d 866 (Ct. App. 1993).

The liability limits of this section do not extend to independent contractors from whom the government entity may have leased or rented a vehicle. The limits only apply if a claim is against the governmental unit based on a motor vehicle accident. Kettner v. Wausau Insurance Cos. 191 Wis. 2d 724, 530 N.W.2d 399 (Ct. App. 1995).

An action for inadequate supervision of operation and location of a county truck involved in a collision with the defendant's car was an action involving the operation of a motor vehicle. Tso v. Delaney, 969 F.2d 373 (1992).

Broken Windshields and Busted Mailboxes: Municipal Liability for Motor Vehicle Negligence. Bauman. Wis. Law. Nov. 2002.

**345.06 Owner's liability for act of operator.** The owners of every vehicle operating upon any highway for the conveyance of passengers for hire are jointly and severally liable to the party injured for all injuries and damage done by any person in the employment of such owners as an operator, while operating such vehicle, whether the act occasioning such injuries or damage was intentional, negligent or otherwise, in the same manner as such operator would be liable.

**345.07 Civil actions by secretary.** In addition to all existing remedies afforded by civil and criminal law, the secretary is authorized to bring civil actions for the recovery of all fees, taxes, interest and penalties to which the state may be entitled by reason of the operation by any person of a motor vehicle upon the highways of this state.

**History:** 1977 c. 29 s. 1654 (7) (c).

**345.08 Suit to recover protested tax or fee.** No suit shall be maintained in any court to restrain or delay the collection or payment of the taxes levied or the fees imposed or enacted in chs. 341 to 349. The aggrieved taxpayer shall pay the tax or fee as and when due and, if paid under protest, may at any time within 90 days from the date of such payment sue the state in an action at law to recover the tax or fee so paid. If it is finally determined that such tax or fee or any part thereof was wrongfully collected for any reason, the secretary of administration shall pay from the transportation fund the amount of such tax or fee so adjudged to have been wrongfully collected. A separate suit need not be filed for each separate payment made by any taxpayer, but a recovery may be had in one suit for as many payments as were made within the 90−day period preceding the commencement of the action. Such suits shall be commenced as provided in s. 775.01.

**History:** 1977 c. 29 s. 1654 (1); 1979 c. 32 s. 92 (5); 2003 a. 33.

**345.09 Service of process on nonresident. (1)** The use and operation of a motor vehicle over the highways of this state by a nonresident is considered an irrevocable appointment by the nonresident of the secretary to be the true and lawful attorney upon whom may be served all legal process in any action or proceeding against the nonresident or the nonresident's personal representative, growing out of the use or operation of the motor vehicle in this state and resulting in damage or loss to person or property, whether the damage or loss occurs on a highway or on abutting public or private property. The appointment of the secretary as attorney for service of process is binding upon the nonresident's personal representative. The use or operation of a motor vehicle over the highways of this state by the nonresident is a signification of the nonresident's agreement that any legal process or notice against the nonresident or the nonresident's personal representative that is so served shall be of the same legal force and validity as if served on them personally.

**(2)** The secretary as attorney upon whom processes and notices may be served under this section shall, upon being served with such process or notice, forthwith mail by registered mail a copy thereof to such nonresident at the out−of−state nonresident address given in the papers so served. It is the duty of the party or the party's attorney to certify in the papers so served that the address given therein is the last−known out−of−state nonresident address of the party to be served. In all cases of service under this section there shall be served 2 authenticated copies for the secretary and such additional number of authenticated copies as there are defendants so served in the action. One of the secretary's copies shall be retained for the secretary's record of service and the other copy 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 named therein. The service fee shall be $25 for each defendant so served. The secretary shall keep a record of all such processes and notices, which record shall show the day and hour of service.

**(3)** This section applies to a nonresident defendant who was a resident of this state at the time of the accident or occurrence which gave rise to the cause of action sued on.

**History:** 1977 c. 29 ss. 1467, 1654 (7) (c); 1977 c. 60, 418; 1993 a. 16; 1999 a. 9; 2001 a. 102.

Service upon a nonresident's father at the father's residence was insufficient for the exercise of personal jurisdiction over a nonresident in a diversity case, despite claimed actual notice, when no attempt was made to comply with this section. Chilcote v. Shertzer, 372 F. Supp. 86 (1974).

## SUBCHAPTER III

## ARRESTS, BAIL, PENALTIES

**345.11 Uniform traffic citation. (1)** On and after July 1, 1969, the uniform traffic citation created by this section shall in the case of moving traffic violations and may in the case of parking violations and all violations of ch. 194 be used by all law enforcement agencies in this state which are authorized to enforce the state traffic laws and any local traffic laws enacted by any local authority in accordance with s. 349.06.

**(1g)** The uniform traffic citation may be used for violations of ss. 218.0114 (1) and 218.205 (1). The report of conviction shall be forwarded to the department.

**(1j)** The uniform traffic citation or the citation form under s. 23.54 may be used for violations of s. 30.07. When the uniform traffic citation is used, the report of conviction shall be forwarded to the department of natural resources. When the citation form under s. 23.54 is used, the procedure in ss. 23.50 to 23.85 applies.

**(1m)** The uniform traffic citation or the citation form under s. 23.54 shall be used for violations of ch. 350 relating to highway use or ordinances in conformity therewith when committed on the highway, but no points may be assessed against the driving record of the operator of a snowmobile. When the uniform traffic citation is used, the report of conviction shall be forwarded to the department. When the citation form under s. 23.54 is used, the procedure in ss. 23.50 to 23.85 applies.

**(1r)** The uniform traffic citation or the citation form under s. 23.54 shall be used for violations of s. 23.33 or 23.335 relating to highway use or ordinances enacted in accordance with that section if the violation is committed on a highway, but no points may be assessed against the driving record of the operator of an all−terrain vehicle, a utility terrain vehicle, or an off−highway motorcycle, as defined in s. 23.335 (1) (q), operated off the highways, as defined in s. 23.335 (1) (y). When the uniform traffic citation is used, the report of conviction shall be forwarded to the department. When the citation form under s. 23.54 is used, the procedure in ss. 23.50 to 23.85 applies.

**(1s)** The uniform traffic citation shall be used by a traffic officer employed under s. 110.07 for a violation of s. 167.31 (2) (b), (c) or (d) when committed on a highway.

**(1u)** The uniform traffic citation may be used by an officer of a law enforcement agency of a municipality or county or a traffic officer employed under s. 110.07 for a violation of s. 287.81.

**(2)** The uniform traffic citation shall be on a form or in an automated format recommended by the council on uniformity of traffic citations and complaints and shall consist of a court report, a report of conviction for the department, a police record and report of action on the case and a traffic citation. The form or automated format shall provide for the name, address, birth date, operator's license number of the alleged violator if known, the license number of the vehicle, the offense alleged, the time and place of the offense, the section of the statute or ordinance violated, the amount of deposit or bail for the offense, a designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so, and any other information as may be pertinent to the offense.

**(2m)** In addition, the uniform traffic citation shall include all of the following:

(a) A full description of the class and type of vehicle, as provided in s. 343.04, including each special operating characteristic under s. 343.04 (2) that requires an endorsement.

(b) Whether the vehicle was transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

(c) Whether the operator holds a commercial driver license regardless of the type or class of vehicle used at the time of the alleged offense.

(d) Whether any specific waiver provision in s. 343.055 may apply to operation of the vehicle at the time of the alleged offense.

**(4)** Upon recommendation of a form or automated format for the uniform traffic citation by the council on uniformity of traffic citations and complaints, the secretary shall under s. 85.16 (1) promulgate the form or automated format as an administrative rule, and with the advice of the council shall make any other rules as are necessary for the implementation and operation of this section.

**(5)** Notwithstanding any other provision of the statutes, the use of the uniform traffic citation promulgated under sub. (4) by any peace officer in connection with the enforcement of any state traffic laws, any local traffic ordinances in strict conformity with the state traffic laws or s. 218.0114 (1) or 218.205 (1) shall be deemed adequate process to give the appropriate court jurisdiction over the person upon the filing with or transmitting to the court of the uniform traffic citation.

**(6)** The secretary shall cause to be printed and sold to all law enforcement agencies in this state with authority to enforce state traffic laws or local laws adopted under authority of s. 349.06 serially numbered uniform traffic citations or provide a sequence of assigned numbers for uniform traffic citations in an automated format.

**(7)** (a) Each law enforcement agency issuing uniform traffic citations shall be responsible for the disposition of all citations issued under its authority, and all law enforcement agencies shall prepare and submit records and reports relating to the uniform traffic citations in the manner and at the time prescribed by the secretary.

(b) Whenever a law enforcement officer issues a uniform traffic citation to an operator who displays a driver's license issued by the federal department of state or otherwise claims immunities or privileges under 22 USC 254a to 258a with respect to the operator's violation of any state traffic law or any local traffic law enacted by any local authority in accordance with s. 349.06, the officer shall:

1. As soon as practicable, contact the diplomatic security command center of the office of foreign missions, diplomatic motor vehicle office, within the federal department of state, to verify the status and immunity, if any, of the operator.

2. Within 10 days after the citation is issued, forward a copy of the uniform traffic citation, at no charge, to the diplomatic security command center of the office of foreign missions, diplomatic motor vehicle office, within the federal department of state.

**(8)** Any person who, with criminal intent, solicits or aids in the disposition or attempted disposition of a uniform traffic citation in any unauthorized manner is in contempt of the court having original jurisdiction of the cause of action.

