



2015 SENATE BILL 638

January 22, 2016 - Introduced by Senators KAPENGA, NASS and STROEBEL, cosponsored by Representatives SANFELIPPO, SPIROS, WEATHERSTON, T. LARSON, J. OTT and BRANDTJEN. Referred to Committee on Insurance, Housing, and Trade.

1 **AN ACT to repeal** 344.62 (2), 344.64, 344.65 (1) (b) and 344.65 (2); **to renumber**
2 **and amend** 344.16 (1), 344.25 and 344.65 (1) (a); **to amend** 165.755 (1) (b),
3 302.46 (1) (a), 344.14 (2) (d), 344.16 (2), 344.25 (title), 344.26 (1) (a), 344.26 (1)
4 (b) (intro.), 344.26 (1) (b) 1., 344.62 (1), 344.65 (1) (c), 757.05 (1) (a), 814.63 (1)
5 (c), 814.63 (2), 814.65 (1), 814.85 (1) (a) and 814.86 (1); **to repeal and recreate**
6 344.26 (title); and **to create** 343.21 (1) (jg), 344.16 (1) (a) and (b), 344.16 (2m),
7 344.25 (2m), 344.26 (1) (am), 344.63 (1) (cm), 344.65 (1) (a) 2., 344.65 (1) (a) 3.
8 and 344.65 (1) (a) 4. of the statutes; **relating to:** penalties for violations related
9 to the motor vehicle liability insurance requirement, proof of financial
10 responsibility, making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill changes certain penalties and requirements related to operating a motor vehicle without sufficient liability insurance and allows certain religious sects to qualify as self-insurers for the purposes of motor vehicle liability insurance requirements.

Current law prohibits, with certain exceptions, a person from operating a motor vehicle on a highway unless the vehicle owner or operator has in effect a sufficient

SENATE BILL 638

motor vehicle liability insurance policy with respect to the motor vehicle. Any person who violates this requirement may be required to forfeit not more than \$500. Current law also prohibits a person from operating a motor vehicle on a highway unless the person has in his or her immediate possession proof that he or she is in compliance with the insurance requirement.

Under this bill, persons who are operating a motor vehicle on certain nonhighway areas, including certain parking areas, are also required to have in effect insurance with respect to the motor vehicle.

This bill repeals the requirement that a person have in his or her immediate possession proof of compliance with insurance requirements. However, under this bill, a traffic officer must cite a person for operating without insurance if the traffic officer does not know that the person is in compliance with the insurance requirements and the person does not have in his or her immediate possession proof of compliance. A person, though, may not be convicted of operating without insurance if the person produces proof that he or she was in compliance with the insurance requirements at the time he or she was issued a citation for a violation.

This bill also alters the penalties for operating without insurance. Under this bill, a person who violates the requirement that the owner or operator of a motor vehicle be insured is subject to the following penalties:

1. A forfeiture of not less than \$250 and not more than \$750 for a first offense.
2. A forfeiture of not less than \$250 nor more than \$1,500 for a second or subsequent offense occurring within three years.
3. If the person, in the course of the violation, causes great bodily harm to another, a forfeiture of not less than \$250 nor more than \$2,500.
4. If the person, in the course of the violation, causes the death of another, a forfeiture of not less than \$500 nor more than \$7,500.

This bill also eliminates the exemption of operating without insurance offenses from certain surcharges and fees that generally must be paid by persons who violate traffic laws.

Currently, if the Department of Transportation receives a certified copy of a judgment for damages of \$500 or more arising out of a motor vehicle accident, DOT must, with certain exceptions, immediately suspend the operating privilege and all registrations of the person against whom the judgment was rendered unless the person can provide proof of financial responsibility. Proof of financial responsibility may be given by filing certification of coverage under a motor vehicle liability insurance policy with minimum limits for any single accident of \$25,000 for bodily injury to or death of one person, \$50,000 for bodily injury to or death of more than one person, and \$10,000 for property damage. Alternatively, proof of financial responsibility may be furnished by depositing with DOT \$60,000 in cash or certain securities with a market value of \$60,000. DOT must then hold the deposit of cash or securities to satisfy any judgment against the person making the deposit for damages resulting from the ownership, maintenance, use, or operation of a motor vehicle, including damages for bodily injury, death, or property damage.

