

2013 DRAFTING REQUEST

Bill

Received: **10/22/2013** Received By: **agary**
Wanted: **As time permits** Same as LRB:
For: **Garey Bies (608) 266-5350** By/Representing: **Cory Bruce**
May Contact: Drafter: **agary**
Subject: **Fin. Inst. - UCC** Addl. Drafters:
Fin. Inst. - WCA
Transportation - other Extra Copies:

Submit via email: **YES**
Requester's email: **Rep.Bies@legis.wisconsin.gov**
Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Return of personal property in repossessed motor vehicle

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 11/11/2013			_____			
/P1	agary 12/6/2013	jdye 11/25/2013	rschluet 11/25/2013	_____	sbasford 11/25/2013		Crime
/1		jdye 12/6/2013	rschluet 12/6/2013	_____	lparisi 12/6/2013	mbarman 12/17/2013	Crime

FE Sent For:

*at vtr
1/23/14*

<END>

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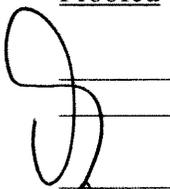
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/?	agary 11/11/2013	1/12 6 jld	jd				
/P1		jdyer 11/25/2013	rschluet 11/25/2013		sbasford 11/25/2013		Crime

FE Sent For:

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1/?	agary	P1 11/25 jld	jd				

FE Sent For:

<END>

Gary, Aaron

From: Bruce, Cory
Sent: Tuesday, October 22, 2013 9:30 AM
To: Gary, Aaron
Subject: Bill Draft Request - personal items in a repossessed car

Aaron,

I'm not sure who the correct drafter would be for this, so let me know if I should send it to someone else. I'm also not sure what our current laws are on repossessing cars, so some of this request may not be possible.

We'd like to have a bill drafted related to personal items in a car that's been repossessed. Here's what Garey would like to see in the draft...

- When they come to take the car they must take an inventory of all personal items not belonging to the vehicle
- The items must be given to the owner at time of possession or returned to owner within 24 hours
- The company taking the car is responsible for the condition of the items and their safe return
- If not returned to owner within 24 hours it will be considered theft

Let me know if you have any questions.

Thanks,
Cory



in
11/11



Mon
(Cmch)

JLD
D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

✓ Gen

1 AN ACT ...; relating to: personal property within repossessed motor vehicles and
2 providing a penalty. ✓

Analysis by the Legislative Reference Bureau

Current law adopts the Uniform Commercial Code (UCC) Article 9. Secured Transactions, which governs transactions that involve the granting of credit secured by personal property of a debtor. The creditor's interest is called a "security interest." UCC Article 9 regulates the creation and enforcement of security interests in movable property but not in real property. Under UCC Article 9, if a debtor defaults, the creditor may take possession of (repossess) the property (collateral) if the creditor proceeds through judicial process or without breach of the peace. The creditor may then sell the repossessed collateral to satisfy the debt.

Under current law, a consumer credit transaction that is entered into for personal, family, or household purposes is generally subject to the Wisconsin Consumer Act (WCA). A consumer credit transaction, which includes consumer loans and consumer credit sales, means in part a transaction between a merchant and a customer in which money or personal property is acquired on credit. A merchant is defined to include a creditor or a seller of personal property on credit. Like the UCC, the WCA includes provisions relating to enforcement of a merchant's security interest in collateral resulting from a consumer credit transaction, including provisions specifically applicable when the collateral is a motor vehicle. Under the WCA, a merchant may repossess collateral that is a motor vehicle if certain requirements are met, including giving notice to the debtor and law enforcement, the elapse of at least 15 days since both the debtor's default and the merchant's notice to the debtor, and repossession without breach of the peace.

=m

*

This bill creates additional requirements under the WCA related to repossession of a motor vehicle. Under the bill, at the time a motor vehicle is repossessed, the person who repossesses the motor vehicle must make a written inventory of all personal property within the motor vehicle. No later than 24 hours after the repossession, the merchant or a person acting on behalf of the merchant (merchant) must deliver to the debtor from whom the motor vehicle was repossessed all personal property identified in this written inventory. The merchant may not impose a fee on the debtor for delivery of this personal property. The merchant is also responsible for safeguarding this personal property from the time of repossession to the time it is delivered to the debtor and must deliver the personal property in as good of a condition as it was in at the time the motor vehicle was repossessed. If a merchant intentionally fails to deliver the debtor's personal property within 24 hours after the motor vehicle was repossessed, the merchant is subject to the penalty for a Class A misdemeanor, which is a fine not exceeding \$10,000 or imprisonment not exceeding nine months or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 425.206 (2) (c) of the statutes is created to read:

2 425.206 (2) (c) For motor vehicle collateral or goods subject to a motor vehicle
3 consumer lease, fail to comply with s. 425.2065 (4).

4 **SECTION 2.** 425.2065 (title) of the statutes is amended to read:

5 **425.2065 (title) Notice to law enforcement; personal property in**
6 **vehicle.**

7 History: 2005 a. 255; 2011 a. 32.

8 **SECTION 3.** 425.2065 (1) of the statutes is renumbered 425.2065 (1) (intro.) and
amended to read:

9 425.2065 (1) (intro.) In this section, "law:"

10 (a) "Law enforcement agency" means the police department, combined
11 protective services department under s. 60.553, 61.66, or 62.13 (2e), or sheriff, that

1 has primary responsibility for providing police protection services in the city, village,
2 or town in which a repossession is expected to occur.

3 History: 2005 a. 255; 2011 a. 32.

SECTION 4. 425.2065 (1) (b) [✓] of the statutes is created to read:

4 425.2065 (1) (b) “Personal property” [✓] means all property within a vehicle which
5 is not mounted, attached, or affixed to the vehicle.