**History:** 1971 c. 164 s. 81; 1971 c. 277; 1973 c. 218; 1975 c. 41; 1977 c. 29 ss. 1468, 1654 (7) (a), (c); 1977 c. 273; 1979 c. 34, 257; 1985 a. 29, 36, 145, 309; 1989 a. 31, 105, 170, 335; 1993 a. 436, 437; 1995 a. 227; 1997 a. 120; 1999 a. 31, 140; 2001 a. 27; 2003 a. 33; 2009 a. 55, 367; 2011 a. 208; 2015 a. 170.

**Cross−reference:** See also ch. Trans 114, Wis. adm. code.

If a uniform traffic citation and complaint is used in a criminal case, it must satisfy the requirement of stating probable cause. State v. White, 97 Wis. 2d 193, 295 N.W.2d 346 (1980).

When the state used a traffic citation to initiate legal proceedings and subsequently decided to prosecute the action as a crime, the trial court erred in not giving the defendant 10 days from the date of the amended charge to object to the sufficiency of the complaint. State v. Mudgett, 99 Wis. 2d 525, 299 N.W.2d 621 (Ct. App. 1980).

The uniform traffic citation and complaint is not a "complaint" under s. 968.02 (3). State v. Folk, 117 Wis. 2d 42, 342 N.W.2d 761 (Ct. App. 1983).

"Process" in sub. (5) refers to invoking subject matter jurisdiction and not to acquiring personal jurisdiction. A citation is only a notice. It does not function as a summons and does not compel a court appearance. In general, an officer who issues a uniform traffic citation when no warrant has been issued is not entitled to service or mileage fees for delivering the citation. 63 Atty. Gen. 99.

**345.17 Penalty for false statements. (1)** Unless another civil or criminal penalty is expressly prescribed by law, no person may make a false statement to the department or secretary on which the department or the secretary relies in:

(a) Issuing a duplicate title.

(b) Issuing a duplicate license or operating privilege.

(c) Performing an act or administering a law that the department or secretary is required by law to administer or perform.

**(2)** Any person who violates sub. (1) shall forfeit not less than $25 nor more than $100 for the first offense and shall forfeit not less than $100 nor more than $500 for the 2nd and each subsequent offense.

**History:** 1973 c. 218; 1977 c. 29 s. 1654 (7) (a), (c); 1989 a. 105; 1999 a. 80.

**345.18 Sentencing of juveniles.** A person under the age of 18 years shall be present at the imposition of sentence in cases for violation of chs. 341 to 348 and 351 or ordinances enacted in conformity therewith under ch. 349. This section does not apply to parking violations or to cases where a stipulation of guilt or no contest has been accepted for a violation of a local ordinance. A court may waive the requirement of personal appearance under this section in cases of exceptional hardship.

**History:** 1979 c. 110 s. 60 (6); 1979 c. 333 s. 5.

**345.20 General provisions in traffic forfeiture actions. (1)** DEFINITIONS. In ss. 345.20 to 345.53:

(a) "Judge" has the meaning specified in s. 967.02 (2m).

(b) "Traffic regulation" means a provision of chs. 194 or 341 to 349 for which the penalty for violation is a forfeiture or an ordinance enacted in accordance with s. 349.06. Except as otherwise specifically provided, "traffic regulation" does not include a nonmoving traffic violation as defined in s. 345.28 (1).

**(2)** PROCEDURE. (a) Except as provided in par. (b), the apprehension of alleged violators of traffic regulations and the trial of forfeiture actions for the violation of traffic regulations shall be governed by ss. 345.21 to 345.53. Where no specific procedure is provided in ss. 345.21 to 345.53, ch. 799 shall apply to such actions in circuit court.

(b) The trial of forfeiture actions in municipal court for the violation of traffic regulations shall be governed by ch. 800. Provisions relating to the uniform traffic citation in s. 345.11, to arrests in ss. 345.21 to 345.24, to deposits and pleas of no contest under s. 345.26, to the authority of the court under ss. 345.37, 345.47, 345.48 and 345.50 and to guaranteed arrest bonds under s. 345.61 apply to violations of ordinances to be tried in municipal court.

(c) Sections 967.055 and 972.11 (3m) apply to traffic forfeiture actions for violations of s. 346.63 (1) or (5) or a local ordinance in conformity therewith.

(d) A nonmoving traffic violation is governed by s. 345.28. The trial of forfeiture actions for nonmoving traffic violations is governed by ss. 345.28 and 345.34 to 345.47. Where no specific procedure is provided in ss. 345.28 or 345.34 to 345.47, ch. 799 applies to actions in circuit court and ch. 800 applies to actions in municipal court.

(f) Sections 23.50 to 23.85 apply to actions in circuit court to recover forfeitures and weapons surcharges imposed under ch. 814 for violations of s. 167.31 (2) (b), (c), or (d). No points may be assessed against the driving record of a person convicted of a violation of s. 167.31 (2) (b), (c), or (d). The report of conviction shall be forwarded to the department.

(g) Sections 23.50 to 23.85 apply to actions in circuit court to recover forfeitures for violations of s. 287.81. No points may be

assessed against the driving record of a person convicted of a violation of s. 287.81. The report of conviction and abstract of court record copy of the citation form shall be forwarded to the department.

**History:** 1971 c. 278; 1977 c. 305; 1979 c. 32 s. 92 (16), (17); 1979 c. 34; 1979 c. 175 s. 50; 1981 c. 20, 165; 1983 a. 74, 189; 1985 a. 36; 1987 a. 3, 267; 1989 a. 31, 105, 170, 335; 1993 a. 359; 1995 a. 227; 2003 a. 139; 2015 a. 196.

Wisconsin's uniform traffic court procedure. Hough, 1972 WBB No. 4.

**345.21 Authority to arrest with a warrant. (1)** A person may be arrested for the violation of a traffic regulation with a warrant that substantially complies with ch. 968. Except as provided in sub. (2), the person arrested shall be brought without unreasonable delay before a court having jurisdiction to try the action or a judge.

**(2)** In traffic regulation actions, the judge or municipal judge who issues a warrant under sub. (1) may endorse upon the warrant the amount of the deposit. If no endorsement is made the deposit schedule under s. 345.26 (2) shall apply unless the court directs that the person be brought before the court.

**History:** 1971 c. 278; 1973 c. 218; 1977 c. 305 s. 64.

**345.22 Authority to arrest without a warrant.** A person may be arrested without a warrant for the violation of a traffic regulation if the traffic officer has reasonable grounds to believe that the person is violating or has violated a traffic regulation.

**History:** 1971 c. 278.

Although this section and s. 968.24 pertain only to crimes and violations of traffic regulations, neither statute forecloses traffic stops to enforce non−traffic civil forfeiture offenses. State v. Iverson, 2015 WI 101, 365 Wis. 2d 302, 871_N.W.2d 661, 14−0515.

The statement in *Popke,* 2009 WI 37, that "a police officer may . . . conduct a traffic stop when, under the totality of the circumstances, he or she has grounds to reasonably suspect that a crime or traffic violation has been or will be committed," did not purport to circumscribe the universe of possible scenarios within which traffic stops permissibly may occur, or to make such limits contingent on whether the legislature has titled a particular law a "traffic regulation." A reasonable suspicion that a violation of the littering statute, s. 287.81, a non−traffic civil forfeiture offense, had occurred justified a brief and limited traffic stop. The more onerous standard of probable cause would also therefore justify a traffic stop. State v. Iverson, 2015 WI 101, 365 Wis. 2d 302, 871_N.W.2d 661, 14−0515.

A city police officer is a traffic officer within s. 345.22. 61 Atty. Gen. 419.

**345.23 Officer's action after arrest without a warrant.** If a person is arrested without a warrant for the violation of a traffic regulation, the arresting officer shall issue a citation under s. 345.11, and in addition:

**(1)** May release the person; or

**(2)** Shall release the person when he or she:

(a) Makes a deposit under s. 345.26; or

(c) Deposits the person's valid Wisconsin operator's license with the officer. If the license is deposited with the officer, the officer shall issue to the licensee a receipt which shall be valid as a driver's license through the date specified on the receipt, which shall be the same as the court appearance date, and the officer shall, at the earliest possible time prior to the court appearance date, deposit the license with the court.

(d) Presents a guaranteed arrest bond certificate under s. 345.61.

**(3)** Shall, if the alleged violator is not released under sub. (1) or (2), bring him or her without unreasonable delay before a judge or, for ordinance violations, before a municipal judge in the county in which the violation was alleged to have been committed.

**(4)** Shall, if the alleged violator is released under sub. (1) or (2), specify on the citation a return date which may not be more than 90 days after the issue date.

**History:** 1971 c. 278; 1973 c. 218; 1977 c. 305, 418; 1983 a. 189 s. 329 (32); 1989 a. 105, 170, 359.

**345.24 Officer's action after arrest for driving under influence of intoxicant. (1)** A person arrested under s. 346.63 (1) or (5) or an ordinance in conformity therewith or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, may not be released until 12 hours have elapsed from the time of his or her arrest or unless a chemical test administered under s. 343.305 shows that the person has an alcohol concentration of less than 0.04, but the person may be released to his or her attorney, spouse, relative or other responsible adult at any time after arrest.

**(2)** If the person was issued an out−of−service order under s. 343.305 (7) (b), the person may be released as provided under sub. (1).