Under this bill, if DOT receives a record of conviction for operating a motor vehicle on a highway without having in effect a motor vehicle liability insurance

SENATE BILL 638

policy with respect to the vehicle, DOT must suspend the person's operating privilege and all registrations of the person unless the person can provide proof of financial responsibility. The proof of financial responsibility requirement remains in effect for three years from the date of conviction.

Under current law, for the purposes of motor vehicle liability insurance requirements and proof of financial responsibility requirements, in lieu of a motor vehicle liability insurance policy, a person can show that the person is a self-insurer possessing a certificate of self-insurance issued by DOT. Currently, a person who owns a fleet of more than 25 motor vehicles registered in the person's name may qualify as a self-insurer. Upon application, DOT may issue a certificate of self-insurance to the person if DOT is satisfied that the person is possessed, and will continue to be possessed, of ability to pay judgments obtained against the person.

Under this bill, a religious sect the members of which have collectively registered with DOT more than 25 vehicles may qualify as a self-insurer. Upon application, DOT may issue a certificate of self-insurance to a religious sect the members of which have a long-standing history of providing mutual financial assistance in a time of need, if DOT is satisfied that the religious sect is possessed, and will continue to be possessed, of ability to pay judgments obtained against the religious sect. If DOT issues a certificate of self-insurance to a religious sect, the certificate of self-insurance provides the same exception for members of the religious sect that, under current law, applies to a fleet owner: the certificate of self-insurance can be used in lieu of motor vehicle liability insurance to satisfy proof of financial responsibility and mandatory motor vehicle liability insurance requirements.

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.** 165.755 (1) (b) of the statutes is amended to read:

2 165.755 (1) (b) A court may not impose the crime laboratories and drug law
3 enforcement surcharge under par. (a) for a violation of s. 101.123 (2) or (2m), ~~for a~~
4 ~~financial responsibility violation under s. 344.62 (2),~~ or for a violation of a state law
5 or municipal or county ordinance involving a nonmoving traffic violation, a violation
6 under s. 343.51 (1m) (b), or a safety belt use violation under s. 347.48 (2m).

7 **SECTION 2.** 302.46 (1) (a) of the statutes is amended to read:

SENATE BILL 638

1 302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law
2 or for a violation of a municipal or county ordinance except for a violation of s. 101.123
3 (2) or (2m), ~~for a financial responsibility violation under s. 344.62 (2),~~ or for a violation
4 of state laws or municipal or county ordinances involving nonmoving traffic
5 violations, violations under s. 343.51 (1m) (b), or safety belt use violations under s.
6 347.48 (2m), the court, in addition, shall impose a jail surcharge under ch. 814 in an
7 amount of 1 percent of the fine or forfeiture imposed or \$10, whichever is greater.
8 If multiple offenses are involved, the court shall determine the jail surcharge on the
9 basis of each fine or forfeiture. If a fine or forfeiture is suspended in whole or in part,
10 the court shall reduce the jail surcharge in proportion to the suspension.

11 **SECTION 3.** 343.21 (1) (jg) of the statutes is created to read:

12 343.21 (1) (jg) In addition to any other fee under this subsection, for
13 reinstatement of an operating privilege previously revoked or suspended resulting
14 from the conviction of an offense under s. 344.62 (1), \$18.

15 **SECTION 4.** 344.14 (2) (d) of the statutes is amended to read:

16 344.14 (2) (d) To any person qualifying as a self-insurer under s. 344.16 or to
17 ~~any person~~ operating a vehicle for such self-insurer or to any member of a religious
18 sect issued a certificate of self-insurance under s. 344.16.