6 **SECTION 5.** 425.2065 (3) of the statutes is amended to read:

7 425.2065 (3) Failure to comply with ~~this subsection~~ sub. (2) [✓] does not constitute
8 a failure to comply with s. 425.206 (1) (d). [✓]

9 History: 2005 a. 255; 2011 a. 32.

SECTION 6. 425.2065 (4) [✓] of the statutes is created to read:

10 425.2065 (4) (a) At the time a motor vehicle is repossessed under sub. (2), [✓] the
11 person who repossesses the motor vehicle shall make a written inventory of all
12 personal property within the motor vehicle.

13 (b) 1. No later than 24 hours after a motor vehicle is repossessed under sub. [✓](2),
14 the merchant, or a person acting on behalf of the merchant, shall deliver to the
15 customer from whom the motor vehicle was repossessed all personal property
16 identified in the written inventory under par. (a). [✓]

17 2. No fee may be imposed on the customer for delivery of this personal property.

18 (c) From the time a motor vehicle is repossessed under sub. (2) [✓] until personal
19 property within the repossessed motor vehicle is delivered to the customer under par.

20 (b) 1., [✓] the merchant is responsible for safeguarding the personal property. The
21 merchant, or a person acting on behalf of the merchant, shall deliver the personal
22 property to the customer, as provided in par. (b) 1., [✓] in as good of a condition as it was
23 in at the time the motor vehicle was repossessed.

24 **SECTION 7.** 425.401 (3) [✓] of the statutes is created to read:

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3489/P1dn

ARG:.....

date

JG

ATTN: Cory Bruce

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

In this draft, I have defined personal property in the same way it is defined for purposes of property left in a vehicle after it is towed. See s. 349.13 (5) (b) 1.

The crime of theft is specified in s. 943.20 and requires an intent to permanently deprive another of his or her property. Rather than amending the theft statute, I have created a penalty in s. 425.401 (3) for failure to deliver a debtor's property after repossession that is the same as the penalty for theft of property valued at \$2,500 or less, a Class A misdemeanor. Please advise if you would prefer a treatment of s. 943.20 instead.

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.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3489/P1dn
ARG:jld:rs

November 25, 2013

ATTN: Cory Bruce

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

In this draft, I have defined personal property in the same way it is defined for purposes of property left in a vehicle after it is towed. See s. 349.13 (5) (b) 1.

The crime of theft is specified in s. 943.20 and requires an intent to permanently deprive another of his or her property. Rather than amending the theft statute, I have created a penalty in s. 425.401 (3) for failure to deliver a debtor's property after repossession that is the same as the penalty for theft of property valued at \$2,500 or less, a Class A misdemeanor. Please advise if you would prefer a treatment of s. 943.20 instead.

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.state.wi.us

Gary, Aaron

From: Rep.Bies
Sent: Friday, December 06, 2013 8:09 AM
To: Gary, Aaron
Subject: RE: Draft review: LRB -3489/P1 Topic: Return of personal property in repossessed motor vehicle

/1 is fine. Thanks!

From: Gary, Aaron
Sent: Thursday, December 05, 2013 4:57 PM
To: Rep.Bies
Subject: RE: Draft review: LRB -3489/P1 Topic: Return of personal property in repossessed motor vehicle

Sure. Do you want that as a /P2 or a /1? Aaron

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

From: Rep.Bies
Sent: Thursday, December 05, 2013 3:38 PM
To: Gary, Aaron
Subject: FW: Draft review: LRB -3489/P1 Topic: Return of personal property in repossessed motor vehicle

Aaron,
Can you change the number of hours the merchant needs to return the property from 24 to 48?

Thanks,
Cory

From: LRB.Legal
Sent: Monday, November 25, 2013 9:43 AM
To: Rep.Bies
Subject: Draft review: LRB -3489/P1 Topic: Return of personal property in repossessed motor vehicle

Following is the PDF version of draft LRB -3489/P1 and drafter's note.



State of Wisconsin
2013 - 2014 LEGISLATURE

in
12/6



LRB-3489/P 1
ARG:jld:rs

wanted
by 12/9

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2013 BILL

✓ Regen

1 AN ACT *to renumber and amend* 425.2065 (1); *to amend* 425.2065 (title) and
2 425.2065 (3); and *to create* 425.206 (2) (c), 425.2065 (1) (b), 425.2065 (4) and
3 425.401 (3) of the statutes; **relating to:** personal property within repossessed
4 motor vehicles and providing a penalty. ✓

Analysis by the Legislative Reference Bureau

Current law adopts the Uniform Commercial Code (UCC) Article 9 — Secured Transactions, which governs transactions that involve the granting of credit secured by personal property of a debtor. The creditor’s interest is called a “security interest.” UCC Article 9 regulates the creation and enforcement of security interests in movable property but not in real property. Under UCC Article 9, if a debtor defaults, the creditor may take possession of (repossess) the property (collateral) if the creditor proceeds through judicial process or without breach of the peace. The creditor may then sell the repossessed collateral to satisfy the debt.

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22 (b) 1., the merchant is responsible for safeguarding the personal property. The
23 merchant, or a person acting on behalf of the merchant, shall deliver the personal
24 property to the customer, as provided in par. (b) 1., in as good of a condition as it was
25 in at the time the motor vehicle was repossessed.

Barman, Mike

From: Bruce, Cory
Sent: Tuesday, December 17, 2013 10:31 AM
To: LRB.Legal
Subject: Draft Review: LRB -3489/1 Topic: Return of personal property in repossessed motor vehicle

Please Jacket LRB -3489/1 for the ASSEMBLY.