

2009 DRAFTING REQUEST

Bill

Received: **01/12/2010**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **John Steinbrink (608) 266-0455**

By/Representing: **Geoff Gaston**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email: **Rep.Steinbrink@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Enforcement of red light violations by traffic control photographic system monitoring

Instructions:

See attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|---------------------|------------------------|------------------------|----------------|-----------------------|-----------------------|-----------------|
| /? | agary 01/13/2010 | kfollett 01/15/2010 | | _____ | | | S&L |
| /P1 | | | rschluet 01/15/2010 | _____ | mbarman 01/15/2010 | | S&L |
| /1 | agary 02/03/2010 | kfollett 02/03/2010 | jfrantze 02/03/2010 | _____ | cduerst 02/03/2010 | lparisi 02/03/2010 | |

FE Sent For:

*at
intro*

<END>

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| /? | agary 01/13/2010 | kfollett 01/15/2010 | | _____ | | | S&L |
| /P1 | | 1/15/2010 2/3 | rschlue 01/15/2010 | _____ | mbarman 01/15/2010 | | |

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|--------------|----------------|-----------------|---|----------------|------------------|-----------------|-----------------|
| 1? | agary | |  | _____ _____ | | | |

FE Sent For:

<END>

Gary, Aaron

From: Gaston, Geoff
Sent: Wednesday, January 13, 2010 10:40 AM
To: Gary, Aaron
Subject: RE: Rep. Steinbrink drafting request

Thanks Aaron, I think he would like that to also be five business days

From: Gary, Aaron
Sent: Wednesday, January 13, 2010 10:35 AM
To: Gaston, Geoff
Subject: RE: Rep. Steinbrink drafting request

Hi Geoff,

On p. 15, line 6, did you want to keep that as "48 hours" or change it to 5 business days?

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Gaston, Geoff
Sent: Monday, January 11, 2010 9:48 AM
To: Gary, Aaron
Subject: Rep. Steinbrink drafting request

Good morning Aaron.

Rep. Steinbrink would like to have ASA1- '07 AB 528 drafted as an '09 bill with several changes.

- Section 3(a) on p. 14 (line 20) of the sub requires signs to be posted at a sufficient distance from the intersection covered by the photographic system. Rep. Steinbrink would like to change that to a requirement similar to the requirement in 349.13(1e)(c)2 re: snow emergencies, etc to provide motorists with notice by official traffic signs placed or erected at or reasonably near the corporate limits of the municipality on all state and county trunk highways and connecting highways when entering the municipality that intersections in the municipality have traffic control photographic systems.
- Section 3(b), also starting on p. 14 (line 24) requires service of the citation by certified mail within 48 hours. Rep. Steinbrink would like to amend that to also allow personal service, and to increase the time limit to five business days.
- Also, line 16 on p. 15 requires an owner asserting that the car had been stolen as a defense to have reported the vehicle stolen "within a reasonable time" Rep. Steinbrink would like to change that to "within five business days" to conform to the above.

Thank you

⇒ Editors: some treatments have been affected by 2009 acts. I believe the revising atty can merge the following:

9
2007 - 2008 LEGISLATURE

Soon

in 1/13

- 4/109/P1
LRB: [unclear]
ARG:kjf:rs

RMNR

D-Note

ASSEMBLY SUBSTITUTE AMENDMENT 1

~~2007~~ ⁹ ASSEMBLY BILL ~~228~~

165.755 (1) (b), 302.46 (1) (a), 757.05 (1) (a) → affected by '09 Acts 12, 28, 100

345.47 (1) (b), 800.09 (1) (c), 800.095 (4) (b) 4. → affected by '09 Act 17

~~February 19, 2008 - Offered by Representative ZEPNICK.~~

pwf

Sec affid ✓

Regen

1 AN ACT to amend 165.755 (1) (b), 302.46 (1) (a), 341.08 (4m), 341.10 (7m), 345.20
2 (1) (b), 345.20 (2) (d), 345.26 (1) (a), 345.28 (title), 345.28 (2) (a) and (b), 345.28
3 (3), 345.28 (4) (a) 1., 345.28 (4) (e) 1., 345.28 (4) (i), 345.28 (5) (a), 345.28 (5) (b)
4 2. (intro.) and a., 345.28 (5) (c) 1. and 2., 345.28 (7), 345.30, 345.31, 345.315 (1),
5 345.36 (3), 345.37 (1) (b), 345.47 (1) (b), 752.31 (2) (c), 757.05 (1) (a), 778.103,
6 785.05, 800.09 (1) (c), 800.095 (4) (b) 4. and 938.17 (1) (intro.); and to create
7 345.28 (1) (d) and 349.107 of the statutes; relating to: the use of traffic control
8 photographic systems to monitor intersections, imposing liability on the
9 owners of vehicles involved in traffic control signal violations, and providing a
10 penalty.

city, village, or town

Analysis by the Legislative Reference Bureau

* Under current law, the governing body of a municipality may not enact a traffic ordinance unless the ordinance strictly conforms to current state traffic law or the ordinance is expressly authorized by law. State law imposes liability on the owner

of a vehicle that is observed violating certain laws or local ordinances, including laws or local ordinances that prohibit fleeing a traffic officer, failing to yield the right-of-way to an emergency vehicle or funeral procession, passing a fire truck or school bus, and parking in a parking space designated for vehicles with special registration plates.

