



## WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

### Financial Responsibility Law for Motor Vehicle Accidents

In general, Wisconsin statutes do not require the owner or operator of a passenger motor vehicle<sup>i</sup> to have liability insurance.<sup>ii</sup> However, Wisconsin statutes generally require an uninsured motorist who appears to be at fault in a motor vehicle accident that results in bodily injury, death, or property damage of \$1,000 or more to take certain steps to satisfy his or her liability.

The financial responsibility law (sometimes referred to as the safety responsibility law) is set forth in ch. 344, Stats., as further interpreted by ch. Trans 100, Wis. Adm. Code. The financial responsibility law: generally requires a deposit of security following such an accident ***unless*** the person had certain minimum levels of liability insurance or makes other arrangements to satisfy his or her liability; provides a process for suspension of operating and registration privileges, suspension of vehicle registration, and vehicle impoundment for failure to provide a deposit of security or make these arrangements; and provides a process for reinstatement after suspension, including requiring proof of financial responsibility for the future in certain circumstances. Because the suspension process can be avoided by carrying liability insurance in certain minimum amounts, current law provides an incentive to do so.

#### **DEPOSIT OF SECURITY OR ARRANGEMENTS TO SATISFY LIABILITY FOR ACCIDENT**

Current law generally requires the owner or operator of a motor vehicle that is involved in a motor vehicle accident that results in bodily injury, death, or property damage of \$1,000 or more to deposit security for damages with the Department of Transportation (DOT) or make arrangements to satisfy his or her liability. (An accident involving this level of damage is commonly referred to as a “reportable accident” for purposes of the financial responsibility law since the operator of the vehicle is required to report the accident to a law enforcement agency, which is then required to report the accident to DOT.<sup>iii</sup>) However, this requirement does not apply to a person who was covered by a motor vehicle liability insurance policy that was in effect at the time of the accident providing not less than the following amounts of coverage for a single accident: \$25,000 for bodily injury or death of one person; \$50,000 for bodily injury or death of more than one person; and \$10,000 for property damage.<sup>iv</sup>

When DOT receives a report of an accident, DOT checks as to whether the operators listed in the report have liability insurance. If all have insurance, then DOT takes no action. However,

if DOT determines that an operator is uninsured, DOT notifies the other parties involved in the accident and any party with injury or property damage may provide information about the injury or damage to DOT. DOT then reviews the accident report and determines if the uninsured operator appears to be at fault. If DOT makes this determination, DOT also determines the amount that is likely to satisfy any judgment for damages, and this is the amount of the security deposit. [s. 344.13, Stats.]

DOT then sends that **operator** a notice of suspension of operating privileges and sends the **owner** of that vehicle notice of suspension of all the owner's vehicle registrations and vehicle registration privileges<sup>v</sup> that will take effect on the date specified in the notice (which must be at least 10 days after the date of the notice), **unless** the person does one of the following:

- Requests a hearing based on disagreement with DOT's determination. (The person can later seek judicial review if he or she disagrees with the hearing decision.) [ss. 344.02 and 344.03, Stats.]
- Files proof that liability insurance or a bond in at least the amounts specified above was in effect at the time of the accident. [s. 344.14 (2) (a) and (c), Stats.]
- Satisfies DOT that matters have been settled by either: (a) providing evidence to DOT that the person has entered into an installment agreement to pay for the damages; (b) submitting proof that the parties have settled the damages by filing a release of liability form with DOT; or (c) submitting evidence that a court has adjudicated the person not to be liable. [s. 344.14, Stats.]
- Deposits security with DOT in the amount determined by DOT. Security deposits may be made as: cash; cashier's check; money order; financial institution draft; certified check; attorney trust account draft; or surety bond. [s. Trans 100.08 (1), Wis. Adm. Code.] (DOT will then hold security deposit funds until: (a) a party reaches an agreement with the uninsured operator or owner (in which case DOT will release the agreed upon amount of money to the claimant); (b) a court orders DOT to disburse the funds according to a court order; (c) a court determines that the owner or operator is not liable (in which case the security deposit will be returned); or (d) one year has passed since the suspension began and no court action has been filed.)

### **SUSPENSION OR IMPOUNDMENT FOR FAILURE TO DEPOSIT SECURITY OR MAKE ARRANGEMENTS TO SATISFY LIABILITY**

If an uninsured person does not take one of these actions before the date specified in the DOT suspension notice, DOT must suspend the person's operating privilege if the person was the operator of a motor vehicle involved in the accident and all of the person's motor vehicle registrations and the person's registration privilege if the person was the owner of a motor vehicle involved in the accident. [s. 344.14 (1) and (1g), Stats.]

Rather than relying on (or relying exclusively on) the DOT process described above, an injured party may have filed a legal action in court to recover damages. If a copy of a court judgment for damages of \$500 or more arising out of a motor vehicle accident is submitted to DOT, DOT also must suspend a person's operating privileges and registrations. [s. 344.25, Stats.] This suspension does not apply if the judgment creditor consents to, or if the court orders,

installment payments and the debtor furnishes proof of financial responsibility for the future, as discussed below. [s. 344.25, Stats.]