**History:** 1971 c. 278; 1977 c. 193; 1981 c. 20; 1985 a. 337; 1987 a. 3; 1989 a. 105; 1995 a. 436; 2009 a. 103.

**345.255 Deposit after release.** A person arrested under s. 345.22 for the violation of a traffic regulation who is released under s. 345.23 (1) shall be permitted to make a deposit any time prior to the court appearance date. The deposit shall be made in person or by mailing it to the clerk of the court of the county in which the alleged violation occurred.

**History:** 1973 c. 218.

**345.26 Deposit. (1)** (a) A person arrested under s. 345.22 or 345.28 (5) for the violation of a traffic regulation who is allowed to make a deposit under s. 345.23 (2) (a) or 345.28 (5) shall deposit the money as the arresting officer directs by either mailing the deposit at a nearby mailbox to the office of the sheriff, headquarters of the county traffic patrol, district headquarters or station of the state traffic patrol, city, village or town police headquarters or a precinct station, the office of the municipal judge, the office of the clerk of court, or by going, in the custody of the arresting officer, to any of those places to make the deposit.

(b) The arresting officer or the person receiving the deposit shall notify the arrested person, orally or in writing, that:

1. If the person makes a deposit for a violation of a traffic regulation, the person need not appear in court at the time fixed in the citation, and the person will be deemed to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not to exceed the amount of the deposit that the court may accept as provided in s. 345.37; and

2. If the person fails to make a deposit for a violation of a traffic regulation or appear in court at the time fixed in the citation, the court may enter a default judgment finding the person guilty of the offense or issue a warrant for his or her arrest.

**(2)** (a) The basic amount of the deposit for the alleged violation of a traffic regulation shall be determined in accordance with a deposit schedule which the judicial conference shall establish. Annually, the judicial conference shall review and may revise the schedule.

(b) In addition to the amount in par. (a), the deposit shall include court costs, fees, and surcharges imposed under ch. 814.

**(3)** (a) The arresting officer or the person accepting the deposit may allow the alleged violator to submit a check for the amount of the deposit or make the deposit by use of a credit card, and the check or credit charge receipt shall be considered a receipt in lieu of par. (b).

(b) The person receiving the deposit shall furnish a receipt on a serially numbered form, and shall deliver the original receipt to the alleged violator if requested, and shall state to the alleged violator that inquiry may be made at the office of the clerk of court or municipal judge regarding the disposition of the deposit.

**(4)** An alleged violator in custody shall be released after making the deposit specified in this section.

**(5)** Any person, other than the clerk of court or the municipal judge before whom the defendant is directed to appear, who accepts the deposit shall, before the time fixed for the appearance of the defendant, deliver the deposit and a copy of the receipt and of the citation issued to the defendant to the clerk of the court or the municipal judge. The clerk or municipal judge shall give a receipt therefor, specifying the serial number of the receipt accompanying the deposit.

**History:** 1971 c. 278; 1973 c. 218, 228, 336; 1977 c. 29; 1977 c. 305 s. 64; 1977 c. 449; 1981 c. 165 s. 20; 1981 c. 317; 1985 a. 29, 332; 1987 a. 27, 399; 1989 a. 107, 170, 359; 1991 a. 39; 1993 a. 16; 1997 a. 27, 135, 237; 1999 a. 9; 2001 a. 16; 2003 a. 139.

Judges may not reduce the amounts of the deposit schedule established under sub. (2) (a). 61 Atty. Gen. 401.

**345.27 Information to persons charged. (1)** Whenever a person is charged with a violation of a traffic regulation, the law enforcement officer shall inform the person of the following:

(a) That certain convictions may result in revocation or suspension of his or her operating privilege if the conviction will have that effect.

(b) That demerit points may be assessed against his or her driving record for the offense. The law enforcement officer may estimate the number of demerit points for the particular offense and list it on the traffic citation form.

(c) The number of demerit points that is cause for revocation or suspension.

**(2)** Before taking the plea of a person charged with a violation of law the judge shall inform the violator of the following:

(a) That conviction of the charge may result in the revocation or suspension of his or her operating privilege.

(b) The number of demerit points that may be assessed against the violator upon conviction of the violation, based on the available information.

**(3)** Whenever a person has been convicted in this state on the basis of a forfeiture of deposit or a plea of guilty or no contest and the person was not informed as required under subs. (1) and (2), the person may, within 60 days after being notified of the revocation or suspension of the operating privilege, petition the court to reopen the judgment and grant him or her an opportunity to defend on the merits. If the court finds that the petitioner was not informed as required under subs. (1) and (2), the court shall order the judgment reopened. The court order reopening the judgment automatically reinstates the revoked or suspended operating privilege.

**History:** 1989 a. 170.

**345.28 Nonmoving violations. (1)** As used in this section:

(a) "Authority" means a local authority, a state agency, any campus of the University of Wisconsin System or any technical college district.

(b) "Forfeiture" includes a fine established under s. 36.11 (8) or 38.14 (13).

(c) "Nonmoving traffic violation" is any parking of a vehicle in violation of a statute, an ordinance, a rule under s. 36.11 (8) or a resolution under s. 38.14 (13).

**(2)** (a) A person charged with a nonmoving traffic violation may mail the amount of the forfeiture to any of the places specified in s. 345.26 (1) or to a violations bureau, or to the city, town or county clerk or treasurer if the traffic citation so provides. In that case, the citation shall not be filed with or transmitted to court.

(b) If the person appears in response to a citation for a nonmoving traffic violation, the procedures under ss. 345.34 to 345.47 apply, except as provided in par. (c).

(c) Subject to par. (d), if the appearance date specified in the citation is inconvenient for the person, he or she may contact the clerk of circuit court or the municipal court, whichever is applicable, to schedule a more convenient time. The revised date may provide for an appearance during an evening session, as required under s. 753.23 or authorized by a court. Subject to par. (d), the court may revise the appearance date. The date specified in the citation applies unless the person receives written confirmation of the revised appearance date from the court.

(d) A city of the 1st class may enact an ordinance establishing the period within which a person charged with a nonmoving violation shall pay the forfeiture or appear in court. An ordinance under this paragraph shall require that a citation issued for a nonmoving violation include the date on which the court may act under s. 345.37 unless the person has paid the forfeiture or appeared in court prior to that date.

**(3)** (a) If the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation is issued, the authority that issued the citation may issue a summons under s. 968.04 (3) (b) to the person and, in lieu of or in addition to issuing the summons, may proceed under sub. (4) or (5) but, except as provided in this section, no warrant may be issued for the person. If the person does not pay towing and storage charges associated with a citation for a nonmoving traffic violation, the authority that issued the citation may proceed under sub. (4).

(b) If the person appears in response to a summons for a nonmoving traffic violation, the procedures under ss. 345.34 to 345.47 apply.

**(4)** (a) 1. If the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation is issued, the authority may notify the department in the form and manner prescribed by the department that a citation has been issued to the person and the citation remains unpaid.

1m. If the person does not pay the outstanding towing and storage charges associated with a nonmoving traffic violation, the authority may notify the department in the form and manner prescribed by the department that towing and storage charges remain unpaid. Outstanding storage charges under this subdivision may not exceed 20 days of such storage.

2. The authority shall specify whether the department is to suspend the registration of the vehicle involved under s. 341.63 (1) (c) or refuse registration of any vehicle owned by the person under s. 341.10 (7m) or both.

(b) 1. The notice to the department under par. (a) 1. shall include the name and last−known address of the person against whom the citation was issued, the date the citation was issued, the license number of the vehicle involved, certification that 2 notices which meet the requirements under par. (c) 1. or sub. (5m) (d) have been mailed to the last−known address of the person against whom the citation was issued and that the citation remains unpaid on the date specified in the citation or, if no date is specified in the citation, 28 days after the citation was issued, the place that the citation may be paid, the means by which the citation may be contested and the action the department is to take.

2. The notice to the department under par. (a) 1m. shall include the name and last−known address of the person against whom the outstanding towing and storage charges apply, the license number of the vehicle involved, certification that 2 notices which meet the requirements under par. (c) 2. have been mailed to the last−known address of the person against whom the towing and storage charges apply and that the towing and storage charges remain unpaid, the amount of the outstanding towing and storage charges, the place where the towing and storage charges may be paid, and the action that the department is to take.

(c) 1. The notices to the person required under par. (b) 1. shall be mailed on 2 separate days to the last−known address of the person to whom the citation was issued and shall include the date the citation was issued, the license number of the vehicle involved, the place the citation may be paid, the means by which the citation may be contested and the date by which the person must pay or contest the citation to avoid further action by the authority. The notice shall inform the person of the specific actions which the authority and the courts are authorized to take under this section if the person fails to pay the forfeiture or appear in court in response to the citation by the date specified in the notice.

2. The notices to the person required under par. (b) 2. shall be mailed on 2 separate days to the last−known address of the person to whom the outstanding towing and storage charges apply and shall include the license number of the vehicle involved, the place where the towing and storage charges may be paid, and the date by which the person must pay the towing and storage charges to avoid further action by the authority. The notice shall inform the person of the specific actions that the authority and the courts are authorized to take under this section if the person fails to pay the towing and storage charges by the date specified in the notice. A notice under this subdivision may be included in a notice mailed

to a person under subd. 1. with respect to the nonmoving traffic violation associated with the towing and storage charges.

(d) The authority may assess the person for the cost of using the traffic violation and registration program as established by the department under s. 85.13.