This ~~substitute amendment~~ authorizes the governing body of a county, ~~city,~~ ^{or municipality} village, or town to enact an ordinance that permits the use of a traffic control photographic system (TCPS) on highways under the jurisdiction of the county, ~~city,~~ ^{or municipality} village, or town to detect and identify motor vehicles that fail to stop at red traffic signals at intersections and to wait for a green signal (red light violations). A TCPS is defined as an electronic system that consists of a photographic, video, or electronic camera and a vehicle sensor that work in conjunction with a traffic control signal to automatically produce photographs, stamped with the time and date, of motor vehicles traveling through an intersection. With exceptions, the vehicle owner is subject to a forfeiture for the red light violation detected by a TCPS, but if the vehicle owner successfully asserts certain defenses, the lessee or operator of the vehicle is subject to a forfeiture for the violation. The ~~substitute amendment~~ requires the ordinance to include a provision that allows a traffic officer employed by the county, ~~city, village, or town~~ to issue a citation to the owner of a vehicle for a red light violation that is detected by a TCPS or, in limited circumstances, to the operator of such a vehicle. The ordinance must require the local authority to ~~send~~ ^{provide} to the owner, or in limited circumstances the lessee or operator, of the vehicle, by ^{personal service} certified mail, the traffic citation and a duplicate of the photograph, video, or digital image of the vehicle failing to stop at a red traffic signal. The ordinance also must require that any photograph or other image produced by the TCPS be focused on the rear license plate of the vehicles moving through an intersection. The governing body of a county, ~~city, village, or town~~ that uses a TCPS is required to ~~erect signs at a sufficient distance from an intersection monitored by a TCPS to warn motor vehicle operators that the intersection is monitored by a TCPS.~~ ^{insert ANAL}

If an owner is issued a traffic citation for a violation of the local ordinance, it is not a defense that the owner was not in control of the vehicle at the time of the violation, except that the owner may assert the following defenses:

1. The vehicle was reported stolen before the violation occurred or within ~~an~~ ^{five business days} reasonable time after the violation occurred.
2. If the vehicle is owned by, and registered in the name of, a lessor, a lessee who is identified by the lessor had possession of the vehicle at the time of the traffic signal violation. The lessee may be issued a citation for the red light violation.
3. If the vehicle is owned by a motor vehicle dealer, the vehicle was being operated by another person on a trial run and the dealer provided a traffic officer with the person's name, address, and operator's license number. The vehicle operator may be issued a citation for the red light violation.
4. Any other defense established by the county, ~~city, village, or town~~ ^{municipality} that is specified in the ordinance.

Except for the service requirements described above, the procedure applicable to citations for red light violations detected by a TCPS is the same as that applicable

Bill
Municipality

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Municipality

*
Municipality

insert ANAL

five business days

personal service

or municipality

to citations for nonmoving traffic violations (parking tickets), including potential vehicle registration suspension for unpaid citations. A person convicted of a red light violation detected by a TCPS is subject to a forfeiture of not more than \$50 but is not subject to additional surcharges, costs, or fees. The person's operating privilege may not be suspended or revoked and the person may not be assessed any demerit points on his or her driving record.

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) (a), (am) 1., (ar),
4 (bm), (br), or (bv) or (5) (b), for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1.,
5 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood
6 alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation,
7 or for a violation of a state law or municipal or county ordinance involving a
8 nonmoving traffic violation, a violation of an ordinance enacted under s. 349.107, a
9 violation under s. 343.51 (1m) (b), or a safety belt use violation under s. 347.48 (2m).

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

11 302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law
12 or for a violation of a municipal or county ordinance except for a violation of s. 101.123
13 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), or for a first violation of s. 23.33 (4c) (a)
14 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the
15 violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the
16 time of the violation, or for a violation of state laws or municipal or county ordinances
17 involving nonmoving traffic violations, a violation of an ordinance enacted under s.
18 349.107, violations under s. 343.51 (1m) (b), or safety belt use violations under s.

1 347.48 (2m), the court, in addition, shall impose a jail surcharge under ch. 814 in an
2 amount of 1 percent of the fine or forfeiture imposed or \$10, whichever is greater.
3 If multiple offenses are involved, the court shall determine the jail surcharge on the
4 basis of each fine or forfeiture. If a fine or forfeiture is suspended in whole or in part,
5 the court shall reduce the jail surcharge in proportion to the suspension.

6 **SECTION 3.** 341.08 (4m) of the statutes is amended to read:

7 341.08 (4m) At least 30 days prior to the expiration of a vehicle's registration,
8 the department shall mail to the last-known address of the registrant a notice of the
9 date upon which the registration must be renewed and an application form for
10 renewal of registration. The application form or an accompanying document shall
11 include a list of any unpaid citations for nonmoving traffic violations or violations of
12 ordinances enacted under s. 349.107 or any judgments for violation of ch. 110, 194,
13 or 341 to 350, an administrative rule of the department, or an ordinance enacted in
14 accordance with s. 349.06, including parking violations and violations of ordinances
15 enacted under s. 349.107, and of any unpaid towing and storage charges associated
16 with nonmoving traffic violations entered against the registrant that remain unpaid.
17 The list of unpaid citations for nonmoving traffic violations and violations of
18 ordinances enacted under s. 349.107, and of unpaid towing and storage charges
19 associated with nonmoving traffic violations, shall be based on information obtained
20 under s. 345.28 (4). The list of unpaid judgments shall be based on information
21 obtained under s. 345.47 (1) (d). If there is a citation for any nonmoving traffic
22 violation or violation of an ordinance enacted under s. 349.107 entered against the
23 registrant that is unpaid, he or she shall be notified that the vehicle may not be
24 registered until the citation is paid or the registrant appears in court to respond to
25 the citation. If there are any towing and storage charges entered against the

1 registrant that are unpaid, he or she shall be notified that the vehicle may not be
2 registered until such towing and storage charges are paid. If there is a judgment
3 entered against the registrant which is unpaid, he or she shall be notified that the
4 vehicle may not be registered until the judgment is paid.

