



2017 SENATE BILL 712

January 19, 2018 - Introduced by Senators STROEBEL, CARPENTER and MARKLEIN, cosponsored by Representatives SPIROS, KOYENGA, R. BROOKS, ZEPNICK, HORLACHER and MACCO. Referred to Committee on Economic Development, Commerce and Local Government.

1 **AN ACT to create** 349.139 of the statutes; **relating to:** the immobilization or
2 removal, impoundment, and disposal of motor vehicles for multiple nonmoving
3 traffic violations.

Analysis by the Legislative Reference Bureau

This bill authorizes a municipality or county to enact an ordinance providing for the immobilization or towing, impoundment, and disposal of vehicles owned by habitual parking violators.

Under current law, an authority that issues citations for nonmoving traffic violations (commonly referred to as “parking tickets”) may enforce violations in several ways. A person issued a parking ticket may pay the ticket by mail or appear in court to contest the parking ticket. If the person does neither, the authority that issued the ticket may issue a summons to the person and request that the Department of Transportation suspend the person’s vehicle registration. In lieu of this procedure, the authority that issued the ticket may, subject to requirements, issue a warrant for the person and for the person’s arrest.

Under current law, any county or municipality may enact an ordinance prohibiting unregistered motor vehicles on highways and providing for the immobilization, removal, impoundment, and disposal of these vehicles. The bill authorizes a municipality or county to enact an ordinance providing for the immobilization (typically with a “car boot”) or towing, impoundment, and disposal of vehicles owned by habitual parking violators and for which all of the following apply:

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1. The municipality or county has issued tickets to the owner of the motor vehicle for five or more parking violations that occurred more than 60 days previously and for which the owner has neither paid each ticket nor scheduled an appearance in court in response to each unpaid ticket.

2. The municipality or county has mailed to the last-known address of the owner at least one notice that provides certain information, including the manner in which each parking ticket may be paid or contested. The notice must also inform the owner that the owner's vehicles may be immobilized or towed and impounded.

Under the bill, a properly enacted ordinance authorizes any parking enforcer to have a vehicle immobilized on, or towed and impounded from, any highway or public parking facility. The parking enforcer must follow certain procedures for notification of law enforcement and for providing information about the immobilization to the vehicle owner.

Under the bill, the owner of a motor vehicle that is immobilized or towed and impounded may secure release of the motor vehicle by paying any fee associated with the immobilization or towing and impounding of the vehicle and paying all forfeitures for the unpaid parking tickets or scheduling an appearance in court. If the requirements for release of the vehicle are not timely satisfied, the bill authorizes disposal of the vehicle. Any motor vehicle immobilized or impounded must remain immobilized or impounded until lawfully claimed or disposed of. The owner of the vehicle is responsible for all charges associated with immobilizing, removing, impounding, and disposing of the motor vehicle.

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.** 349.139 of the statutes is created to read:

2 **349.139 Authority to immobilize, remove, impound, and dispose of**
3 **motor vehicles for nonmoving traffic violations. (1)** In this section:

4 (a) "Habitual parking violator" means a person who has received, more than
5 60 days previously, 5 or more citations for nonmoving traffic violations that remain
6 unpaid and for which the person has not scheduled an appearance in court in
7 response to the citations.

8 (b) "Immobilization device" has the meaning given in s. 341.65 (1) (a).

9 (c) "Nonmoving traffic violation" has the meaning given in s. 345.28 (1) (c).

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1 (d) "Owner" has the meaning given in s. 341.65 (1) (am).

2 (e) "Parking enforcer" means a traffic officer or any other person who enforces
3 nonmoving traffic violations and who is employed by a municipality or county.

4 **(2)** The governing body of any municipality or county may by ordinance provide
5 for the immobilization or removal, impoundment, and disposal of vehicles owned by
6 habitual parking violators as provided in this section. Any ordinance under this
7 section shall do all of the following:

8 (a) Limit application of the ordinance to those motor vehicles for which all of
9 the following apply:

10 1. The municipality or county has cited the owner of the motor vehicle for 5 or
11 more nonmoving traffic violations that, at the time of the vehicle's immobilization or
12 removal, occurred more than 60 days previously and for which the owner has neither
13 paid the forfeiture for each of these violations nor scheduled an appearance in court
14 in response to each of these citations.

15 2. a. The municipality or county has mailed to the last-known address of the
16 owner at least one notice that specifies, for each citation counted under subd. 1., the
17 date on which the citation was issued, the license number or vehicle identification
18 number of the vehicle involved, the place where the citation may be paid, the amount
19 of the forfeiture, and the means by which the citation may be contested.

20 b. The notice under subd. 2. a. shall also inform the owner that any motor
21 vehicle owned by him or her may be immobilized with an immobilization device or
22 removed and impounded if, within 60 days after the owner has received 5 or more
23 citations and at the time the vehicle is immobilized or removed and impounded, the
24 owner has neither paid the forfeiture for each violation that occurred more than 60

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1 days previously nor scheduled an appearance in court in response to each citation
2 issued more than 60 days previously for which the forfeiture has not been paid.

3 c. The notice under this subdivision may be combined with any other notice
4 provided by the municipality or county to the owner.

5 (b) Authorize any parking enforcer who discovers any motor vehicle to which
6 par. (a) applies that is legally or illegally parked on any portion of the street, highway,
7 or publicly owned or leased parking facility within the corporate limits of the
8 municipality or county to cause the motor vehicle to be immobilized with an
9 immobilization device or removed to a suitable place of impoundment or both. Upon
10 immobilization or removal of the motor vehicle, the parking enforcer shall follow the
11 notification procedure specified in s. 341.65 (2) (b).

