



1995 SENATE BILL 60

February 8, 1995 – Introduced by Senators PLEWA, ANDREA, LEEAN, JAUCH, CHVALA, BURKE, DARLING, BUETTNER, WINEKE and MOEN, cosponsored by Representatives GROBSCHMIDT, BRANDEMUEHL, LEHMAN, CULLEN, NOTESTEIN, BLACK, WARD, AINSWORTH, BELL, BOYLE, KAUFERT, BOCK, TURNER, ZIEGELBAUER, LA FAVE and RYBA. Referred to Committee on Transportation, Agriculture and Local Affairs.

1 **AN ACT to amend** 20.395 (9) (qn), 194.41 (1), 344.15 (1), 344.15 (2) (intro.), 344.15
2 (4), 344.15 (5), 344.20 (3) (a), 344.32 (1) (intro.), 344.33 (1), 344.35 (title), 344.35
3 (1), 344.35 (2), 344.51 (1), 345.61 (1) (a), 345.61 (2) (c), 345.61 (3) and 346.73;
4 and **to create** 343.32 (2) (bc), 344.10 and 344.20 (3m) of the statutes; **relating**
5 **to:** assuring financial responsibility for the operation of motor vehicles,
6 granting rule-making authority and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the department of transportation (DOT) is required to notify the operator or owner of a motor vehicle that is involved in an accident that results in injury, death or property damage of \$500 or more and to obtain a deposit of security for the accident. A deposit is not required if the person can provide proof of financial responsibility (an applicable motor vehicle liability insurance policy or bond was in effect at the time of the accident providing not less than the following amounts for any single accident: \$25,000 for one person, \$50,000 for more than one person and \$10,000 for property damage).

With certain exceptions, failure to provide proof of financial responsibility or a deposit of security after an accident results in revocation of the operator's motor vehicle operating privilege or of the registration of any vehicles registered by the owner of the vehicle involved in the accident. Any revocation continues until the person provides a deposit of security or otherwise clears his or her liability or a year elapses without an action being commenced as a result of the accident.

The person must demonstrate proof of financial responsibility for the future before the person's operating privilege or registration is renewed or reinstated and must maintain that proof for 3 years. Proof of financial responsibility for the future may be demonstrated by having an insurance policy or bond in the same amounts

as are required at the time of an accident or by maintaining a deposit of \$60,000 in cash or securities with DOT.

This bill expands the financial responsibility law by prohibiting any person from operating a motor vehicle that is registered in this state or required to be registered in this state unless the owner or operator of the vehicle assures financial responsibility for the operation of the vehicle by:

1. Having in effect a motor vehicle liability insurance policy or bond providing not less than the following amounts for any single accident: \$25,000 for one person, \$50,000 for more than one person and \$10,000 for property damage; or

2. Maintaining a deposit of \$60,000 in cash or securities with DOT.

These insurance policy, bond and deposit amounts are the same amounts as are required under current law as proof of financial responsibility for the future.

The bill provides exceptions for vehicles that are owned by self-insurers, persons who are required to insure the vehicle under other provisions of law or vehicles owned by or leased to a governmental unit, if operating with the permission of the owner or lessee.

The bill also prohibits law enforcement officers from stopping or inspecting a motor vehicle solely to determine whether the vehicle operator has assured financial responsibility for the operation of the vehicle.

Any person convicted of failing to assure financial responsibility for the operation of a motor vehicle may be required to forfeit not less than \$30 nor more than \$300. The person is also assessed one demerit point for a 2nd or subsequent violation committed within a year. DOT is required to include notification of these requirements and penalties with each operator's license that it issues.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.395 (9) (qn) of the statutes is amended to read:

2 20.395 (9) (qn) *Motor vehicle financial responsibility.* All moneys deposited
3 under s. ss. 344.10 and 344.20 for the purpose of making payments under s. 344.20
4 (2) and, (3) and (3m).