5 **SECTION 4.** 341.10 (7m) of the statutes is amended to read:

6 341.10 (7m) An authority has notified the department under s. 345.28 (4) that
7 a citation for a nonmoving traffic violation or violation of an ordinance enacted under
8 s. 349.107 has been issued against the applicant and the applicant has not paid the
9 citation or appeared in court to respond to the citation or that the applicant has not
10 paid towing and storage charges associated with a citation for a nonmoving traffic
11 violation issued against the applicant.

12 **SECTION 5.** 345.20 (1) (b) of the statutes is amended to read:

13 345.20 (1) (b) “Traffic regulation” means a provision of chs. 194 or 341 to 349
14 for which the penalty for violation is a forfeiture or an ordinance enacted in
15 accordance with s. 349.06. Except as otherwise specifically provided, “traffic
16 regulation” does not include a nonmoving traffic violation as defined in s. 345.28 (1)
17 or a violation of an ordinance enacted under s. 349.107.

18 **SECTION 6.** 345.20 (2) (d) of the statutes is amended to read:

19 345.20 (2) (d) ~~A nonmoving~~ Nonmoving traffic violation ~~is violations and~~
20 violations of ordinances enacted under s. 349.107 are governed by s. 345.28. The trial
21 of forfeiture actions for nonmoving traffic violations and violations of ordinances
22 enacted under s. 349.107 is governed by ss. 345.28 and 345.34 to 345.47. Where no
23 specific procedure is provided in ss. 345.28 or 345.34 to 345.47, ch. 799 applies to
24 actions in circuit court and ch. 800 applies to actions in municipal court.

25 **SECTION 7.** 345.26 (1) (a) of the statutes is amended to read:

1 345.26 (1) (a) A person arrested under s. 345.22 ~~or 345.28 (5)~~ for the violation
2 of a traffic regulation, or under s. 345.28 (5) for a nonmoving traffic violation or
3 violation of an ordinance enacted under s. 349.107, who is allowed to make a deposit
4 under s. 345.23 (2) (a) or 345.28 (5) shall deposit the money as the arresting officer
5 directs by either mailing the deposit at a nearby mailbox to the office of the sheriff,
6 headquarters of the county traffic patrol, district headquarters or station of the state
7 traffic patrol, city, village or town police headquarters or a precinct station, the office
8 of the municipal judge, the office of the clerk of court, or by going, in the custody of
9 the arresting officer, to any of those places to make the deposit.

10 **SECTION 8.** 345.28 (title) of the statutes is amended to read:

11 **345.28 (title) Nonmoving violations and certain red light violations.**

12 **SECTION 9.** 345.28 (1) (d) of the statutes is created to read:

13 345.28 (1) (d) “Red light violation” means a violation of an ordinance enacted
14 under s. 349.107.

15 **SECTION 10.** 345.28 (2) (a) and (b) of the statutes are amended to read:

16 345.28 (2) (a) A person charged with a nonmoving traffic violation or red light
17 violation may mail the amount of the forfeiture to any of the places specified in s.
18 345.26 (1) or to a violations bureau, or to the city, town or county clerk or treasurer
19 if the traffic citation so provides. In that case, the citation shall not be filed with or
20 transmitted to court.

21 (b) If the person appears in response to a citation for a nonmoving traffic
22 violation or red light violation, the procedures under ss. 345.34 to 345.47 apply,
23 except as provided in par. (c).

24 **SECTION 11.** 345.28 (3) of the statutes is amended to read:

1 345.28 (3) (a) If the person does not pay the forfeiture or appear in court in
 2 response to the citation for a nonmoving traffic violation [✓] or red light violation on the
 3 date specified in the citation or, if no date is specified in the citation, within 28 days
 4 after the citation is issued, the authority that issued the citation may issue a
 5 summons under s. 968.04 (3) (b) to the person and, in lieu of or in addition to issuing
 6 the summons, may proceed under sub. (4) or (5) but, except as provided in this
 7 section, no warrant may be issued for the person. If the person does not pay towing
 8 and storage charges associated with a citation for a nonmoving traffic violation, the
 9 authority that issued the citation may proceed under sub. (4).

10 (b) If the person appears in response to a summons for a nonmoving traffic
 11 violation [✓] or red light violation, the procedures under ss. 345.34 to 345.47 apply.

12 **SECTION 12.** 345.28 (4) (a) 1. of the statutes is amended to read:

13 345.28 (4) (a) 1. If the person does not pay the forfeiture or appear in court in
 14 response to the citation for a nonmoving traffic violation [✓] or red light violation on the
 15 date specified in the citation or, if no date is specified in the citation, within 28 days
 16 after the citation is issued, the authority may notify the department in the form and
 17 manner prescribed by the department that a citation has been issued to the person
 18 and the citation remains unpaid.