(e) 1. If the person subsequently pays the amount of the forfeiture and the costs, if any, under par. (d) or appears in court in response to the citation or a notice by the authority who issued the citation or the department, the department shall be immediately notified in the form and manner prescribed by the department. If the vehicle involved in the nonmoving traffic violation is owned by a person engaged in the business of renting or leasing motor vehicles and the owner pays the costs, if any, under par. (d) and the forfeiture or, if applicable, the amount required under sub. (5w) (b), the authority shall immediately notify the department in the form and manner prescribed by the department.

2. If the person subsequently pays the amount of the outstanding towing and storage charges specified in the notice to the department under par. (a) 1m. and the costs, if any, under par. (d), the department shall be immediately notified in the form and manner prescribed by the department. If the vehicle to which the towing and storage charges apply is owned by a person engaged in the business of renting or leasing motor vehicles and the owner pays the costs, if any, under par. (d) and the amount of the outstanding towing and storage charges specified in the notice to the department under par. (a) 1m. or, if applicable, the amount required under sub. (5w) (b), the authority shall immediately notify the department in the form and manner prescribed by the department.

(f) Upon the person's appearance in court in response to a notice by the authority who issued the citation or the department, the procedures under ss. 345.34 to 345.47 apply.

(h) 1. If an authority receives payment of a forfeiture or, if applicable, the amount required under sub. (5w) (b), from the owner of a leased or rented vehicle involved in a nonmoving traffic violation and receives payment of the forfeiture from the lessee or renter of the vehicle charged with the violation, the authority shall refund to the owner the payment received from the owner.

2. If an authority receives payment of the amount of the outstanding towing and storage charges specified in the notice to the department under par. (a) 1m. or, if applicable, the amount required under sub. (5w) (b), from the owner of a leased or rented vehicle to which the towing and storage charges apply and receives payment of the amount of the outstanding towing and storage charges specified in the notice to the department under par. (a) 1m. from the lessee or renter of the vehicle to which the towing and storage charges apply, the authority shall refund to the owner the payment received from the owner.

(i) Notwithstanding any other provision of this subsection or ss. 341.10 (7m) and 341.63 (1) (c), the department may permit an authority to send a single notice to the department under par. (a) 1. with respect to 2 or more citations that have been issued to a person and remain unpaid and, if an authority sends a notice specified in this paragraph to the department, the authority and department shall treat any such notice for purposes of any other provision of this section or ss. 341.10 (7m) and 341.63 (1) (c) in the same manner as a notice to the department under par. (a) 1. with respect to a single citation.

**(5)** (a) In lieu of the procedure under sub. (4), if the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation was issued, the authority, after sending 2 notices which meet the requirements under sub. (4) (c) 1., may issue a warrant under par. (b) for the person.

(b) 1. If a person fails to respond to the notices under par. (a) within the time specified in the notice, a warrant that substantially complies with the mandatory provisions under s. 968.04 (3) (a) may be issued for the person, except that the warrant shall direct the officer to accept the person's deposit of money or his or her valid Wisconsin operator's license, as provided under subd. 2. a., in lieu of serving the warrant and arresting the person.

2. If an officer contacts a person for whom a warrant for a nonmoving traffic violation has been issued under subd. 1.:

a. The officer shall accept a deposit of money or a deposit of the person's valid Wisconsin operator's license in lieu of serving the warrant and arresting the person. If the license is deposited with the officer, the officer shall issue to the licensee a receipt, on a form provided by the department, which is valid as an operator's license through a date specified on the receipt, not to exceed 30 days from the date of contact, which shall be the same as the court appearance date and the officer shall at the earliest possible time prior to the court appearance date deposit the license with the court. If a deposit of money is made, s. 345.26 (1) (a) and (2) to (5) applies. The officer shall notify the person who deposits money or his or her license, in writing, of the specific actions which the authority and the courts are authorized to take under this section if the person fails to appear in court at the time specified by the officer, not to exceed 30 days from the date of contact, or at any subsequent court appearance for the nonmoving traffic violation citation. If the person makes a deposit of money or deposits his or her valid Wisconsin operator's license, the officer shall return the warrant to the court or judge who issued the warrant and the court or judge shall vacate the warrant.

b. The officer may serve the warrant and arrest any person who refuses to make a deposit of money or deposit his or her operator's license. If the officer arrests the person, the officer shall bring the arrested person before a court having jurisdiction to try the action or a judge without unreasonable delay.

(c) 1. If the person who was contacted under par. (b) 2. and who has made a deposit of money fails to appear in court at the date specified by the officer under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court appearance for the nonmoving traffic violation, the person shall be deemed to have entered a plea of no contest. The court shall accept the plea of no contest, find the defendant guilty and proceed under s. 345.47, except that the deposit shall be forfeited and serve as payment of the judgment. The court shall give notice of the entry of judgment to the defendant by mailing a copy of the judgment to the defendant's last−known address.

2. If the person who was contacted under par. (b) 2. and who has deposited his or her operator's license fails to appear in court at the date specified by the officer under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court appearance for the nonmoving traffic violation, the person may be deemed to have entered a plea of no contest. The court may accept the plea of no contest, find the defendant guilty and, except as limited by sub. (6), proceed under s. 345.47. If the court enters judgment under s. 345.47 (1), the court shall give notice of the entry of judgment to the defendant by mailing a copy of the judgment to the defendant's last−known address. The court shall also mail to the defendant's last−known address a statement setting forth the actions the court may take under s. 345.47 if the judgment is not paid. In lieu of accepting the plea of no contest, the court may issue a warrant commanding that the person be arrested and brought before the court. Unless the case is tried immediately with the person's consent, any person who is arrested on a warrant issued under this subdivision may be released on his or her own recognizance or on posting bond or may be released without bail and shall be released if the person posts cash bail for his or her appearance. The court may retain the person's license, but the person's operating privilege may not be suspended until after judgment is entered under s. 345.47 and the judgment is not paid.

3. A default judgment entered under this paragraph may be reopened as provided under s. 345.51.

**(5m)** (a) No notice under sub. (4) (a) 1. may be sent to the department, or if the notice has already been sent the notice shall

be canceled, and no further action may be taken against the owner under sub. (4) or (5) or s. 341.10 (7m) or 341.63 (1) (c) if:

1. The vehicle involved in a nonmoving traffic violation is owned by a person engaged in the business of renting or leasing motor vehicles;

2. At the time of the violation the vehicle was in the possession of a renter or lessee;

3. The owner of the vehicle provides the information required under s. 343.46 (3) for such renter or lessee to the authority who issued the citation within 10 days after the 2nd notice was sent to the owner under sub. (4) (c) 1.; and

4. After being notified by the authority, the renter or lessee identified under subd. 3. pays the forfeiture or appears in court in response to the citation for the nonmoving traffic violation within 30 days after the 2nd notice from the authority is mailed.

(b) If the renter or lessee does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation, the authority may notify the department under sub. (4) (a) 1. that a citation has been issued to the person and the citation remains unpaid. The action which the authority shall specify that the department take under sub. (4) (a) 2. is limited to refusal of the registration of any vehicle owned by the renter or lessee.

(c) 1. Except as otherwise provided in sub. (5w) (b), if the renter or lessee does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation within 30 days after the 2nd notice from the authority is mailed to the renter or lessee, the owner shall pay the authority the forfeiture applicable to the nonmoving traffic violation. The authority shall notify the owner in writing of its responsibility for this payment.

2. Except as otherwise provided in sub. (5w) (b), if the owner does not pay the forfeiture applicable to the citation within 30 days after notice under subd. 1. has been mailed to the owner, the authority may send a notice to the department under sub. (4) (a) 1. The action which the authority shall specify that the department take under sub. (4) (a) 2. is limited to suspension of the registration of the vehicle involved in the nonmoving traffic violation.

(d) The notices to the renter or lessee required under sub. (4) (b) 1. shall be mailed on 2 separate days to the last−known address of the renter or lessee and shall include the information specified in sub. (4) (c) 1. and the name of the owner of the vehicle.

**(5r)** (a) No notice under sub. (4) (a) 2. may be sent to the department, or if the notice has already been sent the notice shall be canceled, and no further action may be taken against the owner under sub. (4) or (5) or s. 341.10 (7m) or 341.63 (1) (c) if:

1. The vehicle to which towing and storage charges apply is owned by a person engaged in the business of renting or leasing motor vehicles;

2. At the time of its towing and storage the vehicle was in the possession of a renter or lessee;

3. The owner of the vehicle provides the information required under s. 343.46 (3) for such renter or lessee to the authority who issued the citation within 10 days after the 2nd notice was sent to the owner under sub. (4) (c) 2.; and

4. After being notified by the authority, the renter or lessee identified under subd. 3. pays the amount of the outstanding towing and storage charges within 30 days after the 2nd notice from the authority is mailed.

(b) If the renter or lessee does not pay the amount of the outstanding towing and storage charges, the authority may notify the department under sub. (4) (a) 1m. that towing and storage charges remain unpaid. The action which the authority shall specify that the department take under sub. (4) (a) 2. is limited to refusal of the registration of any vehicle owned by the renter or lessee.

(c) 1. Except as otherwise provided in sub. (5w) (b), if the renter or lessee does not pay the amount of the outstanding towing and storage charges within 30 days after the 2nd notice from the authority is mailed to the renter or lessee, the owner shall pay the authority the amount of the outstanding towing and storage charges. The authority shall notify the owner in writing of its responsibility for this payment.

2. Except as otherwise provided in sub. (5w) (b), if the owner does not pay the amount of the outstanding towing and storage charges within 30 days after notice under subd. 1. has been mailed to the owner, the authority may send a notice to the department under sub. (4) (a) 1m. The action which the authority shall specify that the department take under sub. (4) (a) 2. is limited to suspension of the registration of the vehicle to which the towing and storage charges apply.