5 **SECTION 2.** 194.41 (1) of the statutes is amended to read:

6 194.41 (1) No permit or vehicle registration may be issued to a common motor
7 carrier of property, contract motor carrier or rental company, no permit or vehicle
8 registration may remain in force to operate any motor vehicle under the authority

1 of this chapter and no vehicle registration may be issued or remain in force for a
2 semitrailer unless the carrier or rental company has on file with the department and
3 in effect an approved certificate for a policy of insurance or other written contract in
4 such form and containing such terms and conditions as may be approved by the
5 department issued by an insurer authorized to do a surety or automobile motor
6 vehicle liability business in this state under which the insurer assumes the liability
7 prescribed by this section with respect to the operation of such motor vehicles. The
8 certificate or other contract is subject to the approval of the department and shall
9 provide that the insurer shall be directly liable for and shall pay all damages for
10 injuries to or for the death of persons or for injuries to or destruction of property that
11 may be recovered against the owner or operator of any such motor vehicles by reason
12 of the negligent operation thereof in such amount as the department may require.
13 Liability may be restricted so as to be inapplicable to damage claims on account of
14 injury to or destruction of property transported, but the department may require a
15 certificate or other contract protecting the owner of the property transported by
16 carriers from loss or damage in the amount and under the conditions as the
17 department may require. No permit or vehicle registration may be issued to a
18 common motor carrier of passengers by any motor vehicle, or other carrier of
19 passengers by motor bus, except those registered in accordance with s. 341.26 (2) (a)
20 and (d), and no permit or vehicle registration may remain in force to operate any
21 motor vehicle unless it has on file with the department a like certificate or other
22 contract in the form and containing the terms and conditions as may be approved by
23 the department for the payment of damages for injuries to property and injuries to
24 or for the death of persons, including passengers, in the amounts as the department
25 may require.

1 **SECTION 3.** 343.32 (2) (bc) of the statutes is created to read:

2 343.32 (2) (bc) The scale adopted by the secretary may not assess any demerit
3 points for a first violation of s. 344.10 (1) (a) committed within a 12-month period,
4 but shall assess one demerit point for each subsequent violation of s. 344.10 (1) (a)
5 committed within a 12-month period.

6 **SECTION 4.** 344.10 of the statutes is created to read:

7 **344.10 Compulsory financial responsibility; limits and penalties. (1)**

8 (a) No person may operate a motor vehicle registered under ch. 341 or required to
9 be registered under ch. 341 unless the owner or operator has in effect a motor vehicle
10 liability policy or bond for the motor vehicle, which meets the requirements under
11 s. 344.15, insuring against loss resulting from liability imposed by law for bodily
12 injury, death and property damage sustained by any person arising out of the
13 ownership, maintenance, operation or use of the motor vehicle.

14 (b) 1. No person charged with violating par. (a) may be convicted if the person
15 produces proof that he or she was in compliance with par. (a) or that the requirements
16 of par. (a) did not apply to him or her at the time of the arrest. Such proof may be
17 produced either at the time of the person's appearance in court in response to the
18 uniform traffic citation, or in the office of the arresting officer within 30 days after
19 the date of issuance of the uniform traffic citation.

20 2. Proof of compliance with par. (a) may be evidenced by display of the motor
21 vehicle policy or bond in effect for the motor vehicle under s. 344.15, a copy of that
22 policy or bond or an identification card issued to the person by the insurer indicating
23 that the policy or bond is in effect or by display of certification of insurance under s.
24 344.31 or a copy of that certification.

1 3. The department shall promulgate a rule specifying the form of proof that
2 may be displayed by a person under par. (c) to show that the requirements under par.
3 (a) do not apply to him or her.

4 (c) Paragraph (a) does not apply to:

5 1. Any person operating a vehicle owned by a self-insurer under s. 344.16 if
6 operating with the owner's permission.

7 2. Any person operating a vehicle insured as required by s. 121.53, 194.41 or
8 194.42 if operating with the owner's permission.

9 3. Any person who has on deposit money or security as proof of financial
10 responsibility as provided under sub. (2) or to any person operating a vehicle owned
11 by the person who has deposited money or security if operating with the owner's
12 permission.

13 4. The operator of a vehicle owned by or leased to the United States, this state
14 or any county or municipality of this state if operating with the owner's or lessee's
15 permission.