19 **SECTION 5.** 344.16 (1) of the statutes is renumbered 344.16 (1) (intro.) and
20 amended to read:

21 344.16 (1) (intro.) ~~Any person in whose name more than 25 motor vehicles are~~
22 ~~registered~~ of the following may qualify as a self-insurer by obtaining a certificate of
23 self-insurance issued by the secretary as provided in sub. (2)-;

24 **SECTION 6.** 344.16 (1) (a) and (b) of the statutes are created to read:

SENATE BILL 638

1 344.16 (1) (a) A person in whose name more than 25 motor vehicles are
2 registered.

3 (b) Subject to sub. (2m), a religious sect the members of which have collectively
4 registered with the department more than 25 motor vehicles.

5 **SECTION 7.** 344.16 (2) of the statutes is amended to read:

6 344.16 (2) The Subject to sub. (2m), the secretary may, upon the application of
7 such a person or religious sect, issue a certificate of self-insurance when satisfied
8 that such person or religious sect is possessed and will continue to be possessed of
9 ability to pay judgments obtained against such person or religious sect.

10 **SECTION 8.** 344.16 (2m) of the statutes is created to read:

11 344.16 (2m) The secretary may issue a certificate of self-insurance under sub.
12 (2) to a religious sect only if the secretary determines that the members of the
13 religious sect have a long-standing history of mutual financial assistance in time of
14 need to the extent that they share in financial obligations of other members who
15 would otherwise be unable to meet their obligations.

16 **SECTION 9.** 344.25 (title) of the statutes is amended to read:

17 **344.25 (title) Suspension for nonpayment of judgment or certain**
18 **financial responsibility violations; exceptions.**

19 **SECTION 10.** 344.25 of the statutes is renumbered 344.25 (1), and 344.25 (1) (f),
20 as renumbered, is amended to read:

21 344.25 (1) (f) Notwithstanding sub. (5), ~~subs. (2) and (3) par. (e), pars. (b) and~~
22 ~~(c)~~ apply to a damage judgment in accordance with s. 344.05 against a resident of this
23 state which has been entered by an Indian tribal court in this state.

24 **SECTION 11.** 344.25 (2m) of the statutes is created to read:

SENATE BILL 638

1 344.25 **(2m)** The secretary shall suspend a person's operating privilege and all
2 registrations of the person upon receiving a record of conviction showing that the
3 person has been convicted of an offense under s. 344.62 (1).

4 **SECTION 12.** 344.26 (title) of the statutes is repealed and recreated to read:

5 **344.26 (title) Term of suspension.**

6 **SECTION 13.** 344.26 (1) (a) of the statutes is amended to read:

7 344.26 **(1)** (a) Subject to the exceptions stated in ss. 344.25 ~~(2)~~ (1) (b) and 344.27
8 (2), any operating privilege or registration suspended or revoked under s. 344.25 (1)
9 shall remain suspended or revoked for 5 years from the date of entry of judgment or
10 until the judgment is stayed, satisfied, or discharged, whichever is earlier, and,
11 unless 3 years have elapsed since the date on which the judgment was stayed,
12 satisfied, or discharged or 8 years have elapsed since the date of entry of judgment,
13 whichever is earlier, or unless the person is a nonresident, until the person whose
14 operating privilege and registration was suspended or revoked furnishes and
15 maintains in effect proof of financial responsibility for the future.

16 **SECTION 14.** 344.26 (1) (am) of the statutes is created to read:

17 344.26 **(1)** (am) Any operating privilege or registration suspended under s.
18 344.25 (2m) shall remain suspended for 3 years from the date of conviction or until
19 the person whose operating privilege and registration was suspended furnishes and
20 maintains in effect proof of financial responsibility for the future.