(d) The notices to the renter or lessee required under sub. (4) (b) 2. shall be mailed on 2 separate days to the last−known address of the renter or lessee and shall include the information specified in sub. (4) (c) 2. and the name of the owner of the vehicle.

**(5w)** (a) If the owner of a rental or leased vehicle has received written notice under sub. (5m) (c) 1. or (5r) (c) 1. and pays any forfeiture, costs, or towing and storage charges for nonmoving traffic violations under this section that occurred while the renter or lessee was in possession of the vehicle, the rental or leased vehicle owner may, within 30 days after receiving the notice, charge a credit card belonging to the renter or lessee as payment for the forfeiture, costs, and charges for which the renter or lessee is liable as well as charge the renter an administrative fee of not more than $30 for making those payments under this section, if the owner:

1. Provided a written notice to the renter or lessee, prior to entering into the rental or lease agreement, that if the renter or lessee fails to pay any forfeitures, costs, or towing and storage charges for nonmoving traffic violations incurred while the renter or lessee is in possession of the rental or leased vehicle, the owner may pay those sums and charge the amount paid for such forfeitures, costs, or charges plus an administrative fee of not more than $30 to a credit card belonging to the renter or lessee.

2. Provides the renter or lessee with a detailed itemization of all amounts charged to the renter's or lessee's credit card, within 30 days after charging that credit card, that includes the date that the charge was made and, for each nonmoving traffic violation forfeiture incurred by the renter or lessee that the owner paid, the name of the authority issuing the citation, the citation number, and the date of the citation.

(b) If the owner of a rental or leased vehicle has received written notice under sub. (5m) (c) 1. or (5r) (c) 1. and is required to pay any forfeiture or towing and storage charges for nonmoving traffic violations under this section that occurred while the renter or lessee was in possession of the vehicle and the renter or lessee did not pay the rental or lease fee with a credit card, or paid with a credit card for which payment of the forfeitures and charges under this section is being declined by the issuer of the credit card, the rental or leased vehicle owner shall pay the authority 50 percent of the amount of the forfeiture under sub. (2) (a) or towing and storage charges, provided that the owner advises the authority that the payment is made under this paragraph.

**(5x)** The department of agriculture, trade and consumer protection shall promulgate rules specifying the form of the notice required under sub. (5w) (a) 1., including the type size and any highlighting of the information described in that paragraph and, if the notice is on a separate form, the size of the paper. The rules must require the notice to be in substantially the same form as the notice under s. 344.576 (3) (a) and may specify additional information to be included in the notice and the precise language that must be used.

**(6)** No person may be arrested or imprisoned under s. 345.47 (1) (a) or ch. 785 for failure to pay a judgment assessed under this section and s. 345.47.

**(7)** Nothing in this section prevents a court from issuing a warrant under s. 345.36 or 345.37 if the person appears in court in response to a citation for a nonmoving traffic violation or after notice by the authority who issued the citation or the department under sub. (4) with respect to the citation or on the date specified by the officer or the court under sub. (5) and then fails to appear

in court at any time fixed by subsequent postponement. Unless the case is tried immediately with the person's consent, any person who is arrested on a warrant issued under this subsection may be released on his or her own recognizance or on posting bond or may be released without bail and shall be released if the person posts cash bail for his or her appearance.

**History:** 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201; 2007 a. 207; 2015 a. 60.

**345.285 Alternative traffic violation and registration pilot program. (1)** The department may administer an alternative traffic violation and registration pilot program. Any pilot program under this section shall provide alternative methods of suspending and refusing vehicle registrations for unpaid citations for nonmoving traffic violations in lieu of applicable requirements of s. 345.28.

**(2)** The department may contract with a city of the 1st class to permit the city to suspend vehicle registrations for unpaid citations for nonmoving traffic violations. The department may not enter into a contract under this subsection after June 30, 2001. A contract under this subsection shall include all of the following provisions:

(a) The city may suspend the registration of a vehicle if all of the following apply:

1. The city has cited the owner of the vehicle for one or more nonmoving traffic violations for which the owner has neither paid the forfeitures nor appeared in court in response to the violations.

2. The city has mailed to the last−known address of the owner at least 2 notices that meet the requirements of s. 345.28 (4) (c) with respect to each citation counted under subd. 1.

3. The owner has not, by the date specified in the last issued citation that is counted under subd. 1. or, if no date is specified in that citation, within 28 days after the citation is issued, either paid all forfeitures or appeared in court in response to all citations counted under subd. 1. for which the forfeitures have not been paid.

(b) If the city suspends the registration of a vehicle under par. (a), all of the following apply:

1. The city may notify the department to refuse the registration of any vehicle owned by the person under s. 341.10 (7r).

2. The city shall remove the suspension of the vehicle's registration under par. (a) if the owner of the vehicle either pays all forfeitures or appears in court in response to all citations counted under par. (a) 1. for which the forfeitures have not been paid. If a suspension is removed under this subdivision, the department shall be immediately notified in the form and manner prescribed by the department.

(c) Provisions that specify the responsibilities of the department and of the city with respect to the pilot program, the procedures for record and transaction security, and any fee that the city may assess the owner of a vehicle whose registration is suspended under par. (a).

(d) Notwithstanding s. 85.13, the department shall charge the city a fee for the cost of the development and operation of the pilot program under this section. The fee shall ensure that payments by the city to the department under this paragraph and s. 85.13 are not less than payments made by the city to the department under s. 85.13 before June 17, 1998, for comparable periods of time. The department may periodically adjust this fee accordingly or, in lieu of adjusting the fee, may terminate the contract.

(e) The city may enact and enforce an ordinance that strictly conforms to s. 341.03, except that the ordinance shall apply to motor vehicles whose registration is suspended under par. (a).

(f) The city may not suspend vehicle registrations under this section after June 30, 2001.

**History:** 1997 a. 237.

**345.30 Jurisdiction.** Jurisdiction over actions for violation of traffic regulations and nonmoving traffic violations is conferred upon circuit courts. Municipal courts shall have jurisdiction over traffic regulations enacted in accordance with s. 349.06 and over actions for violations of nonmoving traffic ordinances enacted in accordance with s. 349.06 or 349.13.

**History:** 1971 c. 278; 1977 c. 449; 1981 c. 165.

**345.31 Venue in traffic regulation actions.** Section 971.19 on place of trial in criminal actions applies to actions for the violation of traffic regulations and nonmoving traffic violations except that, in the case of a violation of an ordinance of a municipality which is located in more than one county, the action may be brought in any court sitting in that municipality even though in another county. As an alternative, the plaintiff may bring the action in the county where the defendant resides.

**History:** 1971 c. 278; 1981 c. 165.

**345.315 Change of judge. (1)** In traffic regulation and nonmoving traffic violation cases a person charged with a violation may file a written request for a substitution of a different judge for the judge originally assigned to the trial of that case. The written request shall be filed not later than 7 days after the initial appearance in person or by an attorney. If a new judge is assigned to the trial of a case and the defendant has not exercised the right to substitute an assigned judge, a written request for the substitution of the new judge may be filed within 10 days of the giving of actual notice or sending of the notice of assignment to the defendant or the defendant's attorney. If the notification occurs within 10 days of the date set for trial, the request shall be filed within 48 hours of the giving of actual notice or sending of the notice of assignment to the defendant or the defendant's attorney. If the notification occurs within 48 hours of the trial or if there has been no notification, the defendant may make an oral or written request for substitution prior to the commencement of the proceedings. The judge against whom a request has been filed may set initial bail and accept a plea.

**(1m)** When the clerk of court receives a request for substitution, the clerk shall immediately contact the judge whose substitution has been requested for a determination of whether the request was made timely and in proper form. If the request is found to be timely and in proper form, the judge named in the request has no further jurisdiction and the clerk shall request the assignment of another judge under s. 751.03. If no determination is made within 7 days, the clerk shall refer the matter to the chief judge of the judicial administrative district for determination of whether the request was made timely and in proper form and reassignment as necessary.

**(2)** Except as provided in sub. (5), no more than one judge can be disqualified in any action.

**(3)** In a court of record assignment of judges shall be made as provided in s. 751.03.

**(4)** In municipal court a case shall be transferred as provided in ss. 751.03 (2) and 800.05.

**(5)** If upon an appeal from a judgment or order or upon a writ of error the appellate court orders a new trial or reverses or modifies the judgment or order in a manner such that further proceedings in the trial court are necessary, the person charged with a violation may file a request under sub. (1) within 20 days after the entry of the judgment or decision of the appellate court whether or not another request was filed prior to the time the appeal or writ of error was taken.

**History:** 1971 c. 278; 1973 c. 218; 1977 c. 135; 1977 c. 187 s. 135; 1977 c. 305, 449; 1979 c. 32 s. 92 (1), (17); 1981 c. 165; 1983 a. 218; 1987 a. 151.