19 ~~**SECTION 13.** 345.28 (4) (e) 1. of the statutes is amended to read:~~

20 ~~345.28 (4) (e) 1. If the person subsequently pays the amount of the forfeiture~~
 21 ~~and the costs, if any, under par. (d) or appears in court in response to the citation or~~
 22 ~~a notice by the authority who issued the citation or the department, the department~~
 23 ~~shall be immediately notified in the form and manner prescribed by the department.~~
 24 ~~If the vehicle involved in the a nonmoving traffic violation is owned by a person~~
 25 ~~engaged in the business of renting or leasing motor vehicles and the owner pays the~~

Insert
7-20 →

1 costs, if any, under par. (d) and 50% 50 percent of the forfeiture, the authority shall
2 immediately notify the department in the form and manner prescribed by the
3 department.

4 **SECTION 14.** 345.28 (4) (i) of the statutes is amended to read:

5 345.28 (4) (i) Notwithstanding any other provision of this subsection or ss.
6 341.10 (7m) and 341.63 (1) (c), the department may permit an authority to send a
7 single notice to the department under par. (a) 1. with respect to 2 or more nonmoving
8 traffic violation citations, or 2 or more red light violation citations, that have been
9 issued to a person and remain unpaid and, if an authority sends a notice specified
10 in this paragraph to the department, the authority and department shall treat any
11 such notice for purposes of any other provision of this section or ss. 341.10 (7m) and
12 341.63 (1) (c) in the same manner as a notice to the department under par. (a) 1. with
13 respect to a single citation.

14 **SECTION 15.** 345.28 (5) (a) of the statutes is amended to read:

15 345.28 (5) (a) In lieu of the procedure under sub. (4), if the person does not pay
16 the forfeiture or appear in court in response to the citation for a nonmoving traffic
17 violation or red light violation on the date specified in the citation or, if no date is
18 specified in the citation, within 28 days after the citation was issued, the authority,
19 after sending 2 notices which meet the requirements under sub. (4) (c) 1., may issue
20 a warrant under par. (b) for the person.

21 **SECTION 16.** 345.28 (5) (b) 2. (intro.) and a. of the statutes are amended to read:

22 345.28 (5) (b) 2. (intro.) If an officer contacts a person for whom a warrant for
23 a nonmoving traffic violation or red light violation has been issued under subd. 1.:

24 a. The officer shall accept a deposit of money or a deposit of the person's valid
25 Wisconsin operator's license in lieu of serving the warrant and arresting the person.

1 If the license is deposited with the officer, the officer shall issue to the licensee a
2 receipt, on a form provided by the department, which is valid as an operator's license
3 through a date specified on the receipt, not to exceed 30 days from the date of contact,
4 which shall be the same as the court appearance date and the officer shall at the
5 earliest possible time prior to the court appearance date deposit the license with the
6 court. If a deposit of money is made, s. 345.26 (1) (a) and (2) to (5) applies. The officer
7 shall notify the person who deposits money or his or her license, in writing, of the
8 specific actions which the authority and the courts are authorized to take under this
9 section if the person fails to appear in court at the time specified by the officer, not
10 to exceed 30 days from the date of contact, or at any subsequent court appearance
11 for the nonmoving traffic violation citation or red light violation. If the person makes
12 a deposit of money or deposits his or her valid Wisconsin operator's license, the officer
13 shall return the warrant to the court or judge who issued the warrant and the court
14 or judge shall vacate the warrant.

15 **SECTION 17.** 345.28 (5) (c) 1. and 2. of the statutes are amended to read:

16 345.28 (5) (c) 1. If the person who was contacted under par. (b) 2. and who has
17 made a deposit of money fails to appear in court at the date specified by the officer
18 under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court
19 appearance for the nonmoving traffic violation or red light violation, the person shall
20 be deemed to have entered a plea of no contest. The court shall accept the plea of no
21 contest, find the defendant guilty and proceed under s. 345.47, except that the
22 deposit shall be forfeited and serve as payment of the judgment. The court shall give
23 notice of the entry of judgment to the defendant by mailing a copy of the judgment
24 to the defendant's last-known address.

1 2. If the person who was contacted under par. (b) 2. and who has deposited his
2 or her operator's license fails to appear in court at the date specified by the officer
3 under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court
4 appearance for the nonmoving traffic violation or red light violation, the person may
5 be deemed to have entered a plea of no contest. The court may accept the plea of no
6 contest, find the defendant guilty and, except as limited by sub. (6), proceed under
7 s. 345.47. If the court enters judgment under s. 345.47 (1), the court shall give notice
8 of the entry of judgment to the defendant by mailing a copy of the judgment to the
9 defendant's last-known address. The court shall also mail to the defendant's
10 last-known address a statement setting forth the actions the court may take under
11 s. 345.47 if the judgment is not paid. In lieu of accepting the plea of no contest, the
12 court may issue a warrant commanding that the person be arrested and brought
13 before the court. Unless the case is tried immediately with the person's consent, any
14 person who is arrested on a warrant issued under this subdivision may be released
15 on his or her own recognizance or on posting bond or may be released without bail
16 and shall be released if the person posts cash bail for his or her appearance. The court
17 may retain the person's license, but the person's operating privilege may not be
18 suspended until after judgment is entered under s. 345.47 and the judgment is not
19 paid.

