



2007 SENATE BILL 519

February 20, 2008 – Introduced by Senators BRESKE, SCHULTZ, ERPENBACH, KAPANKE and PLALE, cosponsored by Representatives PETROWSKI, STONE, POCAN and VAN ROY. Referred to Committee on Transportation and Tourism.

1 **AN ACT to amend** 344.578 (1), 344.578 (2), 345.28 (4) (e) 1., 345.28 (4) (e) 2.,
2 345.28 (4) (h), 345.28 (5m) (c) and 345.28 (5r) (c); and **to create** 345.28 (5w) and
3 (5x) of the statutes; **relating to:** nonmoving traffic violations involving rented
4 or leased vehicles, providing an exemption from emergency rule procedures,
5 and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law a local authority, state agency, a campus within the University of Wisconsin System or a technical college district (an “authority”) may issue citations for nonmoving traffic violations that impose forfeitures and in some circumstances, tow and store the vehicle. If the person charged with the citation fails either to pay the forfeiture and charges for towing and storage or to contest the citation successfully in court, the authority may report the nonmoving traffic violation to the Department of Transportation (DOT), which then may suspend the registration for the vehicle and, in certain cases, deny renewal of registration of the person’s other vehicles. Under current law, if the owner of a vehicle receiving a nonmoving traffic violation citation is a vehicle rental or leasing company, it may avoid the suspension of the vehicle registration if it provides DOT with information regarding the renter or lessee who was in possession of the vehicle at the time of the nonmoving traffic violation and the renter or lessee pays the authority all amounts owed as a forfeiture, costs, and charges for towing and storage. Alternatively, if the renter or lessee fails to pay any forfeiture, costs, and charges, the rental or leasing

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company may avoid suspension of its registration by DOT if it pays any costs and 50 percent of the outstanding forfeiture and towing and storage charges owed for the nonmoving traffic violation.

Under current law, vehicle rental and leasing companies may not charge a credit card that the renter or lessee provided as a deposit for damages unless either the charges are for the cost of the rental and the renter or lessee consents or the charges are to repair any damage that occurred when the vehicle was in the renter's or lessee's possession and the rental or leasing company provides the renter or lessee with the total cost of the repairs.

This bill requires that if a renter or lessee of a vehicle that receives a citation for a nonmoving traffic violation, while the vehicle was in the renter's or lessee's possession, fails to pay any forfeiture, costs, or towing and storage charges that are owed to the authority issuing the citation, the vehicle rental or leasing company must pay all of those sums to the authority or DOT may suspend the vehicle's registration. The bill allows a vehicle rental or leasing company to charge a credit card provided as a deposit for damages by the renter or lessee for any sums it has paid for costs, forfeitures, and towing and storage charges for the nonmoving violation plus assess an administrative fee of not more than \$30 against the renter or lessee. If the rental or leased vehicle owner intends to make such charges, the vehicle owner must give written notice, to the renter or lessee, before entering into the rental or lease agreement, that charges may be made against the renter's or lessee's credit card for any forfeitures, costs, or towing and storage charges for a nonmoving traffic citation that the renter or lessee fails to pay. The bill requires the Department of Agriculture, Trade and Consumer Protection to promulgate rules specifying the form of this written notice. The rental or leased vehicle owner must charge the renter's or lessee's credit card within 30 days after receiving notice from the authority issuing the citation that the renter or lessee failed to pay the forfeiture, costs, or towing and storage charges and must provide a detailed itemization of the charges to the renter or lessee within 30 days of charging the renter's or lessee's credit card.

The bill provides an exception for nonmoving violations incurred by a renter or lessee who did not pay for the cost of the rental or lease with a credit card, lowering the rental or leased vehicle owner's liability to 50 percentage of the amount of the forfeiture and towing and storage charges.

For further information see the *state* 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.** 344.578 (1) of the statutes is amended to read:
- 2 344.578 (1) PROHIBITED DEPOSITS; COLLECTION OF DAMAGES. Except as provided
- 3 in this subsection ~~or~~, in sub. (2), or in s. 345.28 (5w), a rental company may not use

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1 ~~credit available pursuant to~~ charge a credit card belonging to a renter as a deposit
2 for damages for which the renter may be held liable under the rental agreement or
3 under s. 344.574 (2) (a) or for any other charges. If a rented private passenger vehicle
4 is damaged or if the renter owes any other charges provided for in the rental
5 agreement, the rental company may ~~use credit available pursuant to~~ charge a credit
6 card belonging to the renter as payment for the damages for which the renter is liable
7 under s. 344.574 (2) (a) or for any other charges provided for in the rental agreement
8 only if the rental company obtains the renter's authorization to use that credit card
9 for payment and the authorization is obtained after the total amount of the renter's
10 liability or other charges is determined and before the rental company processes the
11 credit card charge.

12 **SECTION 2.** 344.578 (2) of the statutes is amended to read:

13 344.578 (2) DEPOSIT FOR RENTAL FEES. If authorized by the renter, a rental
14 company may ~~use credit available pursuant to~~ charge a credit card belonging to the
15 renter as a deposit for the estimated cost of the rental, as determined under this
16 subsection. The estimated cost of the rental may not exceed an amount equal to the
17 daily rental rate specified in the rental agreement, which may include the daily
18 charge for a damage waiver if purchased by the renter, multiplied by the number of
19 days specified in the agreement for which the private passenger vehicle is being
20 rented.

21 **SECTION 3.** 345.28 (4) (e) 1. of the statutes is amended to read:

22 345.28 (4) (e) 1. If the person subsequently pays the amount of the forfeiture
23 and the costs, if any, under par. (d) or appears in court in response to the citation or
24 a notice by the authority who issued the citation or the department, the department
25 shall be immediately notified in the form and manner prescribed by the department.

