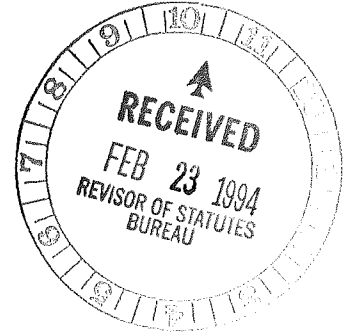


CR 93-141

CERTIFICATE

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)



TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **financial responsibility and accident reporting**, was duly approved and adopted by this Department on February 22, 1994.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

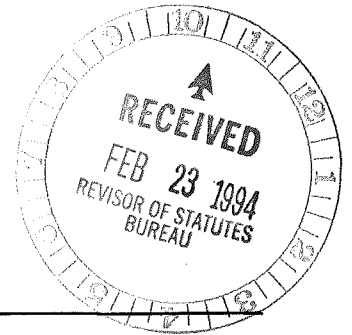


IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 22 day of February, 1994.

Charles H. Thompson

CHARLES H. THOMPSON
Secretary

IN THE MATTER OF an Order Adopting Rule **REPEALING** Trans 100.02(2), 100.06.(3), 100.12(4)(a) to (c), 100.14(2) and (3), and 100.18(3); **RENUMBERING** Trans 100.06(4) and 100.18(1); **RENUMBERING and AMENDING** Trans 100.02(7), 100.04(3) and (4), 100.12(4)(intro.), 100.14(4) and 100.18(2); **AMENDING** ch. Trans 100(title), 100.02(intro.), (1) and (3), 100.03(2), 100.04(2), 100.06(1)(intro.) and (2)(intro.), 100.07(1), (7) and (8), 100.09(1), 100.10(1) and (2), 100.11, 100.14(1) and 100.17(1), (2) and (4)(b); **REPEALING AND RECREATING** Trans 100.01(1), 100.02(5) and (6), 100.03(1) and (3), 100.04(1) and 100.15; and **CREATING** Trans 100.02(7) and (8), 100.04(3), (6) and (7), 100.05(2) and (3), 100.12(5) and 100.18, Wisconsin Administrative Code, relating to Financial Responsibility and Accident Reporting.

ORDER ADOPTING RULE**Analysis Prepared by the Wisconsin Department of Transportation**

STATUTORY AUTHORITY: ss. 85.16 and 227.11, Stats.

STATUTE INTERPRETED: ss. 343.23, 344.01-344.22 and 346.70, Stats.

General Summary of Rule. This rule establishes the Department's procedures for implementing those provisions of 1991 Wisconsin Act 269 that relate to Wisconsin's Safety Responsibility Law. Specifically, this Act now requires the Department of Transportation to revoke driver licenses and/or registration plates of at-fault uninsured operators and owners. Additionally, it requires these drivers and owners to file proof of financial responsibility to reinstate their privileges, and to maintain the financial responsibility for three (3) years from date of eligibility.

Importantly, 1991 Wis. Act 269 will require a previously uninsured driver or owner to show proof of insurance for at least 3 years if they want to keep their driver's license or registration plates.

Additionally, this rule outlines the Department's procedures for accident reporting, including on duty and legal intervention, and for maintaining records of drivers and owners involved in traffic accidents.

Fiscal Impact. Department savings: Table 1 depicts the department savings allocable to this rule which significantly reduces the number of SR-20 and SR-21 forms, mailings, and procedures.

Table 1

Department Annual Savings Accrued to Reducing SR-20 and SR-21 Forms		<u>Savings</u>
7 hrs/day LTE entering SR-20's @ \$9.00/Wage x 216 days		\$13,608
15 minutes/day mail room shipping clerk 2 inserter @ PSICM + 4.25% + 35% FB; \$9.71/hour Wage & FB x 216 days x 15 min./day		\$ 524
Eliminate 185,000 SR-20 & SR-21 mailings per year @ \$0.24 per letter		<u>\$14,218</u>
	Est. Annual Savings	\$28,350
Insurance Company Savings: Nominal savings to the insurance industry cannot be accurately calculated.		

Final Regulatory Flexibility Analysis. This rule will have no significant effect upon small businesses.

Contact Person. The person to contact for further information on this rule is William Hoebel, Traffic Accident Section, Wisconsin Department of Transportation, (608) 266-0771. A copy of this rule may be obtained upon request from the Wisconsin Department of Transportation, Division of Motor Vehicles, P.O. Box 7919, Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin 53707-7919, telephone (608) 266-2237 or TDD (608) 266-0396.