21 **SECTION 15.** 344.26 (1) (b) (intro.) of the statutes is amended to read:

22 344.26 **(1)** (b) (intro.) If suspension of any operating privilege or registration
23 under s. 344.25 (1) was terminated before 5 years from the date of entry of judgment
24 because an exception under s. 344.25 ~~(2)~~ (1) (b) or 344.27 (2) applied and the
25 judgment debtor's operating privilege or registration is subsequently suspended

SENATE BILL 638

1 under s. 344.25 ~~(2)~~ (1) (b) or 344.27 (3), the operating privilege or registration shall
2 remain suspended for all of the following periods:

3 **SECTION 16.** 344.26 (1) (b) 1. of the statutes is amended to read:

4 344.26 **(1)** (b) 1. Five years from the date of suspension under s. 344.25 ~~(2)~~ (1)
5 (b) or 344.27 (3) or until the judgment is stayed, satisfied, or discharged, whichever
6 is earlier. A suspension period that commences on the date of suspension under s.
7 344.25 ~~(2)~~ (1) (b) or 344.27 (3) under this subdivision shall be reduced by the amount
8 of time that the judgment debtor's operating privilege or registration was suspended
9 under s. 344.25 (1) before one of the exceptions under s. 344.25 ~~(2)~~ (1) (b) or 344.27
10 (2) was satisfied.

11 **SECTION 17.** 344.62 (1) of the statutes is amended to read:

12 344.62 **(1)** Except as provided in s. 344.63, no person may operate a motor
13 vehicle upon a highway or upon premises held out to the public for the use of their
14 motor vehicles, premises provided by employers to employees for the use of their
15 motor vehicles, or premises provided to tenants of rental housing in buildings of 4 or
16 more units for the use of their motor vehicles in this state unless the owner or
17 operator of the vehicle has in effect a motor vehicle liability policy with respect to the
18 vehicle being operated. A traffic officer shall cite a person under this subsection if
19 the traffic officer does not know that the person is operating his or her motor vehicle
20 in compliance with this subsection and the person does not have in his or her
21 immediate possession proof of compliance with this subsection.

22 **SECTION 18.** 344.62 (2) of the statutes is repealed.

23 **SECTION 19.** 344.63 (1) (cm) of the statutes is created to read:

24 344.63 **(1)** (cm) The motor vehicle is owned by a member of a religious sect that
25 is a self-insurer holding a valid certificate of self-insurance under s. 344.16, the

SENATE BILL 638

1 self-insurer has made an agreement described in s. 344.30 (4), and the vehicle is
2 being operated with the owner's permission.

3 **SECTION 20.** 344.64 of the statutes is repealed.

4 **SECTION 21.** 344.65 (1) (a) of the statutes is renumbered 344.65 (1) (a) 1. and
5 amended to read:

6 344.65 (1) (a) 1. Any Except as provided in subds. 2. to 4., any person who
7 violates s. 344.62 (1) may be required to forfeit not less than \$250, plus costs, fees,
8 and surcharges as provided in s. 345.47 (1), nor more than \$500 \$750, plus costs, fees,
9 and surcharges as provided in s. 345.47 (1), for a first offense and not less than \$250,
10 plus costs, fees, and surcharges as provided in s. 345.47 (1), nor more than \$1,500,
11 plus costs, fees, and surcharges as provided in s. 345.47 (1), for a 2nd or subsequent
12 offense occurring within 3 years.

13 **SECTION 22.** 344.65 (1) (a) 2. of the statutes is created to read:

14 344.65 (1) (a) 2. Any person who violates s. 344.62 (1) and, in the course of the
15 violation, causes great bodily harm, as defined in s. 939.22 (14), to another person
16 may be required to forfeit not less than \$250, plus costs, fees, and surcharges as
17 provided in s. 345.47 (1), nor more than \$2,500, plus costs, fees, and surcharges as
18 provided in s. 345.47 (1).

19 **SECTION 23.** 344.65 (1) (a) 3. of the statutes is created to read:

20 344.65 (1) (a) 3. Any person who violates s. 344.62 (1) and, in the course of the
21 violation, causes the death of another person may be required to forfeit not less than
22 \$500, plus costs, fees, and surcharges as provided in s. 345.47 (1), nor more than
23 \$7,500, plus costs, fees, and surcharges as provided in s. 345.47 (1).