20 **SECTION 18.** 345.28 (7) of the statutes is amended to read:

21 345.28 (7) Nothing in this section prevents a court from issuing a warrant
22 under s. 345.36 or 345.37 if the person appears in court in response to a citation for
23 a nonmoving traffic violation or red light violation or after notice by the authority
24 who issued the citation or the department under sub. (4) with respect to the citation
25 or on the date specified by the officer or the court under sub. (5) and then fails to

1 appear in court at any time fixed by subsequent postponement. Unless the case is
2 tried immediately with the person's consent, any person who is arrested on a warrant
3 issued under this subsection may be released on his or her own recognizance or on
4 posting bond or may be released without bail and shall be released if the person posts
5 cash bail for his or her appearance.

6 **SECTION 19.** 345.30 of the statutes is amended to read:

7 **345.30 Jurisdiction.** Jurisdiction over actions for violation of traffic
8 regulations ~~and, nonmoving traffic violations, and violations of ordinances enacted~~
9 under s. 349.107 is conferred upon circuit courts. Municipal courts shall have
10 jurisdiction over traffic regulations enacted in accordance with s. 349.06 ~~and,~~ over
11 actions for violations of nonmoving traffic ordinances enacted in accordance with s.
12 349.06 or 349.13, ~~and over actions for violations of ordinances enacted under s.~~
13 349.107.

14 **SECTION 20.** 345.31 of the statutes is amended to read:

15 **345.31 Venue in traffic regulation actions.** Section 971.19 on place of trial
16 in criminal actions applies to actions for the violation of traffic regulations ~~and,~~
17 ~~nonmoving traffic violations, and violations of ordinances enacted under s. 349.107~~
18 except that, in the case of a violation of an ordinance of a municipality which is
19 located in more than one county, the action may be brought in any court sitting in that
20 municipality even though in another county. As an alternative, the plaintiff may
21 bring the action in the county where the defendant resides.

22 **SECTION 21.** 345.315 (1) of the statutes is amended to read:

23 345.315 (1) In traffic regulation and nonmoving traffic violation cases, ~~and in~~
24 cases involving violations of ordinances enacted under s. 349.107, a person charged
25 with a violation may file a written request for a substitution of a different judge for

1 the judge originally assigned to the trial of that case. The written request shall be
2 filed not later than 7 days after the initial appearance in person or by an attorney.
3 If a new judge is assigned to the trial of a case and the defendant has not exercised
4 the right to substitute an assigned judge, a written request for the substitution of the
5 new judge may be filed within 10 days of the giving of actual notice or sending of the
6 notice of assignment to the defendant or the defendant's attorney. If the notification
7 occurs within 10 days of the date set for trial, the request shall be filed within 48
8 hours of the giving of actual notice or sending of the notice of assignment to the
9 defendant or the defendant's attorney. If the notification occurs within 48 hours of
10 the trial or if there has been no notification, the defendant may make an oral or
11 written request for substitution prior to the commencement of the proceedings. The
12 judge against whom a request has been filed may set initial bail and accept a plea.

13 **SECTION 22.** 345.36 (3) of the statutes is amended to read:

14 345.36 (3) If the offense involved is a nonmoving traffic violation or violation
15 of an ordinance enacted under s. 349.107 and the defendant is subject to s. 345.28
16 (5) (c), a default judgment may be entered and opened as provided in s. 345.28 (5) (c).

17 **SECTION 23.** 345.37 (1) (b) of the statutes is amended to read:

18 345.37 (1) (b) Deem the nonappearance a plea of no contest and enter judgment
19 accordingly. If the defendant has posted bond for appearance at that date, the court
20 may also order the bond forfeited. The court shall promptly mail a copy or notice of
21 the judgment to the defendant. The judgment shall allow not less than 20 days from
22 the date thereof for payment of any forfeiture, plus costs, fees, and surcharges
23 imposed under ch. 814. If the defendant moves to open the judgment within 6 months
24 after the court appearance date fixed in the citation, and shows to the satisfaction
25 of the court that the failure to appear was due to mistake, inadvertence, surprise, or

1 excusable neglect, the court shall open the judgment, accept a not guilty plea, and
2 set a trial date. The court may impose costs under s. 814.07. The court shall
3 immediately notify the department to delete the record of conviction based upon the
4 original judgment. If the offense involved is a nonmoving traffic violation or violation
5 of an ordinance enacted under s. 349.107 and the defendant is subject to s. 345.28
6 (5) (c), a default judgment may be entered and opened as provided in s. 345.28 (5) (c).

→ insert 13-7

7 **SECTION 24.** 345.47 (1) (b) of the statutes is amended to read:

8 345.47 (1) (b) In lieu of imprisonment and in addition to any other suspension
9 or revocation, that the defendant's operating privilege be suspended. The operating
10 privilege shall be suspended for 30 days or until the person pays the forfeiture, plus
11 costs, fees, and surcharges imposed under ch. 814, but not to exceed 2 years.
12 Suspension under this paragraph shall not affect the power of the court to suspend
13 or revoke under s. 343.30 or the power of the secretary to suspend or revoke the
14 operating privilege. This paragraph does not apply if the judgment was entered
15 solely for violation of an ordinance unrelated to the violator's operation of a motor
16 vehicle or of an ordinance enacted under s. 349.107.

17 **SECTION 25.** 349.107 of the statutes is created to read:

18 **349.107 Authority to use traffic control photographic systems. (1)** In
19 this section:

20 (a) In addition to the meaning given in s. 340.01 (42), "owner" means, with
21 respect to a vehicle that is registered, or that is required to be registered, by a lessee
22 of the vehicle under ch. 341, the lessee of the vehicle.