TEXT OF RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1) and 227.11, Stats., the department of transportation hereby amends a rule interpreting ss. 343.23, 344.01-344.22 and 346.70, Stats., relating to financial responsibility and accident reporting.

SECTION 1. Chapter Trans 100 (title) is amended to read:

CHAPTER TRANS 100 (title)

ACCIDENT REPORTING AND SAFETY RESPONSIBILITY

AND ACCIDENT REPORTING

SECTION 2. Trans 100.01(1) is repealed and recreated to read:

Trans 100.01 PURPOSE AND SCOPE. (1) **STATUTORY AUTHORITY.** As authorized by ss. 85.16(1) and 227.11, Stats., the purpose of this chapter is to administratively interpret s. 343.23(2), Stats., relating to department records, ss. 344.01 to 344.22, Stats., relating to financial responsibility in accidents, and s. 346.70, Stats., relating to accident reporting.

SECTION 3. Trans 100.02(intro.) and (1) are amended to read:

Trans 100.02 DEFINITIONS. (intro.) The words and phrases defined in ss. 340.01, 343.01, 343.04 and 344.01(2), Stats., have the same meaning in this chapter unless a different definition is specifically provided. ~~As used in~~ In this chapter:

(1) "Accident" means an occurrence that originates or terminates on a traffic way, which involves at least one motor vehicle in transport and ~~results in injury or death to any person, or damage to any property~~ is reportable to the department under s. 346.70(1), Stats. "Accident" includes acts by the operators of motor vehicles which contribute to the cause of an accident regardless of physical contact and, for the purpose of ch. 344, Stats., includes intentional acts.

SECTION 4. Trans 100.02(2) is repealed.

SECTION 5. Trans 100.02(3) is amended to read:

Trans 100.02(3) "In transport" means the condition of a motor vehicle when it is in use primarily for moving persons or property, (including the vehicle itself), from one place to another and is in motion, or in readiness for motion, or on a traffic way, but not legally parked

and unattended in a designated parking area. This includes parked motor vehicles with doors open into a traffic way or vehicle loads extending into a traffic way and driverless motor vehicles which are in motion.

SECTION 6. Trans 100.02(5) and (6) are repealed and recreated to read:

Trans 100.02(5) "Licensee" means a person to whom the department has granted an operator's license.

(6) "Motor vehicle" has the meaning specified in s. 346.66, Stats., for purposes of applicability and accident reporting, and the meaning specified in s. 344.01(2), Stats., for purposes of financial responsibility.

SECTION 7. Trans 100.02(7) is renumbered Trans 100.02(9) and amended to read:

Trans 100.02(9) "Traffic way" means premises open to the public as a matter of right or custom for use of their motor vehicles whether the premises are publicly or privately owned. This includes driveways, approaches to buildings, shipping and loading docks, service stations, parking stalls and parking aisles of parking lots.

SECTION 8. Trans 100.02(7) and (8) are created to read:

Trans 100.02(7) "Premises held out to the public," as used in s. 346.66, excludes areas where signs and other demonstrable evidence show that the area is intended to be restricted from use by the public as a whole.

NOTE: See City of Kenosha v. Phillips, 142 Wis. 2d 549, for discussion of premises held out to the public.

(8) "Report" means an accident report received on an approved form or one received in an automated format approved by the department.

NOTE: Forms MV4000 - Wisconsin Motor Vehicle Accident Report and MV4002 Driver Report of Accident.

SECTION 9. Trans 100.03(1) is repealed and recreated to read:

Trans 100.03 REPORTING AN ACCIDENT. (1) A law enforcement agency investigating a reportable accident under s. 346.70(1), Stats., shall report the accident to the department as required under s. 346.70(4), Stats. If a law enforcement agency does not investigate and report the accident within 10 days after the accident, the operators of the vehicles involved in the accident shall report the accident to the department as required under s. 346.70(2), Stats. The department may accept or require a report of the accident to be filed by the occupant or the owner in lieu of a report by the operator.

NOTE: Forms MV4000 Wisconsin Motor Vehicle Accident Report and MV4002 Driver Report of Accident.

SECTION 10. Trans 100.03(2) is amended to read:

Trans 100.03(2) If the department receives a written statement that the operator of a vehicle is different from that indicated on the enforcement agency report, the department shall ~~require~~ request that the operator obtain an amended enforcement agency report or a copy of court findings which identifies the operator of the vehicle at the time of the accident. If the operator does not respond, the department shall accept the original police report as true. In all other cases involving the integrity of information on its accident reports, the department shall make a determination of its authenticity based on a court finding or, in the absence of a court finding, on the credibility of the evidence.