24 **SECTION 24.** 344.65 (1) (a) 4. of the statutes is created to read:

SENATE BILL 638

1 344.65 (1) (a) 4. If, no later than the time of the person's appearance in court,
2 the person provides proof that he or she currently has in effect a motor vehicle
3 liability policy with respect to the motor vehicle operated in the alleged violation of
4 s. 344.62 (1) for a person's first violation of s. 344.65 (1) in the person's lifetime, the
5 court may provide a penalty of less than the penalty required under subd. 1.,
6 including not requiring the person to pay any amount as a forfeiture.

7 **SECTION 25.** 344.65 (1) (b) of the statutes is repealed.

8 **SECTION 26.** 344.65 (1) (c) of the statutes is amended to read:

9 344.65 (1) (c) No person charged with violating s. 344.62 ~~(2)~~ (1) may be
10 convicted if the person produces proof that he or she was in compliance with s. 344.62
11 (1) at the time the person was issued a uniform traffic citation for ~~violating s. 344.62~~
12 ~~(2)~~ the violation. This proof may be produced either at the time of the person's
13 appearance in court in response to the citation or, if provided within 10 days of the
14 citation, in the office of the traffic officer issuing the citation. This proof may be
15 produced in either paper or electronic format, including by display of electronic
16 images on a cellular telephone or other electronic device. If this proof is displayed
17 in electronic format on any cellular telephone or other electronic device, the person
18 to whom the proof is displayed may not view, and producing proof in electronic format
19 is not considered consent for the person to view, any content on the telephone or other
20 device except the proof required ~~under s. 344.62 (2)~~ to demonstrate compliance with
21 s. 344.62 (1).

22 **SECTION 27.** 344.65 (2) of the statutes is repealed.

23 **SECTION 28.** 757.05 (1) (a) of the statutes is amended to read:

24 757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of
25 state law or for a violation of a municipal or county ordinance except for a violation

SENATE BILL 638

1 of s. 101.123 (2) or (2m), ~~for a financial responsibility violation under s. 344.62 (2),~~
2 or for a violation of state laws or municipal or county ordinances involving
3 nonmoving traffic violations, violations under s. 343.51 (1m) (b), or safety belt use
4 violations under s. 347.48 (2m), there shall be imposed in addition a penalty
5 surcharge under ch. 814 in an amount of 26 percent of the fine or forfeiture imposed.
6 If multiple offenses are involved, the penalty surcharge shall be based upon the total
7 fine or forfeiture for all offenses. When a fine or forfeiture is suspended in whole or
8 in part, the penalty surcharge shall be reduced in proportion to the suspension.

9 **SECTION 29.** 814.63 (1) (c) of the statutes is amended to read:

10 814.63 (1) (c) This subsection does not apply to an action for a violation of s.
11 101.123 (2) or (2m), ~~for a financial responsibility violation under s. 344.62 (2),~~ for a
12 violation under s. 343.51 (1m) (b), or for a safety belt use violation under s. 347.48
13 (2m).

14 **SECTION 30.** 814.63 (2) of the statutes is amended to read:

15 814.63 (2) Upon the disposition of a forfeiture action in circuit court for
16 violation of a county, town, city, village, town sanitary district, or public inland lake
17 protection and rehabilitation district ordinance, ~~except for an action for a financial~~
18 ~~responsibility violation under s. 344.62 (2) or for a violation under s. 343.51 (1m) (b)~~
19 or a safety belt use violation under s. 347.48 (2m), the county, town, city, village, town
20 sanitary district, or public inland lake protection and rehabilitation district shall pay
21 a nonrefundable fee of \$5 to the clerk of circuit court.