23 (b) "Traffic control photographic system" means an electronic system consisting
24 of a photographic, video, or electronic camera and a vehicle sensor installed for use
25 with an official traffic control signal to automatically produce photographs or video

1 or digital images, stamped with the time and date, of vehicles moving through an
2 intersection.

or municipality

3 (2) Subject to sub. (3), the governing body of any county city, village, or town
4 may enact an ordinance that does all of the following:

5 (a) Except as provided in sub. (3) (c), subjects a person to a forfeiture for being
6 the owner of a motor vehicle that, when facing a traffic control signal at an
7 intersection that exhibits a red light other than a flashing red light, does any of the
8 following:

- 9 1. Proceeds through the intersection without stopping.
- 10 2. After stopping at the intersection, proceeds through the intersection before
- 11 the traffic control signal exhibits a green light if the vehicle is not making a right
- 12 turn.

13 (b) Allows the use of a traffic control photographic system on highways under
14 the jurisdiction of the county city, village, or town, including connecting highways,
15 for the purpose of detecting violations described in par. (a).

16 (c) Subjects a person to a forfeiture for being the lessee or operator of a motor
17 vehicle the owner of which would be subject to a forfeiture under this section but for
18 the owner's successful assertion of a defense under sub. (3) (d) 2. or 3.

19 (3) An ordinance enacted under sub. (2) shall include all of the following:

*Insert
14-20*

~~(a) A requirement that an official traffic sign be placed at a sufficient distance
21 from an intersection monitored by a traffic control photographic system to provide
22 motor vehicle operators adequate notice that the intersection is monitored by a
23 traffic control photographic system.~~

24 (b) A requirement that, if a traffic officer employed by the governing body of the
25 county city, village, or town prepares a citation for a violation of an ordinance enacted

or municipality

1 under this section, the traffic officer shall serve the owner of the vehicle with the
2 citation by ^{personal service or by} mailing the citation by certified mail addressed to the owner's last-known
3 address ^{within 5 business days} ~~within 48 hours~~ after the violation. If the citation may be issued under par.
4 (d) to the lessee or operator of the vehicle, the traffic officer shall serve the lessee or
5 operator with the citation, in the same manner required for service on the vehicle
6 owner, within ^{5 business days} ~~48 hours~~ of determining that the vehicle owner is likely to successfully
7 assert a defense under par. (d). A traffic officer shall send with the citation a
8 duplicate of the photograph, video, or digital image, taken by the traffic control
9 photographic system, of the vehicle involved in the violation.

10 (c) A requirement that the procedure specified in s. 345.28 applies to any
11 citation for a violation of an ordinance enacted under this section.

12 (d) A provision that it is not a defense to a violation of the ordinance that the
13 owner was not in control of the vehicle at the time of the violation, except that all of
14 the following are defenses to a violation of an ordinance enacted under this section:

15 1. That a report that the vehicle was stolen was made by the owner to a law
16 enforcement agency before the violation occurred or within ^{5 business days} ~~a reasonable time~~ after
17 the violation occurred.

18 2. That the vehicle is owned by a lessor of vehicles and is registered in the name
19 of the lessor, that at the time of the violation the vehicle was in the possession of a
20 lessee, and that the lessor provided a traffic officer with the information required
21 under s. 343.46 (3). In that case, the lessee may be issued a citation and charged with
22 a violation of the ordinance enacted under this section.

23 3. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
24 including the persons specified in s. 340.01 (11) (a) to (d), at the time of the violation
25 the vehicle was being operated by a person on a trial run, and the dealer provided

1 a traffic officer with the name, address, and operator's license number of the person
2 operating the vehicle. In that case, the person operating the vehicle may be issued
3 a citation and charged with a violation of the ordinance enacted under this section.

4 4. Any other defense specified in the ordinance.

5 (e) A provision that permits a court to impose a forfeiture of not more than \$50
6 for a violation of an ordinance enacted under this section.

7 (f) A requirement that any photograph or video or digital image produced by
8 the traffic control photographic system be taken from a direction to the rear of the
9 vehicles moving through an intersection and be focused on the rear registration plate
10 of such vehicles.

11 (4) Imposition of liability for a violation of an ordinance enacted under this
12 section shall not result in the suspension or revocation of a person's operating license
13 under s. 343.30, nor shall it result in demerit points being recorded on a person's
14 driving record under s. 343.32 (2) (a).

15 (5) Nothing in this section prohibits the issuance of a citation to the operator
16 of a motor vehicle for a violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in
17 conformity with s. 346.37 (1) (c) 1. or 3., but a person may not be subject to a forfeiture
18 for a violation of an ordinance enacted under this section and a violation of s. 346.37
19 (1) (c) 1. or 3. or a local ordinance in conformity with s. 346.37 (1) (c) 1. or 3. arising
20 from the same incident or occurrence.

21 **SECTION 26.** 752.31 (2) (c) of the statutes is amended to read:

22 752.31 (2) (c) Cases involving violations of traffic regulations, as defined in s.
23 345.20 (1) (b), or nonmoving traffic violations, as defined in s. 345.28 (1), or violations
24 of ordinances enacted under s. 349.107, and cases under s. 343.305 and ch. 351.