As noted above, one of the ways matters could have been settled to avoid suspension is entering into an installment agreement to pay damages. If a person has done so and then defaults on installment payments, current law provides a process to suspend operating privileges, registrations, and registration privileges of the defaulting person. [ss. 344.18 (3) and 344.27 (3), Stats.]

In addition to suspension of operating privileges, registrations, or registration privileges, DOT also has authority to impound any motor vehicle registered to the operator or owner of the vehicle involved in the accident whose operating privilege or registrations are being suspended. [s. 344.14 (1m), Stats.]<sup>vi</sup>

The suspension of operating privileges is subject to review by a court. [s. 343.40, Stats.] Also, a court may stay (stop) suspension of a registration or an impoundment. [s. 344.04, Stats.]

### **REINSTATEMENT AFTER SUSPENSION; PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE**

In general, a suspension of operating or registration privileges or vehicle registration under the financial responsibility law lasts until the earlier of: (a) the date the person provides a deposit of security or otherwise satisfies his or her liability (by means of a written release of liability, a final adjudication of no liability, or entering into an installment agreement and not defaulting on it); or (b) one year elapses after the date of the suspension without a legal action being commenced as a result of the accident. [s. 344.18, Stats.]

However, before there can be a reinstatement of the person's operating or registration privileges or registrations following such a suspension, the person must: pay a special reinstatement fee under s. 343.21 (1) (j), Stats. (for operating privileges), or 341.36 (1m), Stats. (for registration); pay a federal security verification mandate fee under s. 343.21 (1) (n), Stats. (for operating privileges); and meet applicable licensing requirements under s. 343.38, Stats. (for operating privileges). Also, ***proof of financial responsibility for the future*** is required before reinstatement as follows:

- Unless three years have elapsed since either the date that the security deposit or satisfaction of liability requirement was met or the date that is one year after the suspension began and no court action has been commenced, the person must demonstrate proof of financial responsibility for the future and must maintain that proof until the three years have elapsed. [s. 344.18 (1m) (a), Stats.]<sup>vii</sup>
- In general, if the suspension followed a court judgment for damages: (a) the judgment must be stayed, satisfied, or discharged; and (b) unless three years have elapsed since the date the judgment was stayed, satisfied, or discharged, the person must furnish and maintain in effect proof of financial responsibility for the future. [s. 344.26, Stats.]

Proof of financial responsibility for the future may be demonstrated by any of the following methods:

- **Maintaining a liability insurance policy in at least the same amounts as required at the time of an accident, as noted above (\$25,000 for bodily injury or death of one person; \$50,000 for bodily injury or death of more than one person; and \$10,000 for property damage).**
- **Maintaining a bond in these amounts.**
- **Maintaining a deposit in \$60,000 in cash or securities with DOT.**
- **Maintaining a certificate of self-insurance if the person has registered more than 25 motor vehicles. [s. 344.30, Stats.]**

**Additional information about the financial responsibility law and applicable forms are provided at DOT's website at: <http://www.dot.wisconsin.gov/drivers/drivers/traffic/sr-law.htm>.**

**This memorandum is not a policy statement of the Joint Legislative Council or its staff. The memorandum was prepared by Joyce L. Kiel, Senior Staff Attorney, on February 24, 2009.**

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<sup>i</sup> This memorandum does not discuss liability insurance requirements that apply to rented or leased motor vehicles, school buses, motor carriers, human service vehicles, and other specialized vehicles.

<sup>ii</sup> Bills have been introduced that would do so (for example, 2007 Senate Bill 374, 2005 Assembly Bill 391, 2005 Senate Bill 684, 2003 Assembly Bill 384, 2001 Assembly Bill 803, 1997 Assembly Bill 86, 1997 Senate Bill 306, 1995 Assembly Bill 443, and 1995 Senate Bill 60), but none has been enacted.

<sup>iii</sup> The operator is required to make a report to DOT if the law enforcement agency does not do so. [s. 346.70 (2), Stats.] (Although not applicable to the financial responsibility law, motor vehicle accidents involving damage to state or other government-owned property (other than a vehicle) to an apparent extent of \$200 or more also must be reported. [s. 346.70 (1), Stats.]

<sup>iv</sup> A surety bond in these amounts is also acceptable. [s. 344.14, Stats.] A person to whom more than 25 motor vehicles are registered may obtain a certificate of self-insurance, rather than purchasing insurance. [s. 344.16, Stats.]

<sup>v</sup> Exceptions to suspension are set forth in s. 344.14 (2), Stats., and include: for the owner, establishing that the vehicle was driven without permission; establishing that the vehicle was legally parked; and, for the operator, establishing that the owner's policy covered the uninsured operator.

<sup>vi</sup> The duration of the impoundment is controlled by s. 344.185, Stats. If a person does not satisfy the conditions to have the vehicle returned within 30 days of impoundment (or within 30 days of any DOT extension), DOT must sell the vehicle. As noted above, a court may stay an impoundment. [s. 344.04, Stats.] Likely because of the expenses incurred by DOT in impounding a vehicle and the inability to recoup those expenses unless the vehicle has significant sale value, DOT seldom uses impoundment.

<sup>vii</sup> Proof of financial responsibility for the future is also required for an additional period for those who seek reinstatement after defaulting on an installment agreement. [s. 344.18 (3) and (3m), Stats.]