22 **SECTION 31.** 814.65 (1) of the statutes is amended to read:

23 814.65 (1) COURT COSTS. In a municipal court action, ~~except for a financial~~
24 ~~responsibility violation under s. 344.62 (2) or for a violation of an ordinance in~~
25 conformity with s. 343.51 (1m) (b) or 347.48 (2m), the municipal judge shall collect

SENATE BILL 638

1 a fee of not less than \$15 nor more than \$38 on each separate matter, whether it is
2 on default of appearance, a plea of guilty or no contest, on issuance of a warrant or
3 summons, or the action is tried as a contested matter. Of each fee received by the
4 judge under this subsection, the municipal treasurer shall pay monthly \$5 to the
5 secretary of administration for deposit in the general fund and shall retain the
6 balance for the use of the municipality.

7 **SECTION 32.** 814.85 (1) (a) of the statutes is amended to read:

8 814.85 (1) (a) ~~Except for an action for a financial responsibility violation under~~
9 ~~s. 344.62 (2), or~~ for a violation under s. 343.51 (1m) (b) or a safety belt use violation
10 under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$68 court
11 support services surcharge from any person, including any governmental unit as
12 defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am) or 814.63
13 (1).

14 **SECTION 33.** 814.86 (1) of the statutes is amended to read:

15 814.86 (1) ~~Except for an action for a financial responsibility violation under s.~~
16 ~~344.62 (2), or~~ for a violation under s. 343.51 (1m) (b) or a safety belt use violation
17 under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$21.50 justice
18 information system surcharge from any person, including any governmental unit, as
19 defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62
20 (1), (2), or (3) (a) or (b), or 814.63 (1). The justice information system surcharge is in
21 addition to the surcharge listed in sub. (1m).

22 **SECTION 34. Nonstatutory provisions.**

23 (1) Notwithstanding section 16.42 (1) (e) of the statutes, if this subsection takes
24 effect in fiscal year 2016-17, in submitting information under section 16.42 of the
25 statutes for purposes of the 2017-19 biennial budget bill, the department of

SENATE BILL 638

1 transportation shall submit information concerning the appropriation under section
2 20.395 (5) (cq) of the statutes as though the increase in the dollar amount of that
3 appropriation by SECTION 35 (1) of this act had not been made.

SECTION 35. Fiscal changes.

4
5 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
6 to the department of transportation under section 20.395 (5) (cq) of the statutes, as
7 affected by the acts of 2015, the dollar amount is increased by \$295,000 for the fiscal
8 year in which this subsection takes effect to increase funding for enforcing and
9 administering the motor vehicle financial responsibility program.

SECTION 36. Initial applicability.

10
11 (1) The treatment of section 344.65 (1) (b) and (c) and (2) of the statutes, the
12 renumbering and amendment of section 344.65 (1) (a) of the statutes, and the
13 creation of section 344.65 (1) (a) 2. and 3. of the statutes first apply to violations
14 committed on the effective date of this subsection, but does not preclude the counting
15 of other violations as prior violations for purposes of sentencing a person.

16 (2) The treatment of sections 344.25 (2m) and 344.26 (1) (am) of the statutes
17 first applies to violations committed on the effective date of this subsection.

18 **SECTION 37. Effective dates.** This act takes effect on the day after publication,
19 except as follows:

20 (1) The treatment of sections 344.14 (2) (d), 344.16 (2) and (2m), and 344.63 (1)
21 (cm) of the statutes, the renumbering and amendment of section 344.16 (1) of the
22 statutes, and the creation of section 344.16 (1) (a) and (b) of the statutes take effect
23 on the first day of the 3rd month beginning after publication.

24 (2) The treatment of sections 344.25 (title) and 344.26 (1) (a) and (b) (intro.) and
25 1. of the statutes, the renumbering and amendment of section 344.25 of the statutes,

SENATE BILL 638

1 the repeal and recreation of 344.26 (title) of the statutes, and the creation of sections
2 344.25 (2m) and 344.26 (1) (am) of the statutes and SECTION 36 (2) of this act take
3 effect on the first day of the 10th month beginning after publication.

4 (END)