

2013 DRAFTING REQUEST

Bill

Received: **8/26/2013** Received By: **emueller**
Wanted: **As time permits** Same as LRB:
For: **Fred Risser (608) 266-1627** By/Representing: **Terry Tuschen**
May Contact: Drafter: **emueller**
Subject: **Local Gov't - counties** Addl. Drafters:
Local Gov't - munis generally Extra Copies: **ARG**
Transportation - traffic laws

Submit via email: **YES**
Requester's email: **Sen.Risser@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Authorize local government to enact ordinance prohibiting failure to stop at scene of accident (hit and run)

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> |
|--------------|------------------------|------------------------|------------------------|----------------|-----------------------|-----------------|-----------------|
| /? | emueller 9/27/2013 | | | _____ | | | |
| /P1 | emueller 12/11/2013 | kfollett 10/8/2013 | jfrantze 10/8/2013 | _____ | sbasford 10/8/2013 | | |
| /P2 | emueller 3/21/2014 | kfollett 12/13/2013 | rschluet 12/13/2013 | _____ | srose 12/13/2013 | | |

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------|-------------------|----------------------|----------------|----------------------|--------------------|-----------------|
| /1 | | jdye 3/24/2014 | rschlue 3/24/2014 | _____ | mbarman 3/24/2014 | srose 3/24/2014 | |

FE Sent For:

<END>

NOT
NEEDED
↗

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| /P2 | emueller 3/21/2014 | kfollett 12/13/2013 | rschluet 12/13/2013 | _____ | rosrose 12/13/2013 | | |

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| /? | emueller 9/27/2013 | 1 3/24 jld jd | | _____ | | | |
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1/1 EVM
3/21/14

3/21/14

FE Sent For:

<END>

Jacket for
Senate please
G.

2013 DRAFTING REQUEST

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Local Gov't - munis generally

Transportation - traffic laws Extra Copies: ARG

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|-----|----------|-----------------------|-----------------------|--|-----------------------|--|--|
| /P1 | emueller | kfollett 10/8/2013 | jfrantze 10/8/2013 | | sbasford 10/8/2013 | | |
|-----|----------|-----------------------|-----------------------|--|-----------------------|--|--|

/P2 EJM
12/11/13

1/P2 jf 12/13

1/P2 jf 12/13

12/13 JF

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Subject: **Transportation - traffic laws** Addl. Drafters:
Extra Copies: **ARG**

Submit via email: **YES**
Requester's email: **Sen.Risser@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Penalties for certain failure to stop (hit and run) violations

Instructions:

See attached

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 Subject: Transportation - traffic laws Addl. Drafters:
 Extra Copies: ARG

Submit via email: YES
 Requester's email: Sen.Risser@legis.wisconsin.gov
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

✓ Penalties for certain failure to stop (hit and run) violations

Instructions:

See attached

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|

1? emueller

1/PI Evm
9/28/13

1/PI Evm
10/8

10/8

FE Sent For:

<END>

Mueller, Eric

From: Hanaman, Cathlene
Sent: Monday, August 26, 2013 8:31 AM
To: Shovers, Marc; Mueller, Eric
Subject: FW: Risser drafting request: loophole in hit-and-run law, municipal attorneys

Importance: High

Is this local?

From: Tuschen, Terry
Sent: Friday, August 23, 2013 2:45 PM
To: Hanaman, Cathlene
Cc: Tuschen, Terry
Subject: Risser drafting request: loophole in hit-and-run law, municipal attorneys
Importance: High

Hi Cathlene, I'm attaching a less-than one page document we received from the City of Madison outling proposed legislation and an issue description. The document does a good job summarizing the issue so I am not going to re-summarize it. Could you, or someone else, have this drafted at P-draft first?

Thanks very much and I hope you have a great weekend.



201308231432.pdf

Terry

Terry Tuschen
Office of State Senator Fred Risser
130 South, State Capitol
Madison, WI 53707-7882
608.266.1627
Terry.Tuschen@legis.wisconsin.gov

Loophole in hit-and-run law

Under current law, an individual who fails to stop at the scene of an accident is subject to criminal penalty. However, when there is only minor damage, an individual is better off hitting a person or attended vehicle than an unattended vehicle.

Generally, municipalities are allowed to adopt ordinances enforcing state law. For moving violations, however, the state law dictates uniformity. A city may adopt the provisions of state law, but they must be unchanged; cities are limited to the parameters set by statute. [Section 349.03]

For hit-and-runs when the driver strikes an unoccupied vehicle or other property, state law provides for a forfeiture of not more than \$200.

For hit-and-runs when the driver causes injury or death, or damages an occupied vehicle, state law provides a range of penalties all of which are crimes. The least severe penalty is a fine of not more than \$1000 or imprisonment for not more than 6 months. Since all of the penalties are crimes, municipalities cannot enforce them.

Obviously, when there is substantial damage or injury, the district attorney will prosecute. However, when the damages are small, say under \$1000, the district attorney will often not prosecute these as a crime. In this situation, there is simply no penalty and the person escapes justice. The city attorney's office regularly receives declined prosecutions.