12 (c) Specify whether the municipality or county may contract with a 3rd party
13 for the performance of services related to immobilization or removal of motor
14 vehicles. The services shall be rendered only at the request of a parking enforcer.

15 (d) Provide for a reasonable removal fee, if any, that will be charged to remove
16 an immobilization device placed on a vehicle under this section.

17 (e) Provide for the recovery of reasonable towing or storage charges associated
18 with the removal or impoundment of a vehicle, and of reasonable charges associated
19 with disposal of a vehicle, under this section.

20 (f) Require that, if the motor vehicle is immobilized, the parking enforcer or a
21 3rd-party contractor place in a highly visible location and a reasonably secure
22 manner on the vehicle, at the time of immobilization, a written notice that does all
23 of the following:

24 1. Warns any driver of the vehicle that the immobilization device has been
25 placed on the vehicle.

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1 2. Specifies, for each citation counted under par. (a) 1., the license number or
2 vehicle identification number of the vehicle involved, the place where the citation
3 may be paid, and the means by which the citation may be contested, or provides a
4 telephone number at which an individual is available to provide this information 24
5 hours a day.

6 3. States the amount of the removal fee under par. (d), if any, that is in addition
7 to any amount required to be paid as specified in the notice under par. (a) 2. a.

8 (g) If the motor vehicle is immobilized in a time-limited, legal parking space,
9 prohibit the municipality or county from issuing, after the vehicle's immobilization,
10 any citation for a time-limited nonmoving traffic violation for the vehicle within the
11 first 4 hours after the vehicle is immobilized.

12 (h) If the motor vehicle is immobilized, require the municipality or county, or
13 a 3rd-party contractor, to remove, or provide sufficient information to allow the
14 vehicle owner to remove, the immobilization device without undue delay, not to
15 exceed 3 hours, after receiving notice that the person has satisfied the requirements
16 for release of the motor vehicle under sub. (3) (b). The ordinance shall also provide
17 a procedure for the municipality, county, or 3rd-party contractor to promptly receive
18 notice when a person has satisfied the requirements for release of a motor vehicle
19 under sub. (3) (b).

20 **(3)** (a) Any motor vehicle immobilized or impounded as provided in sub. (2)
21 shall remain immobilized or impounded until lawfully claimed or disposed of as
22 provided in this subsection and sub. (5).

23 (b) The owner of a motor vehicle that is immobilized under sub. (2) may secure
24 release of the motor vehicle by doing all of the following:

25 1. Paying any removal fee provided in sub. (2) (d).

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1 2. Paying all forfeitures specified in each notice under sub. (2) (a) 2. a. for, or
2 scheduling an appearance in court in response to, or a combination of paying
3 forfeitures and scheduling appearances with respect to, all citations counted under
4 sub. (2) (a) 1.

5 (c) The owner of a motor vehicle that is removed and impounded under sub. (2)
6 may secure release of the motor vehicle by doing all of the following:

7 1. Paying any charges provided in sub. (2) (e).

8 2. Paying all forfeitures specified in each notice under sub. (2) (a) 2. a. for, or
9 scheduling an appearance in court in response to, or a combination of paying
10 forfeitures and scheduling appearances with respect to, all citations counted under
11 sub. (2) (a) 1.

12 (d) If an owner secures release of a motor vehicle under par. (b) or (c) by
13 scheduling an appearance in court and thereafter fails to appear or fails to comply
14 with any court order with respect to any citation counted under sub. (2) (a) 1. for
15 which the forfeiture has not been fully paid, including failure to satisfy in full any
16 court-ordered payment plan or other agreement approved by the court, the court
17 may order a law enforcement officer, or an authorized employee or contractor of the
18 municipality or county, to immobilize the motor vehicle involved in the nonmoving
19 traffic violations or the municipality or county may cause the motor vehicle to be
20 immobilized or removed and impounded as provided under sub. (2). If the court
21 orders the motor vehicle immobilized, upon compliance with the court order, the
22 court shall order a law enforcement officer, or an authorized employee or contractor
23 of the municipality or county, to remove the immobilization device.

24 (e) Notwithstanding par. (a), if any motor vehicle immobilized or impounded
25 is an unregistered motor vehicle for purposes of s. 341.65 or an abandoned motor

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1 vehicle for purposes of s. 342.40, the municipality or county may take any action
2 authorized under s. 341.65 or 342.40. Any vehicle immobilized under this section for
3 longer than the period specified in s. 342.40 (1m) shall be considered abandoned for
4 purposes of s. 342.40.

5 (4) The owner of any motor vehicle immobilized or removed and impounded as
6 provided under this section is responsible for all charges associated with
7 immobilizing, removing, impounding, and disposing of the motor vehicle, as provided
8 under sub. (2) (d) and (e). Charges not recovered from the sale of the motor vehicle
9 may be recovered in a civil action by the municipality or county against the owner.

10 (5) The procedures and provisions of s. 341.65 (2) (f) to (h) shall apply with
11 respect to the impoundment and disposal of motor vehicles authorized to be removed,
12 impounded, and disposed of under this section to the same extent as these provisions
13 apply to the impoundment and disposal of unregistered motor vehicles that are
14 removed under authority of s. 341.65, except that reclamation of the motor vehicle
15 by the owner requires compliance with sub. (3) rather than s. 341.65 (2) (e). The
16 provisions of s. 349.13 (5) (b) shall apply with respect to vehicles removed or stored
17 under this section to the same extent as these provisions apply with respect to
18 vehicles removed or stored under authority of s. 349.13.

19 (6) Any ordinance enacted under this section permitting immobilization of a
20 motor vehicle may prohibit any person from removing, disconnecting, tampering
21 with, or otherwise circumventing the operation of an immobilization device installed
22 under this section except upon release of the motor vehicle to the owner or to make
23 necessary repairs to a malfunctioning immobilization device.