16 **(2)** (a) Proof of financial responsibility may be evidenced by a deposit with the
17 secretary by a person of \$60,000 in cash, or in securities which may legally be
18 purchased by savings banks or for trust funds of a market value of \$60,000. The
19 secretary shall not accept a deposit under this subsection unless the deposit is
20 accompanied by evidence that there are no unsatisfied judgments of any character
21 against the depositor in the county where the depositor resides.

22 (b) Deposits made under this subsection shall be held by the secretary to satisfy,
23 in accordance with this chapter, any execution on a judgment issued against the
24 person making the deposit, for damages resulting from the ownership, maintenance,
25 use or operation of a motor vehicle after the deposit was made, including damages

1 for care and for loss of services because of bodily injury to or death of any person and
2 damages because of injury to or destruction of property and the consequent loss of
3 use thereof. Money or securities so deposited are not subject to attachment or
4 execution unless the attachment or execution arises out of a suit for damages as set
5 forth in this paragraph.

6 (3) Notwithstanding s. 349.02, a law enforcement officer may not stop or
7 inspect a vehicle solely to determine compliance with sub. (1) (a) or a local ordinance
8 in conformity with sub. (1) (a). This subsection does not limit the authority of a law
9 enforcement officer to issue a citation for a violation of sub. (1) (a) or a local ordinance
10 in conformity with sub. (1) (a) observed in the course of a stop or inspection made for
11 other purposes, except that a law enforcement officer may not take a person into
12 physical custody solely for a violation of sub. (1) (a) or a local ordinance in conformity
13 with sub. (1) (a).

14 (4) The department shall include with each operator's license issued under ch.
15 343 notification of the requirements and penalties under this section and s. 343.32
16 (2) (bc).

17 (5) Any person who violates sub. (1) (a) may be required to forfeit not less than
18 \$30 nor more than \$300.

19 **SECTION 5.** 344.15 (1) of the statutes is amended to read:

20 344.15 (1) No policy or bond is effective under s. 344.10 or 344.14 unless issued
21 by an insurer authorized to do an ~~automobile~~ motor vehicle liability or surety
22 business in this state, except as provided in sub. (2), or unless the policy or bond is
23 subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of
24 interest and costs, of not less than \$25,000 because of bodily injury to or death of one
25 person in any one accident and, subject to that limit for one person, to a limit of not

1 less than \$50,000 because of bodily injury to or death of 2 or more persons in any one
2 accident and, if the accident has resulted in injury to or destruction of property, to
3 a limit of not less than \$10,000 because of injury to or destruction of property of
4 others in any one accident.

5 **SECTION 6.** 344.15 (2) (intro.) of the statutes is amended to read:

6 344.15 (2) (intro.) A policy or bond with respect to a vehicle which was not
7 registered in this state or was registered elsewhere at the time of the effective date
8 of the policy or bond or the most recent renewal thereof may be effective under s.
9 344.10 or 344.14 even though not issued by an insurer authorized to do ~~an automobile~~
10 a motor vehicle liability or surety business in this state if the following conditions are
11 complied with:

12 **SECTION 7.** 344.15 (4) of the statutes is amended to read:

13 344.15 (4) After receipt of the report of an accident of the type specified in s.
14 344.12, the secretary may forward to the insurer named therein, that portion of the
15 report or other notice which pertains to ~~an automobile~~ a motor vehicle liability policy
16 or bond. The secretary shall assume that ~~an automobile~~ a motor vehicle liability
17 policy or bond as described in this section was in effect and applied to both the owner
18 and operator with respect to the accident unless the insurer notifies the secretary
19 otherwise within 30 days from the mailing to the insurer of that portion of the report
20 or other notice pertaining to the ~~automobile~~ motor vehicle liability policy or bond.
21 Upon receipt of notice from the insurer that ~~an automobile~~ a motor vehicle liability
22 policy or bond was in effect as to the owner only, the operator only or was not in effect
23 as to either of them, the secretary shall within the remainder of the 90-day period
24 specified in s. 344.13 (3) require the owner or operator or both, whichever is
25 applicable, to deposit security pursuant to this chapter. As respects permission to

1 operate the vehicle, the insurer may correct the report or other notice only if it files
2 with the secretary within the 30-day period specified in this subsection an affidavit
3 signed by the owner stating that the operator did not have the owner's permission
4 to operate the vehicle. Where the insurer's failure to notify the secretary within 30
5 days of a correction in that portion of the report or other notice pertaining to an
6 ~~automobile~~ a motor vehicle liability policy or bond is caused by fraud, the insurer
7 shall notify the secretary of the correction within 30 days of the time the fraud is
8 discovered.

9 **SECTION 8.** 344.15 (5) of the statutes is amended to read:

10 344.15 (5) Nothing in this chapter shall be construed to impose any obligation
11 not otherwise assumed by the insurer in its ~~automobile~~ motor vehicle liability policy
12 or bond except that if no correction is made in the report or other notice within 30
13 days after it is mailed to the insurer, the insurer, except in case of fraud, whenever
14 such fraud may occur, is estopped from using as a defense to its liability the insured's
15 failure to give permission to the operator or a violation of the purposes of use specified
16 in the ~~automobile~~ motor vehicle liability policy or bond or the use of the vehicle
17 beyond agreed geographical limits.

18 **SECTION 9.** 344.20 (3) (a) of the statutes is amended to read:

19 344.20 (3) (a) ~~The~~ Except as provided in sub. (3m), the deposit of security or any
20 balance thereof shall be returned to the depositor or the personal representative
21 under the conditions provided in par. (b) or (c).

22 **SECTION 10.** 344.20 (3m) of the statutes is created to read:

23 344.20 (3m) The deposit or any balance thereof under s. 344.10 shall be
24 returned to the depositor or the personal representative when proof of financial
25 responsibility under s. 344.10 (2) is no longer required.

1 **SECTION 11.** 344.32 (1) (intro.) of the statutes is amended to read:

2 344.32 (1) (intro.) A nonresident may give proof of financial responsibility by
3 filing with the secretary a written certification of an insurer authorized to transact
4 ~~an automobile~~ a motor vehicle liability or surety business in the state in which the
5 person resides or by transmitting such certification to the secretary by another
6 means approved by the secretary, provided the certification otherwise conforms to
7 this chapter. The secretary shall accept the certification if the insurer complies with
8 the following with respect to the policies so certified:

9 **SECTION 12.** 344.33 (1) of the statutes is amended to read:

10 344.33 (1) CERTIFICATION. In ~~this chapter~~ ss. 344.30 to 344.34, “motor vehicle
11 liability policy” means a motor vehicle policy of liability insurance, certified as
12 provided in s. 344.31 or 344.32 as proof of financial responsibility for the future, and
13 issued, except as otherwise provided in s. 344.32, by an insurer authorized to do an
14 ~~automobile~~ a motor vehicle liability business in this state to or for the benefit of the
15 person named in the policy as the insured.

16 **SECTION 13.** 344.35 (title) of the statutes is amended to read:

17 **344.35** (title) ~~This chapter~~ Section 344.33 **not to affect other policies.**

18 **SECTION 14.** 344.35 (1) of the statutes is amended to read:

19 344.35 (1) ~~This chapter~~ Section 344.33 does not apply to or affect policies of
20 ~~automobile~~ motor vehicle insurance against liability which may now or hereafter be
21 required by any other law of this state. If such policies contain an agreement or are
22 endorsed to conform to the requirements of ~~this chapter~~ s. 344.33, they may be
23 certified as proof of financial responsibility under this chapter.

24 **SECTION 15.** 344.35 (2) of the statutes is amended to read:

1 344.35 (2) ~~This chapter~~ Section 344.33 does not apply to or affect policies
2 insuring solely the insured named in the policy against liability resulting from the
3 maintenance or use by persons in the insured's employ or on the insured's behalf of
4 motor vehicles not owned by the insured.

5 **SECTION 16.** 344.51 (1) of the statutes is amended to read:

6 344.51 (1) No person may for compensation rent any motor vehicle to be
7 operated by or with the consent of the person renting the vehicle unless there is filed
8 with the department a good and sufficient bond or policy of insurance issued by an
9 insurer authorized to do ~~an automobile~~ a motor vehicle liability insurance or surety
10 business in this state. The bond, policy or certificate shall provide that the insurer
11 which issued it will be liable for damages caused by the negligent operation of the
12 motor vehicle in the amounts set forth in s. 344.01 (2) (d).

13 **SECTION 17.** 345.61 (1) (a) of the statutes is amended to read:

14 345.61 (1) (a) Any domestic or foreign surety company which has qualified to
15 transact surety business in this state may, in any year, become surety in an amount
16 not to exceed \$200 with respect to any guaranteed arrest bond certificates issued in
17 such year by an automobile club, association or by an insurance company authorized
18 to write ~~automobile~~ motor vehicle liability insurance within this state, by filing with
19 the commissioner of insurance an undertaking thus to become surety.

20 **SECTION 18.** 345.61 (2) (c) of the statutes is amended to read:

21 345.61 (2) (c) "Guaranteed arrest bond certificate" as used in this section means
22 any printed card or other certificate issued by an automobile club, association or
23 insurance company to any of its members or insureds, which card or certificate is
24 signed by the member or insureds and contains a printed statement that the
25 automobile club, association or insurance company and a surety company, or an

1 insurance company authorized to transact both ~~automobile~~ motor vehicle liability
2 insurance and surety business, guarantee the appearance of the persons whose
3 signature appears on the card or certificate and that they will in the event of failure
4 of the person to appear in court at the time of trial, pay any fine or forfeiture imposed
5 on the person, including the penalty assessment required by s. 165.87 and the jail
6 assessment required by s. 302.46 (1), in an amount not exceeding \$200, or \$1,000 as
7 provided in sub. (1) (b).

8 **SECTION 19.** 345.61 (3) of the statutes is amended to read:

9 345.61 (3) Any guaranteed arrest bond certificate with respect to which a
10 surety company has become surety, or a guaranteed arrest bond certificate issued by
11 an insurance company authorized to transact both ~~automobile~~ motor vehicle liability
12 insurance and surety business within this state as herein provided, shall, when
13 posted by the person whose signature appears thereon, be accepted in lieu of cash bail
14 or other bond in an amount not to exceed \$200, or \$1,000 as provided in sub. (1) (b),
15 as a bail bond, to guarantee the appearance of such person in any court in this state,
16 including all municipal courts in this state, at such time as may be required by such
17 court, when the person is arrested for violation of any vehicle law of this state or any
18 motor vehicle ordinance of any county or municipality in this state except for the
19 offense of driving under the influence of intoxicating liquors or of drugs or for any
20 felony committed prior to the date of expiration shown on such guaranteed arrest
21 bond certificates; provided, that any such guaranteed arrest bond certificates so
22 posted as bail bond in any court in this state shall be subject to the forfeiture and
23 enforcement provisions with respect to bail bonds in criminal cases as otherwise
24 provided by law or as hereafter may be provided by law, and that any such
25 guaranteed arrest bond certificate posted as a bail bond in any municipal court of this

1 state shall be subject to the forfeiture and enforcement provisions, if any, of the
2 charter or ordinance of the particular county or municipality pertaining to bail bonds
3 posted.

4 **SECTION 20.** 346.73 of the statutes is amended to read:

5 **346.73 Accident reports not to be used in trial.** Notwithstanding s. 346.70
6 (4) (f), accident reports required to be filed with or transmitted to the department or
7 a county or municipal authority shall not be used as evidence in any judicial trial,
8 civil or criminal, arising out of an accident, except that such reports may be used as
9 evidence in a trial for a violation of s. 344.10 or in any administrative proceeding
10 conducted by the department. The department shall furnish upon demand of any
11 person who has or claims to have made such a report, or upon demand of any court,
12 a certificate showing that a specified accident report has or has not been made to the
13 department solely to prove a compliance or a failure to comply with the requirement
14 that such a report be made to the department.

15 **SECTION 21. Nonstatutory provisions; transportation.**

16 (1) The department of transportation shall submit in proposed form the rule
17 required under section 344.10 (1) (b) 3. of the statutes, as created by this act, to the
18 legislative council under section 227.15 (1) of the statutes no later than the first day
19 of the 9th month beginning after the effective date of this subsection.

20 **SECTION 22. Effective dates.** This act takes effect on the first day of the 12th
21 month commencing after publication, except as follows:

22 (1) SECTION 21 of this act takes effect on the day after publication.

23 (END)