SECTION 11. Trans 100.03(3) is repealed and recreated to read:

Trans 100.03(3) The department shall assume that all accident reports it receives from enforcement agencies or operators meet the reporting criteria under s. 346.70(1), Stats. If the department determines from credible evidence received, which could include property damage estimates or signed statements, that an accident does not meet the minimum reporting criteria, the department will not keep a record of the accident.

SECTION 12. Trans 100.04(1) is repealed and recreated to read:

Trans 100.04 REQUIRED ACCIDENT INFORMATION. (1) Under s. 346.70(2), (3m) and (4), Stats., the police, operator, owner or occupant shall complete and submit all accident information requested on the forms or in the automated format approved by the department.

NOTE: Forms MV4000 Wisconsin Motor Vehicle Accident Report and MV4002 Driver Report of Accident.

SECTION 13. Trans 100.04(2) is amended to read:

(2) The department may accept a an accident report with ~~any item omitted in sub. (1) incomplete accident information~~ if the information is provided to the department from another credible source or is not available.

SECTION 14. Trans 100.04(3) is renumbered 100.04(4) and amended to read:

Trans 100.04(4) ~~The~~ When the liability insurance company name or policy holder's name, or both, are absent from the accident report form, the department may contact the operator or owner, or both, to obtain additional insurance information. If the operator or owner provide complete insurance information, the department shall assume that the liability insurance policy specified by the owner or operator ~~on the accident report was in force unless the insurer notifies the department that the liability policy was not in force within 30 days of the date the notice is mailed to the insurer~~ at the time of the accident. The department ~~will~~ shall accept a written notice of non-insurance for up to one year following the date of the accident except as provided in s. 344.15(4), Stats. Upon receipt of a written notice of non-insurance, the department ~~shall~~ may require the operator or owner to deposit security under s. 344.13, Stats.

SECTION 15. Trans 100.04(3) is created to read:

Trans 100.04(3) When the police, owner or operator indicates on the accident report that no liability insurance was in effect at the time of the accident, the department may require the operator or owner, or both, to deposit security under s. 344.13, Stats.

SECTION 16. Trans 100.04(4) is renumbered 100.04(5) and amended to read:

Trans 100.04(5) When the owner is self-insured under s. 344.16, Stats., the department ~~shall forward the insurance portion of the accident report~~ may mail notice of the self-insurance to the address furnished by the self-insured owner. The department shall assume that the operator of the vehicle is exempt under s. 344.14(2)(d), Stats., from the security requirements ~~under s. 344.14(2)(d), Stats.,~~ unless the self-insured notifies the department otherwise within 30 days of mailing or other information is received by the department indicating that the self-insured certificate does not apply to the operator.

SECTION 17. Trans 100.04(6) and (7) are created to read:

Trans 100.04(6) When the liability insurance company name is listed on the accident report, but the policy holder's name is not, and the operator and owner are the same person, the department will assume the liability insurance company specified on the accident report form was in force at the time of the accident for the owner listed.

(7) The department may contact the operator or owner, or both, for additional insurance information at the request of an insurer, operator or owner. If the operator or owner provides complete insurance information, the department may verify the credibility of the information by contacting the insurance company listed. When an insurer determines that the operator or owner who provided the insurance information is not insured, the insurer shall immediately notify the department of the person's non-insured status.

NOTE: Form - MV3464 - Request for Insurance Verification, Form - MV3462 - Request for Complete Insurance.

SECTION 18. Trans 100.05 is renumbered 100.05(1).

SECTION 19. Trans 100.05(2) and (3) are created to read:

Trans 100.05(2) If an accident occurs in the course of a licensee's employment as a law enforcement officer, fire fighter, emergency medical technician--paramedic, or winter highway maintenance worker, the accident shall be recorded on the accident report, the on-duty notation shall be placed on the accident report, and then, upon receipt, the department shall place an on-duty notation on the licensee's driving record.

NOTE: See s. 343.23(2), Stats.

(3) Notwithstanding sub. (1), a law enforcement officer, emergency medical technician--paramedic and firefighter may request a reportable accident be removed from or not listed on their driving record by submitting the approved form. The licensee must show that one or more of the following conditions existed at the time of the accident:

(a) The operated vehicle was legally parked under the exemptions of s. 346.03, Stats., and the flashing, oscillating or rotating warning lights were in use.