25 **SECTION 27.** 757.05 (1) (a) of the statutes is amended to read:

1 757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of
2 state law or for a violation of a municipal or county ordinance except for a violation
3 of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), or for a first violation of s.
4 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who
5 committed the violation had a blood alcohol concentration of 0.08 or more but less
6 than 0.1 at the time of the violation, or for a violation of state laws or municipal or
7 county ordinances involving nonmoving traffic violations, a violation of an ordinance
8 enacted under s. 349.107, violations under s. 343.51 (1m) (b), or safety belt use
9 violations under s. 347.48 (2m), there shall be imposed in addition a penalty
10 surcharge under ch. 814 in an amount of 26 percent of the fine or forfeiture imposed.
11 If multiple offenses are involved, the penalty surcharge shall be based upon the total
12 fine or forfeiture for all offenses. When a fine or forfeiture is suspended in whole or
13 in part, the penalty surcharge shall be reduced in proportion to the suspension.

14 **SECTION 28.** 778.103 of the statutes is amended to read:

15 **778.103 Traffic regulation forfeitures; how recovered.** Where there is a
16 conflict with this chapter, the procedure in ch. 345 shall be followed in actions to
17 recover forfeitures for the violation of traffic regulations as defined in s. 345.20, and
18 the procedures in ss. 345.28 and 345.34 to 345.47 shall be followed in actions to
19 recover forfeitures for nonmoving traffic violations as defined in s. 345.28 (1) and
20 violations of ordinances enacted under s. 349.107.

21 **SECTION 29.** 785.05 of the statutes is amended to read:

22 **785.05 Limitation on imprisonment.** In any case in which the contempt of
23 court is based upon interference with visitation rights granted under s. 48.925 (1),
24 or upon failure to respond to a citation, summons or warrant under s. 345.28 or any
25 other failure to pay or to appear in court for a nonmoving traffic violation or violation

1 of an ordinance enacted under s. 349.107, the court may not impose imprisonment
2 as a sanction under this chapter.

3 *insert 18-3*
SECTION 30. 800.09 (1) (c) of the statutes is amended to read:

4 800.09 (1) (c) The court may suspend the defendant's operating privilege, as
5 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments
6 and costs are paid, if the defendant has not done so within 60 days after the date the
7 restitution or payments or both are to be made under par. (a) and has not notified the
8 court that he or she is unable to comply with the judgment, as provided under s.
9 800.095 (4) (a), except that the suspension period may not exceed 2 years. The court
10 shall take possession of the suspended license and shall forward the license, along
11 with a notice of the suspension clearly stating that the suspension is for failure to
12 comply with a judgment of the court, to the department of transportation. This
13 paragraph does not apply if the forfeiture is assessed for violation of an ordinance
14 that is unrelated to the violator's operation of a motor vehicle or of an ordinance
15 enacted under s. 349.107.

16 SECTION 31. 800.095 (4) (b) 4. of the statutes is amended to read:

17 800.095 (4) (b) 4. That the defendant's operating privilege, as defined in s.
18 340.01 (40), be suspended until the judgment is complied with, except that the
19 suspension period may not exceed 2 years. This subdivision does not apply if the
20 forfeiture is assessed for violation of an ordinance that is unrelated to the violator's
21 operation of a motor vehicle or of an ordinance enacted under s. 349.107.

22 SECTION 32. 938.17 (1) (intro.) of the statutes is amended to read:

23 938.17 (1) TRAFFIC, BOATING, SNOWMOBILE AND ALL-TERRAIN VEHICLE VIOLATIONS.
24 (intro.) Except for violations of ss. 342.06 (2) and 344.48 (1), and violations of ss.
25 30.67 (1) and 346.67 (1) when death or injury occurs, courts of criminal and civil

1 jurisdiction have exclusive jurisdiction in proceedings against juveniles 16 years of
2 age or older for violations of s. 23.33, of ss. 30.50 to 30.80, of chs. 341 to 351, and of
3 traffic regulations, as defined in s. 345.20, and nonmoving traffic violations, as
4 defined in s. 345.28 (1), and violations of ordinances enacted under s. 349.107. A
5 juvenile charged with a traffic, boating, snowmobile, or all-terrain vehicle offense
6 in a court of criminal or civil jurisdiction shall be treated as an adult before the trial
7 of the proceeding except that the juvenile may be held in secure custody only in a
8 juvenile detention facility. A juvenile convicted of a traffic, boating, snowmobile, or
9 all-terrain vehicle offense in a court of criminal or civil jurisdiction shall be treated
10 as an adult for sentencing purposes except as follows:

11

(END)

A handwritten note "J-note" is circled in black ink.

1

2 **INSERT ANAL:**

(nc #) place signs near the limits of the county or municipality on all county trunk highways and connecting highways under its jurisdiction informing motorists that intersections in the county or municipality may be monitored by traffic control photographic systems.

3

4 **INSERT 7-20:**

5 **SECTION 1.** 345.28 (4) (e) 1. of the statutes is amended to read:

6 345.28 (4) (e) 1. If the person subsequently pays the amount of the forfeiture
7 and the costs, if any, under par. (d) or appears in court in response to the citation or
8 a notice by the authority who issued the citation or the department, the department
9 shall be immediately notified in the form and manner prescribed by the department.
10 If the vehicle involved in ~~the~~ a nonmoving traffic violation is owned by a person
11 engaged in the business of renting or leasing motor vehicles and the owner pays the
12 costs, if any, under par. (d) and the forfeiture or, if applicable, the amount required
13 under sub. (5w) (b), the authority shall immediately notify the department in the
14 form and manner prescribed by the department.

History: 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201; 2007 a. 207.