**Judicial Council Note, 1977:** This section has been amended so that a judge against whom a substitution of judge request has been filed in traffic regulation cases may, however, set initial bail and accept a plea. The provision that all defendants must join in any substitution of judge request has been deleted to conform to a provision in chapter 149, laws of 1975. In addition, the transfer fee from municipal to county court has been deleted and a municipal justice will no longer retain the option of transferring the case to another municipal justice rather than county court when a request for substitution has been filed against him or her. [Bill 74−S]

**Judicial Council Note, 1983:** Sub. (1) is amended by conforming the procedure for requesting the substitution of a judge other than the judge originally assigned to the trial of a traffic regulation case to that specified for criminal actions in s. 971.20 (5), stats. The time deadlines are made to run from the time of giving actual notice or sending the notice of assignment to the defendant or the defendant's attorney rather

than receipt thereof, which is difficult to determine and therefore causes problems in the administration of justice. [Bill 148−S]

**345.32 Initial appearance before judge.** If a defendant is arrested and brought without unreasonable delay before a judge who, or a court which, does not have jurisdiction to try the case, the defendant shall be committed to await trial in a court with jurisdiction and all papers shall be sent forthwith to that court. In lieu of commitment, the judge may release the defendant if the defendant posts bond for the defendant's appearance in such court, or the judge may release the defendant on the defendant's recognizance for such appearance, or the judge may release the defendant without bail. The court to which the case is sent may similarly release the defendant.

**History:** 1971 c. 278; 1991 a. 316.

**345.34 Arraignment; pleas. (1)** If the defendant appears in response to a citation, or is arrested and brought before a court with jurisdiction to try the case, the defendant shall be informed that he or she is entitled to a jury trial and then asked whether he or she wishes presently to plead, or whether he or she wishes a continuance. If the defendant wishes to plead, the defendant may plead guilty, not guilty or no contest.

**(2)** If the defendant pleads guilty or no contest, the court shall accept the plea, find the defendant guilty and proceed under s. 345.47.

**(3)** If a summons is served or citation is issued by a police officer for a violation of any municipal ordinance or of chs. 194 or 340 to 348 and 350, the defendant may enter a plea of not guilty based on such summons or citation by letter to the judge at the address indicated on the summons or citation, the letter to show the defendant's return address. The letter may include a request for trial during normal daytime business hours. Upon receipt of the letter, the judge shall reply by mail to the defendant's address setting forth a time and place for trial, the time to be during normal business hours if requested by the defendant. The date of the trial shall be at least 10 days from the mailing by the judge. Nothing in this subsection forbids the setting of the trial at any time convenient to all parties concerned.

**History:** 1971 c. 278; 1973 c. 218; 1977 c. 305; 1991 a. 316.

Courts may not dismiss traffic complaints on the payment of a penalty and costs, or costs alone. 63 Atty. Gen. 328.

**345.35 Not guilty plea; immediate trial. (1)** If the defendant pleads not guilty, the court shall ascertain whether the defendant wishes an immediate trial or whether the defendant wishes a continuance. The plaintiff shall also be entitled to a continuance if the defendant pleads not guilty.

**(2)** If the defendant pleads not guilty and states that he or she waives the right to jury trial and wishes an immediate trial, the case may be tried forthwith if the plaintiff consents.

**History:** 1971 c. 278; 1991 a. 316.

**345.36 Not guilty plea; continuance; failure to appear. (1)** If the defendant pleads not guilty and requests a continuance the court shall set a date for trial or advise the defendant that notice will later be sent of the date set for trial. The court shall release the defendant if he or she posts an appearance bond, or the court may release the defendant on recognizance or without bail. A defendant not so released shall be committed to jail to await trial.

**(2)** If a defendant fails to appear at the date set under sub. (1), the court shall either:

(a) Issue a warrant under ch. 968 and, if the defendant has posted bond for appearance at that date, the court may order the bond forfeited; or

(b) Deem the nonappearance a plea of no contest and enter judgment accordingly. If the defendant has posted bond for appearance at that date, the court may also order the bond forfeited. The court shall promptly mail a copy of the judgment to the defendant. The judgment shall allow not less than 20 days from the date thereof for payment of any forfeiture, plus costs, fees, and surcharges imposed under ch. 814. If the defendant moves to open the judgment within 20 days after the date set for trial, and shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise, or excusable neglect, the court shall open the judgment, reinstate the not guilty plea, and set a new trial date. The court may impose costs under s. 814.07. The court shall immediately notify the department to delete the record of conviction based upon the original judgment.

**(3)** If the offense involved is a nonmoving traffic violation and the defendant is subject to s. 345.28 (5) (c), a default judgment may be entered and opened as provided in s. 345.28 (5) (c).

**History:** 1971 c. 278; 1983 a. 231; 1987 a. 27; 1991 a. 39; 1993 a. 16; 1997 a. 27, 135; 2001 a. 16; 2003 a. 139.

**345.37 Procedure on default of appearance.** If the defendant fails to appear in court at the time fixed in the citation or by subsequent postponement, or, if an ordinance under s. 345.28 (2) (d) applies, not less time than the period established in an ordinance under s. 345.28 (2) (d) has elapsed since the person was charged with a nonmoving violation, the following procedure shall apply:

**(1)** If the defendant has not made a deposit under s. 345.26, the court shall either:

(a) Issue a warrant under ch. 968 and, if the defendant has posted a bond for appearance at that date, the court may order the bond forfeited; or

(b) Deem the nonappearance a plea of no contest and enter judgment accordingly. If the defendant has posted bond for appearance at that date, the court may also order the bond forfeited. The court shall promptly mail a copy or notice of the judgment to the defendant. The judgment shall allow not less than 20 days from the date thereof for payment of any forfeiture, plus costs, fees, and surcharges imposed under ch. 814. If the defendant moves to open the judgment within 6 months after the court appearance date fixed in the citation, and shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise, or excusable neglect, the court shall open the judgment, accept a not guilty plea, and set a trial date. The court may impose costs under s. 814.07. The court shall immediately notify the department to delete the record of conviction based upon the original judgment. If the offense involved is a nonmoving traffic violation and the defendant is subject to s. 345.28 (5) (c), a default judgment may be entered and opened as provided in s. 345.28 (5) (c).

**(2)** If the defendant has made a deposit under s. 345.26, the citation may serve as the initial pleading and the defendant shall be deemed to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons under ch. 968. If the defendant fails to appear in response to the summons, the court shall issue a warrant under ch. 968. If the court accepts the plea of no contest, the defendant may move within 6 months after the date set for the appearance to withdraw the plea of no contest, open the judgment, and enter a plea of not guilty upon a showing to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise, or excusable neglect. If on reopening the defendant is found not guilty, the court shall immediately notify the department to delete the record of conviction based on the original proceeding and shall order the defendant's deposit returned.

**(5)** Within 5 working days after forfeiture of deposit or entry of default judgment, the official receiving the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, shall forward to the department a certification of the entry of default judgment or a judgment of forfeiture.

**(6)** Any person who fails to comply with this section relative to forwarding records of convictions to the department may be fined not more than $100.

**History:** 1971 c. 278; 1973 c. 218; 1975 c. 231, 421; 1977 c. 29 ss. 1472 to 1475, 1654 (7) (a), (c); 1977 c. 273, 305; 1981 c. 317; 1985 a. 29; 1987 a. 27, 267, 399; 1989

a. 107, 170; 1991 a. 39; 1993 a. 16; 1997 a. 27, 135, 237; 1999 a. 9; 2001 a. 16; 2003 a. 139; 2015 a. 60.

Motion costs under s. 817.07 on motions brought to open judgments entered on a forfeiture actions under this section may not be imposed by a blanket order. Discretion must be exercised by the court in each case. OAG 1−00.

**345.375 Judgment against a corporation or limited liability company. (1)** If a corporation or limited liability company fails to appear within the time required by the citation, the default of such corporation or limited liability company may be recorded and the charge against it taken as true and judgment shall be rendered accordingly.

**(2)** Upon default of the defendant corporation or limited liability company or upon conviction, judgment for the amount of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, shall be entered.

**History:** 1973 c. 218; 1977 c. 29; 1987 a. 27; 1989 a. 107; 1993 a. 112; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 139.

**345.38 Effect of plea of no contest.** The forfeiture of a deposit under s. 345.37 (2) to a charge of violation of a traffic regulation shall not be admissible in evidence as an admission against interest in any action or proceeding arising out of the same occurrence as the charge of violation of a traffic regulation.

**History:** 1971 c. 278; 1989 a. 170.

**345.40 Pleading.** A citation which complies with s. 345.11 or a complaint which complies with the appropriate provisions of ch. 968 may be used as the initial pleading, or the municipal judge, clerk or a deputy of the clerk may enter upon the records of the court a statement of the offense charged, which shall stand as a complaint, unless the court directs that formal complaint be made. Several counts may be joined in one complaint or a separate complaint may be prepared for each separate violation. The defendant's plea shall be guilty, no contest or not guilty and shall be entered as not guilty upon failure to plead. A plea of not guilty shall put all matters in such case at issue.

**History:** 1971 c. 278; 1985 a. 332.

**345.41 Motion to dismiss.** Defenses which could be taken by pleas in abatement, in bar, demurrers and motions to quash shall be raised by motion to dismiss, which motion shall be made before any trial on the merits, or be waived.

**History:** 1971 c. 278.

**345.42 Preliminary proceedings. (1)** In civil actions under this chapter, oral argument permitted on motions under s. 345.41 or 345.421 may be heard by telephone under s. 807.13 (1). Any pretrial or scheduling conference may be conducted by telephone under s. 807.13 (3) and any pretrial conference may be conducted on the trial date.

**(2)** There shall be no preliminary examination.

**History:** 1971 c. 278; Sup. Ct. Order, 141 Wis. 2d xiii (1987).

Summary judgment procedure is inconsistent with, and unworkable in, ch. 345 forfeiture proceedings. State v. Schneck, 2002 WI App 239, 257 Wis. 2d 704, 652 N.W.2d 434, 02−0513.