(b) The driver of the emergency vehicle intentionally collided with the other vehicle.

(c) The driver of the other vehicle intentionally collided with the emergency vehicle.

NOTE: Form MV3347 - Emergency Vehicle Involvement.

SECTION 20. Trans 100.06(1)(intro.) and (2)(intro.) are amended to read:

Trans 100.06 DETERMINING THE REASONABLE POSSIBILITY OF A JUDGMENT. (1)(intro.) The department may use the following sources of information to determine whether an uninsured ~~person~~ operator or owner based on a preponderance of evidence, is exempted under s. 344.14(2)(k), Stats., from the security and ~~suspension~~ revocation requirements ~~in~~ under ch. 344, Stats.:

(2)(intro.) An uninsured ~~motorist~~ operator or owner shall not be required to deposit security when there is no reasonable possibility of a judgment being rendered against the uninsured ~~person~~ operator. The department shall consider the following factors to determine whether a person is exempt under s. 344.14(2)(k), Stats., from the security and ~~suspension~~ revocation requirements under ch. 344, Stats.:

SECTION 21. Trans 100.06(3) is repealed.

SECTION 22. Trans 100.06(4) is renumbered 100.06(3).

SECTION 23. Trans 100.07(1), (7) and (8) are amended to read:

Trans 100.07 DETERMINATION OF SECURITY AMOUNT. (1) Court costs of ~~20%~~ of the evaluated damages and injuries not to, which are reasonably estimated or determined, but do not exceed \$500.00, shall be included when determining the amount of security to be deposited under s. 344.13(1) and (2), Stats.

(7) The amount of security required under this section may be increased only when the amount is incorrect due to administrative error on the part of the department, ~~or when previously unreported damages or injuries are reported to the department. This subsection does not apply to a person who has complied with a previous notice of suspension for the same accident after one year from the date of the accident.~~

(8) Damage to a motor vehicle which was operated without the owner's permission shall may be included in the amount of security required of the operator if proof of operating without permission as specified in s. Trans 100.09 is filed with the department.

SECTION 24. Trans 100.09(1) is amended to read:

Trans 100.09(1) A letter from the law enforcement agency of the municipality where the offense occurred stating that the vehicle was reported stolen prior to the accident or that the law enforcement agency investigated the report and found it to be a stolen vehicle, or

SECTION 25. Trans 100.10(1) and (2) are amended to read:

Trans 100.10 HEARING ON REVOCATION. (1) Any person desiring a hearing as provided in s. 344.02, Stats., shall file a written request for a hearing with the department within 14 days following the ~~suspension~~ revocation date.

(2) ~~The department shall refer all timely requests for hearing to the office of the commissioner of transportation.~~ If the person's operating privilege and registrations have not been ~~suspended~~ revoked, the department shall delay further action on the ~~suspension~~ revocation pending the decision of the ~~office of the commissioner~~ hearing officer.

SECTION 26. Trans 100.11 is amended to read:

Trans 100.11 NOTICE OF SUBROGATION. In all cases of subrogation ~~claim or assignment~~ under ch. 344, Stats., a signed copy of the subrogation ~~or assignment of the claim receipt or a copy of a payment draft signed by the insured~~ shall be filed with the department. If the person has complied with a previous notice of ~~suspension~~ revocation for the same claim, the notice of subrogation ~~or assignment~~ is untimely and no action shall be taken by the department.

SECTION 27. Trans 100.12(4)(intro.) is renumbered 100.12(4) and amended to read:

Trans 100.12(4) In addition to a release agreement described in subs. (1), (2) and (3), the department may accept ~~the following~~ a certified or court filed copy of a bankruptcy petition or discharge and bankruptcy schedule listing the claims of all persons who have verified the

damages or injuries as evidence that a person has been released from liability or adjudicated not to be liable.

SECTION 28. Trans 100.12(4)(a) to (c) are repealed.

SECTION 29. Trans 100.12(5) is created to read:

Trans 100.12(5) If the department is notified that an owner or operator under revocation has filed for bankruptcy, the department shall release the financial responsibility revocation. The bankruptcy creditor may request that the department reinstate the revocation if the creditor submits proof that the debt was not discharged or satisfied.

SECTION 30. Trans 100.14(1) is amended to read:

Trans 100.14 REVOCATION AND REINSTATEMENT. (1) The department shall not ~~suspend~~ revoke a person's privileges for failure to file an accident report if no further information is needed from the person who failed to file the report.