Providing a lesser penalty would allow the city attorney's office to prosecute these, and ensure that individuals do not escape justice:

(a) If the accident involved property damage less than \$1000 shall be required to forfeit not less than \$200 nor more than \$1000; if the accident involved property damage more than \$1000 shall be fined not less than \$300 nor more than \$1000 or imprisoned not more than 6 months or both if the accident did not involve death or injury to a person.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3000/P1
EVM: lgf

D Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

lmr

9/28/13

910

1 AN ACT ...; relating to: the penalty for failing to stop at the scene of a motor
2 vehicle accident and providing a penalty

Analysis by the Legislative Reference Bureau

Under current law, if an operator of a vehicle is involved in an accident resulting in personal injury or vehicle damage, the operator must immediately stop the vehicle at or near the scene of the accident, provide certain information, and render reasonable assistance to any injured person. Various penalties apply to failure-to-stop violations (hit-and-run), depending upon the extent of personal injury involved. Among the penalties, if the accident did not involve injury to a person, a person who commits a failure-to-stop violation must be fined not less than \$300 nor more than \$1,000 or imprisoned for not more than six months or both.

Under this bill, if the accident did not involve injury to a person, a person who commits a failure-to-stop violation is subject to one of the two following penalties: 1) if the accident involved property damage of less than \$1,000, a forfeiture of not less than \$200 nor more than \$1,000; or 2) if the accident involved property damage of \$1,000 or more, the existing penalty, i.e. a fine of not less than \$300 nor more than \$1,000 or imprisonment for not more than six months or both.

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

SECTION 1. 346.74 (5) (a) of the statutes is amended to read:

renumbered 346.74
(5) (a)
(intro.)
and

change component

(Intro.)

1

346.74 (5) (a) ~~Shall be fined not less than \$300 nor more than \$1,000 or~~

2 ~~imprisoned not more than 6 months or both if~~ If the accident did not involve death

3

or injury to a person, shall be subject to the following penalties:

History: 1971 c. 278; 1973 c. 218; 1981 c. 20, 70; 1997 a. 258, 283; 2001 a. 109; 2003 a. 74; 2005 a. 411; 2011 a. 256.

4 SECTION 2. 346.74 (5) (a) 1. of the statutes is created to read:

5 346.74 (5) (a) 1. If the accident involved property damage of less than \$1,000,

6 a forfeiture of not less than \$200 nor more than \$1,000.

7 SECTION 3. 346.74 (5) (a) 2. of the statutes is created to read:

8 346.74 (5) (a) 2. If the accident involved property damage of \$1,000 or more, a

9 fine of not less than \$300 nor more than \$1,000 or imprisonment for not more than

10 6 months or both.

11 SECTION 4. Initial applicability.

12 (1) This act first applies to violations committed on the effective date of this
13 subsection.

14 (END)

(Note)

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

LRB-3000/P1dn
EVM:...

Date

ATTN: Terry Tuschen

Please review the attached draft carefully to ensure that it is consistent with your intent. This draft uses the construction "property damage of \$xxxx," similar to the construction in the drafting instructions. This language is somewhat ambiguous. It could be read to include solely damage to the injured party's vehicle or it could include damage to additional property, even the violator's property, if the damage can be construed as reasonably caused by the accident. The latter construction could lead to unusual results in particular cases. In addition, the determination of the amount of damage may be subject to varying calculations. For example, is the damage to a vehicle the reduction in value or the amount reasonably necessary to repair the vehicle? The language of this draft appears to allow either approach. An example of a different approach can be found in s. 943.01 (2) (d), stats.

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.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3000/P1dn
EVM:kjf:jf

October 8, 2013

ATTN: Terry Tuschen

Please review the attached draft carefully to ensure that it is consistent with your intent. This draft uses the construction "property damage of \$xxxx," similar to the construction in the drafting instructions. This language is somewhat ambiguous. It could be read to include solely damage to the injured party's vehicle or it could include damage to additional property, even the violator's property, if the damage can be construed as reasonably caused by the accident. The latter construction could lead to unusual results in particular cases. In addition, the determination of the amount of damage may be subject to varying calculations. For example, is the damage to a vehicle the reduction in value or the amount reasonably necessary to repair the vehicle? The language of this draft appears to allow either approach. An example of a different approach can be found in s. 943.01 (2) (d), stats.

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.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

12/5 meeting at Sen. Rissler

- allow memo and. sc: hit and run ^{346.67} attest!



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3000/P1 1P2
EVM:kjfjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

EMK

INSECTS

12/11/13

Soon

Region

a local government's authority to prohibit

1 AN ACT to renumber and amend 346.74 (5) (a); and to create 346.74 (5) (a) 1.
2 and 346.74 (5) (a) 2. of the statutes; relating to: the penalty for failing to stop
3 at the scene of a motor vehicle accident and providing a penalty

Analysis by the Legislative Reference Bureau

Under current law, if an operator of a vehicle is involved in an accident resulting in personal injury or vehicle damage, the operator must immediately stop the vehicle at or near the scene of the accident, provide certain information, and render reasonable assistance to any injured person. Various penalties apply to failure-to-stop violations, depending upon the extent of personal injury involved. Among the penalties, if the accident did not involve injury to a person, a person who commits a failure-to-stop violation must be fined not less than \$300 nor more than \$1,000 or imprisoned for not more than six months or both.