15

16 **INSERT 14-20:**

17 (a) A requirement that official traffic signs be placed at or reasonably near the
18 corporate limits of the county or municipality on all county trunk highways and
19 connecting highways under the jurisdiction of the county or municipality informing

1 motorists that intersections in the county or municipality may be monitored by
2 traffic control photographic systems.

3

4

5

6

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4109/P1dn

ARG:...

gf

Date

ATTN: Geoff Gaston

Please review the attached draft carefully to ensure that it is consistent with your intent.

To make some of the wording (including in the requested changes) less awkward, I have substituted "municipality" for "city, village, or town" in the attached draft. "Municipality" is a defined term in ch. 349 that means "city, village or town," see s. 340.01 (36m), so this change has no substantive effect.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4109/?inskjf
.....

INSERT 13-7

1 **SECTION 1.** 345.47 (1) (b) of the statutes, as affected by 2009 Wisconsin Act 17,
2 is amended to read:

3 345.47 (1) (b) In lieu of imprisonment and in addition to any other suspension
4 or revocation, that the defendant's operating privilege be suspended. The operating
5 privilege shall be suspended for 30 days or until the person pays the forfeiture, plus
6 costs, fees, and surcharges imposed under ch. 814, but not to exceed 2 years. If the
7 defendant has notified the court that he or she is unable to pay the judgment because
8 of poverty, and if the court, using the criteria in s. 814.29 (1) (d), determines that the
9 defendant is unable to pay the judgment because of poverty, the court may not
10 suspend the defendant's operating privilege without first providing the defendant
11 with an opportunity to pay the judgment in installments, taking into account the
12 defendant's income. Suspension under this paragraph shall not affect the power of
13 the court to suspend or revoke under s. 343.30 or the power of the secretary to
14 suspend or revoke the operating privilege. This paragraph does not apply if the
15 judgment was entered solely for violation of an ordinance unrelated to the violator's
16 operation of a motor vehicle or of an ordinance enacted under s. 349.107.

History: 1971 c. 278; 1973 c. 218; 1977 c. 29 ss. 1477 to 1482, 1654 (7) (c); 1979 c. 34; 1981 c. 165; 1987 a. 27, 389; 1989 a. 31, 107; 1991 a. 34, 39, 189; 1993 a. 16; 1995 a. 269; 1997 a. 27, 84, 135, 237, 252; 1999 a. 9, 32, 185; 2001 a. 16; 2003 a. 139; 2007 a. 20; 2009 a. 17, 100.

INSERT 18-3

18 **SECTION 2.** 800.09 (1) (c) of the statutes, as affected by 2009 Wisconsin Act 17,
19 is amended to read:

20 800.09 (1) (c) The court may suspend the defendant's operating privilege, as
21 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments
22 and costs are paid, if the defendant has not done so within 60 days after the date the

1 restitution or payments or both are to be made under par. (a), except that the
 2 suspension period may not exceed 2 years. If the court, using the criteria in s. 814.29
 3 (1) (d), determines that the defendant is unable to pay the judgment because of his
 4 or her poverty, as that term is used in s. 814.29 (1) (d), the court may not order the
 5 suspension of the defendant's operating privilege, except as provided in s. 800.095.
 6 The court shall take possession of the suspended license and shall forward the
 7 license, along with a notice of the suspension clearly stating that the suspension is
 8 for failure to comply with a judgment of the court, to the department of
 9 transportation. This paragraph does not apply if the forfeiture is assessed for
 10 violation of an ordinance that is unrelated to the violator's operation of a motor
 11 vehicle or of an ordinance enacted under s. 349.107.

History: 1977 c. 305; 1979 c. 32 s. 68; Stats. 1979 s. 800.09; 1981 c. 317; 1985 a. 179; 1987 a. 27, 389; 1987 a. 399 s. 494u; 1989 a. 107; 1991 a. 39, 40, 189; 1993 a. 16; 1997 a. 27, 84; 1999 a. 9, 185; 2001 a. 16; 2003 a. 139; 2009 a. 17.

12 **SECTION 3.** 800.095 (4) (b) 4. of the statutes, as affected by 2009 Wisconsin Act
 13 17, is amended to read:

14 800.095 (4) (b) 4. Except as provided under s. 800.09 (3), that the defendant's
 15 operating privilege, as defined in s. 340.01 (40), be suspended until the judgment is
 16 complied with, except that the suspension period may not exceed 2 years. This
 17 subdivision does not apply if the forfeiture is assessed for violation of an ordinance
 18 that is unrelated to the violator's operation of a motor vehicle or of an ordinance
 19 enacted under s. 349.107.

History: 1987 a. 389; 1987 a. 399 s. 494u; 1989 a. 31; 1991 a. 40; 1995 a. 27; 1997 a. 84, 250; 1999 a. 9 ss. 3083m, 3263; 1999 a. 185; 2005 a. 192; 2009 a. 17.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4109/P1dn
ARG:kjf.rs

January 15, 2010

ATTN: Geoff Gaston

Please review the attached draft carefully to ensure that it is consistent with your intent.

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FROM THE
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Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

Gary, Aaron

From: Gaston, Geoff
Sent: Tuesday, February 02, 2010 2:44 PM
To: Gary, Aaron
Subject: Rep. Steinbrink requests

Good afternoon, can Rep. Steinbrink get [REDACTED] with

Also, can he have LRB 4109/P1 (red light cameras) converted for jacketing?

Thanks Aaron

Geoff
Rep. Steinbrink's office