**345.421 Discovery.** Neither party is entitled to pretrial discovery except that if the defendant moves within 10 days after the alleged violation and shows cause therefor, the court may order that the defendant be allowed to inspect and test under s. 804.09 and under such conditions as the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed, including without limitation, devices used to determine presence of alcohol in breath or body fluid or to measure speed, and may inspect under s. 804.09 the reports of experts relating to those devices.

**History:** 1971 c. 278; Sup. Ct. Order, 67 Wis. 2d 585, 776 (1975); 1975 c. 218.

This section applies to civil as well as criminal traffic charges. City of Lodi v. Hine, 107 Wis. 2d 118, 318 N.W.2d 383 (1982).

When blood alcohol content is tested under statutory procedures, the results of the test are mandatorily admissible. The physical sample tested is not evidence intended, required, or even susceptible of being produced by the state under s. 971.23. State v. Ehlen, 119 Wis. 2d 451, 351 N.W.2d 503 (1984).

**345.422 No guardian ad litem.** No guardian ad litem need be appointed for any defendant.

**History:** 1971 c. 278.

**345.425 Mode of trial. (1)** The defendant shall be informed of his or her right to a jury trial in circuit court on payment of fees required by s. 345.43 (1).

**(2)** If both parties, in a court of record, request a trial by the court or if neither demands a trial by jury, the right to a trial by jury is waived.

**History:** 1971 c. 278; 1977 c. 305; 1977 c. 449 s. 497.

**345.43 Jury trial. (1)** If a case has been transferred under s. 800.035 (5) (c), or if in circuit court either party files a written demand for a jury trial within 10 days after the defendant enters a plea of not guilty under s. 345.34 and immediately pays the fee prescribed in s. 814.61 (4), the court shall place the case on the jury calendar of the circuit court. The number of jurors shall be 6. If no party demands a trial by jury, the right to trial by jury is permanently waived.

**(3)** (a) In counties having a population of 500,000 or more, the jury shall be selected from the circuit court prospective juror list as set forth under chs. 801 to 847. In all other counties, juries shall be selected as provided in par. (b), except that the clerk shall randomly select the names of sufficient persons qualified to serve as jurors as will provide to each party entitled to peremptory challenges 5 peremptory challenges.

(b) If a timely demand for a jury is made, the judge shall direct the clerk of the court to select at random from the prospective juror list the names of a sufficient number of prospective jurors, from which list either party may strike 5 names. If either party neglects to strike out names, the clerk shall strike out names for the party. The judge shall permit voir dire examinations and challenges for cause. The clerk shall summon a sufficient number of persons whose names are not struck out, to appear at the time and place named in the summons.

**(5)** In a jury trial of a traffic regulation case, the court is not required to provide the jury with one complete set of written instructions under s. 805.13 (4).

**History:** 1971 c. 278; 1973 c. 218; Sup. Ct. Order, 67 Wis. 2d 585, 773 (1975); 1975 c. 231, 291; 1977 c. 187 s. 135; 1977 c. 305, 318, 447, 449; 1979 c. 32 s. 92 (17); 1979 c. 89, 128; 1981 c. 317; 1985 a. 170; 1987 a. 389; 1991 a. 271, 315; 1995 a. 427; Sup. Ct. Order No. 96−08, 207 Wis. 2d xv (1997); 2009 a. 402.

The requirement that the defendant prepay jury fees in civil traffic forfeiture actions is constitutional. State v. Graf, 72 Wis. 2d 179, 240 N.W.2d 387 (1976).

The 10−day period for a jury demand did not begin at the initial appearance when the accused requested a continuance rather than entering plea under s. 345.34 (1). City of Madison v. Donohoo, 118 Wis. 2d 646, 348 N.W.2d 170 (1984).

The provision under this section for a 6, rather than 12, person jury for a speeding violation does not violate Art. I, s. 5, which provides that the right of trial by jury shall remain inviolate. Dane County v. McGrew, 2005 WI 130, 285 Wis. 2d 519, 699 N.W.2d 890, 03−1794

**345.45 Burden of proof.** The standard of proof for conviction of any person charged with violation of any traffic regulation shall be evidence that is clear, satisfactory and convincing.

**History:** 1973 c. 218.

**345.46 Verdict.** A verdict is valid if agreed to by five−sixths of the jury. If a verdict relates to more than one count, it shall be valid as to any count if any five−sixths of the jury agree thereto. The form of the verdict shall be guilty or not guilty, except where it is necessary to determine speed. The amount of the forfeiture shall be determined by the court after the court makes its finding.

**History:** 1971 c. 278.

**345.47 Judgment of forfeitures, costs, fees, and surcharges. (1)** If the defendant is found guilty, the court may enter judgment against the defendant for a monetary amount not to exceed the maximum forfeiture provided for the violation, plus costs, fees, and surcharges imposed under ch. 814, and, in addition, may suspend or revoke his or her operating privilege under s. 343.30. Upon entering judgment, the court shall notify the defendant personally, if the defendant is present, and in writing that the defendant should notify the court if he or she is unable to pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d). If the defendant is present and the court, using the criteria in s. 814.29 (1) (d), determines that the defendant is unable to pay the judgment because of poverty, the court shall provide the defendant with an opportunity to pay the judgment in install-

ments, taking into account the defendant's income. If the judgment is not paid or if the defendant fails to make any ordered installment payment, the court shall order:

(a) That, subject to s. 800.095 (1) (b), the defendant be imprisoned for a time specified by the court until the judgment is paid, but not to exceed 90 days; or

(b) In lieu of imprisonment and in addition to any other suspension or revocation, that the defendant's operating privilege be suspended. The operating privilege shall be suspended for 30 days or until the person pays the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, but not to exceed one year. If the defendant has notified the court that he or she is unable to pay the judgment because of poverty, and if the court, using the criteria in s. 814.29 (1) (d), determines that the defendant is unable to pay the judgment because of poverty, the court may not suspend the defendant's operating privilege without first providing the defendant with an opportunity to pay the judgment in installments, taking into account the defendant's income. Suspension under this paragraph shall not affect the power of the court to suspend or revoke under s. 343.30 or the power of the secretary to suspend or revoke the operating privilege. This paragraph does not apply if the judgment was entered solely for violation of an ordinance unrelated to the violator's operation of a motor vehicle.

(c) If a court suspends an operating privilege under this section, the court may take possession of the suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department the notice of suspension, which shall clearly state that the suspension was for failure to pay a forfeiture, plus costs, fees, and surcharges imposed under ch. 814 or for failure to comply with an installment payment plan ordered by the court. The notice of suspension shall be forwarded to the department within 48 hours after the order of suspension. If the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, are paid during a period of suspension, or if the court orders an installment payment plan under sub. (4), the court shall immediately notify the department.

(d) In addition to or in lieu of imprisonment or suspension under par. (a) or (b), the court may notify the department, in the form and manner prescribed by the department, that a judgment has been entered against the defendant and remains unpaid, or that the defendant has failed to comply with an installment payment plan ordered under this section. The notice shall include the name and last−known address of the person against whom the judgment was entered, the date judgment was entered, the amount of the judgment, the license number of the vehicle involved, certification by the court that a warrant has been served on the person against whom the judgment was entered or, in the case of a judgment entered under s. 345.28, that the person has been notified of the entry of judgment and the judgment or installments remain unpaid and the place where the judgment or installments may be paid. If the person subsequently pays the judgment or complies with the installment payment plan the court shall immediately notify the department of the payment in the form and manner prescribed by the department.

**(1m)** If the action is in municipal court, the court shall determine, at the time of entering judgment under sub. (1), whether incarceration may be ordered for noncompliance with a judgment or order under this section. If incarceration may be ordered because of the defendant's subsequent noncompliance with the judgment, the provisions of s. 800.095 (1) (b) apply.

**(2)** Except in those cases in which the court orders payment by installments, the payment of any judgment may be suspended or deferred for not more than 60 days in the discretion of the court. In cases where a deposit has been made, any forfeitures, plus costs, fees, and surcharges imposed under ch. 814, shall be taken out of the deposit and the balance, if any, returned to the defendant.

**(3)** When a defendant is imprisoned for nonpayment of a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, for an action brought by a municipality located in more than one county, any commitment to a county institution shall be to the county in which the action was tried.

**(4)** (a) If the operating privilege of a defendant is suspended under this section, the court may terminate that suspension and substitute an installment payment plan for paying the amount of the judgment that takes into account the defendant's income.

(b) If the operating privilege of a defendant is suspended under this section, the court shall terminate that suspension and substitute an installment payment plan for the payment of the amount of the judgment that takes into account the defendant's income if all of the following conditions apply:

1. The defendant is unable to pay the judgment in full because of poverty, as that term is used in s. 814.29 (1) (d).

2. The defendant has not previously failed to comply with an installment payment plan ordered under this section that takes into account the defendant's income.

(c) If the defendant fails to comply with an installment payment plan ordered under this subsection, the court shall reinstate the suspension of the defendant's operating privilege.

**History:** 1971 c. 278; 1973 c. 218; 1977 c. 29 ss. 1477 to 1482, 1654 (7) (c); 1979 c. 34; 1981 c. 165; 1987 a. 27, 389; 1989 a. 31, 107; 1991 a. 34, 39, 189; 1993 a. 16; 1995 a. 269; 1997 a. 27, 84, 135, 237, 252; 1999 a. 9, 32, 185; 2001 a. 16; 2003 a. 139; 2007 a. 20; 2009 a. 17, 100, 103, 402; 2011 a. 258; 2015 a. 234.