SECTION 31. Trans 100.14(2) and (3) are repealed.

SECTION 32. Trans 100.14(4) is renumbered 100.14(2) and amended to read:

Trans 100.14(2) ~~The~~ In addition to the requirements under Trans 100.15, persons whose operating privileges or registration ~~suspended~~ privileges were revoked by the department under s. 344.18(3), Stats., shall may be reinstated when ~~the reinstatement fee required under s. 343.21(1)(k), Stats., been paid and:~~

(a) The person meets one of the conditions specified in s. 344.18(3), Stats., or

(b) The person files an acceptable release of liability as specified in s. Trans 100.12.

SECTION 33. Trans 100.15 is repealed and recreated to read:

Trans 100.15 REINSTATEMENT REQUIREMENTS. Any person reinstating his or her operating privilege that was revoked under ch. 344, Stats., shall pay the reinstatement fee

under s. 343.21(1)(j), Stats. Any person reinstating his or her registration privilege revoked under ch. 344, Stats., shall pay the reinstatement fee under s. 341.36(1m), Stats. Persons whose operating and registration privileges were revoked under ch. 344, Stats., shall pay both reinstatement fees to reinstate both privileges. All persons reinstating their operating or registration privileges, or both, must satisfy the future proof of insurance filing requirements under ch. 344, Stats. No fee or future proof of insurance is required when any of the following occur:

(1) The person submits credible evidence to the department that he or she was not the driver or owner of the vehicle involved in the accident.

(2) The person submits written verification to the department that an insurance policy or bond meeting the requirements of s. 344.15, Stats., was in effect at the time of the accident. This written verification shall be submitted during the revocation period.

(3) The department's decision is reversed by a circuit or higher court in a petition for review.

(4) The person files bankruptcy prior to the revocation.

(5) The revocation is a result of administrative error on the part of the department.

(6) A person revoked under ch. 344, Stats., petitions the department and a hearing examiner determines there is no reasonable possibility of a judgment against the person.

SECTION 34. Trans 100.17(1), (2) and (4)(b) are amended to read:

Trans 100.17 TRANSFER OF VEHICLE OWNERSHIP. (1) A transfer of ownership of any vehicle whose registration is ~~suspended~~ revoked or subject to ~~suspension~~ revocation under s. 344.14, Stats., shall not be allowed if the owner whose registration is ~~suspended~~ revoked or

subject to ~~suspension~~ revocation continues to have possession of, use of, or receive any benefit from the operation of the vehicle.

(2) A person's registration shall be considered subject to ~~suspension~~ revocation under s. 344.14, Stats., when written notice of a security requirement under s. 344.13, Stats., is issued by the department.

(4)(b) Return all fees submitted by the purchaser with an explanation why the transfer of ownership was refused. If the title and registration were issued after the written notice of security was issued to the seller but prior to the ~~suspension~~ revocation of registrations, the fees shall be returned only after the purchaser complies with the department request for return of the title and any registration plates issued.

SECTION 35. Trans 100.18(1) is renumbered 100.19(1).

SECTION 36. Trans 100.18(2) is renumbered 100.19(2) and amended to read:

Trans 100.19(2) The safety responsibility revocation case entry shall be purged from the driver record after 4 5 years from the ~~suspension-termination~~ effective date of the revocation, or 3 years from the reinstatement eligibility date, whichever is longer.

SECTION 37. Trans 100.18(3) is repealed.

SECTION 38. Trans 100.18 is created to read:

Trans 100.18 OCCUPATIONAL LICENSE. Persons who have had their commercial driver's license (CDL) revoked under ch. 344, Stats., may apply for a commercial motor vehicle occupational license. Persons whose class "D" or "M" operating privileges are revoked under ch. 344, Stats., do not qualify for an occupational license.

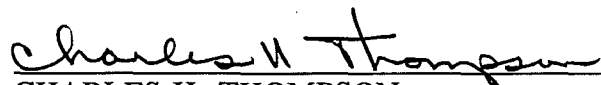
NOTE: The procedures for applying for a CDL occupational license under this chapter are found under ch. Trans 117, occupational driver's license.

NOTE: The forms used in this chapter may be obtained free of charge from the Wisconsin Department of Transportation, Uninsured Motorists Unit, P. O. Box 7919, Room 804, Madison, WI 53707.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 22 day of February, 1994.



CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation

