



2009 SENATE BILL 488

January 25, 2010 – Introduced by LAW REVISION COMMITTEE. Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

1 **AN ACT to repeal** 344.15 (2) (b) and 344.32 (1) (a); **to consolidate, renumber**
2 **and amend** 344.15 (2) (intro.) and (a) and 344.32 (1) (intro.) and (b); and **to**
3 **amend** 344.15 (3) of the statutes; **relating to:** policies and bonds issued by
4 out-of-state insurers offered as proof of financial responsibility after a motor
5 vehicle accident (suggested as remedial legislation by the Department of
6 Transportation).

Analysis by the Legislative Reference Bureau

Under current law, a motor vehicle liability insurance policy or bond, offered as proof of financial responsibility to avoid the deposit of security after an accident or following entry of judgment arising from an accident, must generally be issued by an insurer authorized to do an automobile liability or surety business in this state. However, if the vehicle involved in the accident was not registered in this state when the most recent policy or bond period commenced or the judgment is entered against a nonresident, the policy or bond covering the vehicle is acceptable proof of financial responsibility, even if it is not issued by an insurer authorized to do an automobile liability or surety business in this state, if it meets certain liability limits and the insurer that issued the policy or bond executes a power of attorney authorizing the Department of Transportation (DOT) to accept service of process in any action upon the policy or bond arising out of the accident or another accident in this state.

This bill eliminates the requirement that, for a policy or bond issued by an insurer not authorized to do an automobile liability or surety business in this state

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to be acceptable proof of financial responsibility, the insurer execute a power of attorney authorizing DOT to accept service of process. The bill does not affect current law provisions providing that a nonresident's operation of a motor vehicle on the state's highways constitutes an authorization for DOT to receive service of process for the nonresident or his or her personal representative in any action relating to damage resulting from the vehicle operation.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Transportation and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 344.15 (2) (intro.) and (a) of the statutes are consolidated,
2 renumbered 344.15 (2) and amended to read:

3 344.15 (2) A policy or bond with respect to a vehicle which was not registered
4 in this state or was registered elsewhere at the time of the effective date of the policy
5 or bond or the most recent renewal thereof may be effective under s. 344.14 even
6 though not issued by an insurer authorized to do an automobile liability or surety
7 business in this state if the following conditions are complied with: ~~(a) The policy~~
8 or bond either meets the liability limits specified in sub. (1) or meets the liability
9 limits of the equivalent law of the state in which issued and such limits are, in the
10 judgment of the secretary, adequate to cover any damage or injury involved in the
11 accident in question.

12 **SECTION 2.** 344.15 (2) (b) of the statutes is repealed.

13 **SECTION 3.** 344.15 (3) of the statutes is amended to read:

14 344.15 (3) Where service of process is made on the secretary ~~under a power of~~
15 ~~attorney filed in accordance with sub. (2),~~ the secretary shall forthwith mail by

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1 registered mail a copy of the process papers to the insurer at the address given in the
2 filed ~~power of attorney~~. In all cases of such service, there shall be served 2
3 authenticated copies for the secretary and such additional number of authenticated
4 copies as there are defendants so served in the action. One of the secretary's copies
5 shall be retained for the secretary's record of service and the other copy shall be
6 returned with proper certificate of service attached for filing in court as proof of
7 service of the copies by having mailed them by registered mail to the defendants
8 named therein. The service fee shall be \$4 for each defendant so served.

9 **SECTION 4.** 344.32 (1) (intro.) and (b) of the statutes are consolidated,
10 renumbered 344.32 (1) and amended to read:

11 344.32 (1) A nonresident may give proof of financial responsibility by filing
12 with the secretary a written certification of an insurer authorized to transact an
13 automobile liability or surety business in the state in which the person resides or by
14 transmitting such certification to the secretary by another means approved by the
15 secretary, provided the certification otherwise conforms to this chapter. The
16 secretary shall accept the certification if the insurer ~~complies with the following with~~
17 ~~respect to the policies so certified:~~ (b) ~~Such insurer shall agree~~ agrees in writing that
18 ~~such~~ the policies so certified shall be deemed to conform with the laws of this state
19 relating to the terms of motor vehicle liability policies issued herein.

20 **SECTION 5.** 344.32 (1) (a) of the statutes is repealed.

NOTE: This bill repeals a requirement in current law that out-of-state insurers execute a power of attorney authorizing the secretary of transportation to accept service, on the insurer's behalf, of notice or process in any action arising out of a motor vehicle accident in this state. According to the Department of Transportation, this change will allow it to enter an out-of-state insurance company's information on the accident database even when there is no power of attorney on file for that company. In addition, the department states that this change will eliminate the need for the department to contact the out-of-state driver who was involved in the accident, and request that the driver contact his or her insurance company to complete the power of attorney form.