Imprisonment or suspension of a license under sub. (1) (a) and (b) does not eliminate the liability of defendant for payment of the surcharge under s. 346.655. 73 Atty. Gen. 24.

**345.48 Reporting pending appeal. (1)** In this section, "working days" means all days except Saturdays, Sundays, and legal holidays under s. 995.20.

**(1m)** If the defendant is found guilty the court shall, within 5 working days, forward to the department the record of such conviction.

**(2)** If the defendant is found guilty of a traffic violation for which revocation of his or her operating privilege is mandatory under s. 343.31, or for which the court revokes or suspends his or her operating privilege under s. 343.30, the court may take possession of the suspended or revoked license. If the court takes possession of a license, it shall destroy the license. The revocation or suspension is effective immediately. The court ordered suspension or revocation shall be included as part of the report of conviction under sub. (1m).

**(4)** If notice of appeal is filed the court shall, within 5 working days after it is filed, forward to the department a certificate stating that a notice of appeal has been filed. Thereafter, the court shall notify the department as required under s. 343.325 (1) (b) and (c).

**History:** 1971 c. 278; 1977 c. 29 s. 1654 (7) (a); 1983 a. 304; 1985 a. 135 s. 85; Sup. Ct. Order, 146 Wis. 2d xiii (1975); 1991 a. 39; 1993 a. 16; 2005 a. 155; 2009 a. 103.

**345.49 Procedure on imprisonment; nonpayment of forfeiture, costs, fees, or surcharges. (1)** Any person imprisoned under s. 345.47 for nonpayment of a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, may, on request, be allowed to work under s. 303.08. If the person does work, earnings shall be applied on the unpaid forfeiture, and costs, fees, and surcharges imposed under ch. 814, after payment of personal board and expenses and support of personal dependents to the extent directed by the court.

**(2)** Any person who is subject to imprisonment under s. 345.47 for nonpayment of a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, may be placed on probation to some person satisfactory to the court for not more than 90 days or until the forfeiture, and costs, fees, and surcharges imposed under ch. 814, are paid if that is done before expiration of the 90−day period. The payment of the forfeiture, and costs, fees, and surcharges imposed under ch. 814, during that period shall be a condition of the probation. If the forfeiture, and costs, fees, and surcharges imposed under ch. 814, are not paid or the court deems

that the interests of justice require, probation may be terminated and the defendant imprisoned as provided in sub. (1) or s. 345.47.

**History:** 1971 c. 278; 1977 c. 29; 1987 a. 27; 1989 a. 107; 1991 a. 39; 1993 a. 16; 1997 a. 27, 135, 237; 1999 a. 9; 2001 a. 16; 2003 a. 139.

**345.50 Appeal. (1)** JURISDICTION ON APPEAL. An appeal from circuit court shall be to the court of appeals.

**(2)** STAY OF EXECUTION. The amount of undertaking required to stay execution on appeal shall not exceed the amount of the maximum forfeiture plus court costs.

**History:** 1971 c. 278; Sup. Ct. Order, 67 Wis. 2d 585, 776 (1975); 1977 c. 187, 305; 1977 c. 449 s. 497.

**345.51 Reopening of default judgment.** Except as provided in ss. 345.36 and 345.37, there shall be no reopening of default judgments unless allowed by order of the trial court after notice and motion duly made and upon good cause shown. The notice of motion shall be filed within 6 months after the judgment is entered in the court record. Default judgments for purposes of this section include pleas of guilty, no contest and forfeitures of deposit.

**History:** 1971 c. 278; 1973 c. 218; 1983 a. 231; 1995 a. 224.

**345.52 No double prosecution. (1)** A judgment on the merits in a traffic ordinance action bars any proceeding under a state statute for the same violation. A judgment on the merits in an action under a state statute bars any proceeding under a traffic ordinance enacted in conformity with the state statute for the same violation.

**(2)** The pendency of an action under a traffic ordinance is grounds for staying an action under a state statute for the same violation. The pendency of an action under a state statute is grounds for staying an action under a traffic ordinance enacted in conformity with the state statute for the same violation.

**History:** 1971 c. 278.

**345.53 Costs not taxed against plaintiff.** In traffic regulation actions in all courts, costs may not be taxed against the plaintiff.

**History:** 1971 c. 278.

**345.55 Traffic officers not to profit from arrests. (1)** No traffic officer shall demand, solicit, receive or be paid any remuneration upon the basis of number of arrests made, convictions obtained or amount of fines collected.

**(2)** Any person violating this section may be required to forfeit not less than $25 nor more than $200 for the first offense and, for the second and each subsequent conviction within one year thereafter, may be required to forfeit not less than $50 nor more than $500.

**History:** 1971 c. 278 s. 42; Stats. 1971 s. 345.55.

Violation of this section does not invalidate otherwise valid citation. State v. Brown, 107 Wis. 2d 44, 318 N.W.2d 370 (1982).

**345.60 Penalty of compulsory safety school attendance. (1)** Except as provided in sub. (3) and s. 343.31 (2t) (b), in addition to or in lieu of other penalties provided by law for violation of chs. 346 to 348, the trial court may in its judgment of conviction order the convicted person to attend, for a certain number of school days, a traffic safety school whose course and mode of instruction is approved by the secretary and which is conducted by the police department of the municipality, by the sheriff's office of the county, by an accredited institution of higher education operated by a federally recognized American Indian tribe or band in this state, or by any regularly established safety organization. The trial court may not order a person to attend a traffic safety school under this subsection if the department is required to order that the person attend a vehicle right−of−way course under s. 343.31 (2t) (b).

**(2)** This section also applies in the case of an adjudication of violation of a local traffic regulation which is in conformity with chs. 346 to 348.

**(3)** In addition to other penalties provided by law for violation of s. 346.63 (1) or a local ordinance in conformity therewith, or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the convicted person may be required under s. 343.30 (1q) to attend, for a certain number of school days, a school under sub. (1).

**History:** 1971 c. 278 s. 45; Stats. 1971 s. 345.60; 1977 c. 29 s. 1654 (7) (c); 1977 c. 193; 1981 c. 20; 1985 a. 337; 1987 a. 3; 2005 a. 466; 2011 a. 173; 2013 a. 246.

**345.61 Guaranteed traffic arrest bonds. (1)** SURETY COMPANIES AUTHORIZED TO GUARANTEE. (a) Any domestic or foreign surety company which has qualified to transact surety business in this state may, in any year, become surety in an amount not to exceed $200 with respect to any guaranteed arrest bond certificates issued in such year by an automobile club, association or by an insurance company authorized to write automobile liability insurance within this state, by filing with the commissioner of insurance an undertaking thus to become surety.

(b) An association providing a guaranteed arrest bond certificate may obligate itself in an amount not to exceed $1,000 for violations of ch. 348. All courts in this state must accept such guaranteed arrest bond certificate. When a state traffic patrol officer or state inspector or any local law enforcement officer stops an operator of a vehicle having possession of a valid guaranteed arrest bond certificate, the officer or inspector shall obtain the necessary information for a citation and if such guaranteed arrest bond covers the fine for the violation such officer shall release such vehicle and operator.

**(2)** FORM OF BOND. Such undertaking shall be in the form prescribed by the commissioner of insurance and shall state the following:

(a) The name and address of the automobile clubs, association or companies with respect to the guaranteed arrest bond certificates of which the surety company undertakes to be surety.

(b) The unqualified obligation of the surety company to pay the fine or forfeiture in an amount not to exceed $200, or $1,000 as provided in sub. (1) (b), of any person who, after posting a guaranteed arrest bond certificate with respect to which the surety company has undertaken to be surety, fails to make the appearance to guarantee which, the guaranteed arrest bond certificate was posted.

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

(d) A guaranteed arrest bond certificate under sub. (1) (b) need not be secured by a surety company. The commissioner of insurance may promulgate rules to insure such bond if the commissioner feels it necessary.

**(3)** Any guaranteed arrest bond certificate with respect to which a surety company has become surety, or a guaranteed arrest bond certificate issued by an insurance company authorized to transact both automobile liability insurance and surety business within this state as herein provided, shall, when posted by the person whose signature appears thereon, be accepted in lieu of cash bail or other bond in an amount not to exceed $200, or $1,000 as provided in sub. (1) (b), as a bail bond, to guarantee the appearance of such person in any court in this state, including all municipal courts in this state, at such time as may be required by such court, when the person is arrested for violation of any vehicle law of this state or any motor vehicle ordinance of any county or municipality in this state except for the offense of driving under the influence of intoxicating liquors or of drugs or for any felony committed prior to the date of expiration shown on such guaran-

teed arrest bond certificates; provided, that any such guaranteed arrest bond certificates so posted as bail bond in any court in this state shall be subject to the forfeiture and enforcement provisions with respect to bail bonds in criminal cases as otherwise provided by law or as hereafter may be provided by law, and that any such guaranteed arrest bond certificate posted as a bail bond in any municipal court of this state shall be subject to the forfeiture and enforcement provisions, if any, of the charter or ordinance of the particular county or municipality pertaining to bail bonds posted.

**History:** 1977 c. 29; 1987 a. 27; 1989 a. 107; 1991 a. 39, 316; 1993 a. 16; 1997 a. 27, 135, 237; 1999 a. 9; 2001 a. 16; 2003 a. 139.