Under this bill, if the accident did not involve injury to a person, a person who commits a failure-to-stop violation is subject to one of the two following penalties: 1) if the accident involved property damage of less than \$1,000, a forfeiture of not less than \$200 nor more than \$1,000; or 2) if the accident involved property damage of \$1,000 or more, the existing penalty, i.e. a fine of not less than \$300 nor more than \$1,000 or imprisonment for not more than six months or both.

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

INS - Analysis - 1

INS - Analysis - 2

criminal

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3000/P2ins
EVM:kjf:jf

1 INS-Analysis-1

 Under current law, a local authority may enact a traffic ordinance that is: 1) in strict conformity with a state traffic law provision that is punishable by a civil penalty; or 2) expressly authorized by law. Also

2

3 INS-Analysis-2

 Under this bill, a local authority may enact a traffic ordinance in conformity with the state failure-to-stop provision described above.

4

5 INS 2-15

6

7 **SECTION 1.** 349.06 (1g) of the statutes is created to read:

8 349.06 (1g) Notwithstanding sub. (1) (a), a local authority may enact an
9 ordinance that is in conformity with s. 346.67.

Mueller, Eric

From: LRB.Legal
Sent: Friday, March 21, 2014 9:47 AM
To: Mueller, Eric
Subject: Re-Draft Request ... FW: Draft review: LRB -3000/P2 Topic: Authorize local government to enact ordinance prohibiting failure to stop at scene of accident (hit and run)

Needs to be re-drafted to a "/1" so it can be jacketed.

MB

From: Risser, Fred A.
Sent: Friday, March 21, 2014 9:12 AM
To: LRB.Legal
Cc: Tuschen, Terry
Subject: RE: Draft review: LRB -3000/P2 Topic: Authorize local government to enact ordinance prohibiting failure to stop at scene of accident (hit and run)

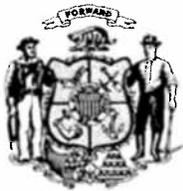
Senator Risser would like this drafted and jacketed for introduction. Thank you and let me know if you have any questions.

Terry

Terry Tuschen, Chief of Staff
Office of State Senator Fred Risser
130 South, State Capitol
Madison, WI 53707-7882
608.266.1627
Terry.Tuschen@legis.wisconsin.gov

From: LRB.Legal
Sent: Friday, December 13, 2013 12:35 PM
To: Risser, Fred A.
Subject: Draft review: LRB -3000/P2 Topic: Authorize local government to enact ordinance prohibiting failure to stop at scene of accident (hit and run)

Following is the PDF version of draft LRB -3000/P2.



2013 BILL

Keep

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

No changes

5/21/14

Seen

X Regen

- 1 AN ACT to create 349.06 (1g) of the statutes; relating to: a local government's
- 2 authority to prohibit failing to stop at the scene of a motor vehicle accident. ✓

Analysis by the Legislative Reference Bureau

Under current law, a local authority may enact a traffic ordinance that is: 1) in strict conformity with a state traffic law provision that is punishable by a civil penalty; or 2) expressly authorized by law. Also under current law, if an operator of a vehicle is involved in an accident resulting in personal injury or vehicle damage, the operator must immediately stop the vehicle at or near the scene of the accident, provide certain information, and render reasonable assistance to any injured person. Various criminal penalties apply to failure-to-stop violations, depending upon the extent of personal injury involved.

Under this bill, a local authority may enact a traffic ordinance in conformity with the state failure-to-stop provision described above.

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

- 3 SECTION 1. 349.06 (1g) of the statutes is created to read:
- 4 349.06 (1g) Notwithstanding sub. (1) (a), a local authority may enact an
- 5 ordinance that is in conformity with s. 346.67.

(END)

Barman, Mike

From: LRB.Legal
To: Risser, Fred A.
Subject: Draft review: LRB -3000/1 Topic: Authorize local government to enact ordinance prohibiting failure to stop at scene of accident (hit and run)
Attachments: 13-3000/1

State of Wisconsin - Legislative Reference Bureau
One East Main Street - Suite 200 - Madison

The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent. If you have any questions concerning the draft or would like to have it redrafted, please contact Eric V. Mueller, Legislative Attorney, at (608) 261-7032, at eric.mueller@legis.wisconsin.gov, or at One East Main Street, Suite 200.

Per instructions from the drafting attorney ... we will jacket this draft for the Senate and send it (by page) to your office today.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will submit a request to DOA when the draft is introduced. You may obtain a fiscal estimate on the draft prior to introduction by contacting our program assistants at LRB.Legal@legis.wisconsin.gov or at (608) 266-3561. If you requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on the current version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.