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1 If the vehicle involved in the nonmoving traffic violation is owned by a person
2 engaged in the business of renting or leasing motor vehicles and the owner pays the
3 costs, if any, under par. (d) and ~~50%~~ of the forfeiture or, if applicable, the amount
4 required under sub. (5w) (b), the authority shall immediately notify the department
5 in the form and manner prescribed by the department.

6 **SECTION 4.** 345.28 (4) (e) 2. of the statutes is amended to read:

7 345.28 (4) (e) 2. If the person subsequently pays the amount of the outstanding
8 towing and storage charges specified in the notice to the department under par. (a)
9 1m. and the costs, if any, under par. (d), the department shall be immediately notified
10 in the form and manner prescribed by the department. If the vehicle to which the
11 towing and storage charges apply is owned by a person engaged in the business of
12 renting or leasing motor vehicles and the owner pays the costs, if any, under par. (d)
13 and ~~50%~~ of the amount of the outstanding towing and storage charges specified in
14 the notice to the department under par. (a) 1m. or, if applicable, the amount required
15 under sub. (5w) (b), the authority shall immediately notify the department in the
16 form and manner prescribed by the department.

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

18 345.28 (4) (h) 1. If an authority receives payment of ~~50%~~ of a forfeiture or, if
19 applicable, the amount required under sub. (5w) (b), from the owner of a leased or
20 rented vehicle involved in a nonmoving traffic violation and receives payment of the
21 forfeiture from the lessee or renter of the vehicle charged with the violation, the
22 authority shall refund to the owner the ~~50%~~ payment received from the owner.

23 2. If an authority receives payment of ~~50%~~ of the amount of the outstanding
24 towing and storage charges specified in the notice to the department under par. (a)
25 1m. or, if applicable, the amount required under sub. (5w) (b), from the owner of a

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1 leased or rented vehicle to which the towing and storage charges apply and receives
2 payment of the amount of the outstanding towing and storage charges specified in
3 the notice to the department under par. (a) 1m. from the lessee or renter of the vehicle
4 to which the towing and storage charges apply, the authority shall refund to the
5 owner the 50% payment received from the owner.

6 **SECTION 6.** 345.28 (5m) (c) of the statutes is amended to read:

7 345.28 (5m) (c) 1. If Except as otherwise provided in sub. (5w) (b), if the renter
8 or lessee does not pay the forfeiture or appear in court in response to the citation for
9 a nonmoving traffic violation within 30 days after the 2nd notice from the authority
10 is mailed to the renter or lessee, the owner shall pay the authority 50% of the
11 forfeiture applicable to the nonmoving traffic violation. The authority shall notify
12 the owner in writing of its responsibility for this payment.

13 2. If Except as otherwise provided in sub. (5w) (b), if the owner does not pay 50%
14 of the forfeiture applicable to the citation within 30 days after notice under subd. 1.
15 has been mailed to the owner, the authority may send a notice to the department
16 under sub. (4) (a) 1. The action which the authority shall specify that the department
17 take under sub. (4) (a) 2. is limited to suspension of the registration of the vehicle
18 involved in the nonmoving traffic violation.

19 **SECTION 7.** 345.28 (5r) (c) of the statutes is amended to read:

20 345.28 (5r) (c) 1. If Except as otherwise provided in sub. (5w) (b), if the renter
21 or lessee does not pay the amount of the outstanding towing and storage charges
22 within 30 days after the 2nd notice from the authority is mailed to the renter or
23 lessee, the owner shall pay the authority 50% of the amount of the outstanding
24 towing and storage charges. The authority shall notify the owner in writing of its
25 responsibility for this payment.

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1 2. ~~If Except as otherwise provided in sub. (5w) (b), if~~ the owner does not pay 50%
2 of the amount of the outstanding towing and storage charges within 30 days after
3 notice under subd. 1. has been mailed to the owner, the authority may send a notice
4 to the department under sub. (4) (a) 1m. The action which the authority shall specify
5 that the department take under sub. (4) (a) 2. is limited to suspension of the
6 registration of the vehicle to which the towing and storage charges apply.

7 **SECTION 8.** 345.28 (5w) and (5x) of the statutes are created to read:

8 345.28 **(5w)** (a) If the owner of a rental or leased vehicle has received written
9 notice under sub. (5m) (c) 1. or (5r) (c) 1. and pays any forfeiture, costs, or towing and
10 storage charges for nonmoving traffic violations under this section that occurred
11 while the renter or lessee was in possession of the vehicle, the rental or leased vehicle
12 owner may, within 30 days after receiving the notice, charge a credit card belonging
13 to the renter or lessee as payment for the forfeiture, costs, and charges for which the
14 renter or lessee is liable as well as charge the renter an administrative fee of not more
15 than \$30 for making those payments under this section, if the owner:

16 1. Provided a written notice to the renter or lessee, prior to entering into the
17 rental or lease agreement, that if the renter or lessee fails to pay any forfeitures,
18 costs, or towing and storage charges for nonmoving traffic violations incurred while
19 the renter or lessee is in possession of the rental or leased vehicle, the owner may pay
20 those sums and charge the amount paid for such forfeitures, costs, or charges plus
21 an administrative fee of not more than \$30 to a credit card belonging to the renter
22 or lessee.

23 2. Provides the renter or lessee with a detailed itemization of all amounts
24 charged to the renter's or lessee's credit card, within 30 days after charging that
25 credit card, that includes the date that the charge was made and, for each nonmoving

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1 traffic violation forfeiture incurred by the renter or lessee that the owner paid, the
2 name of the authority issuing the citation, the citation number, and the date of the
3 citation.

4 (b) If the owner of a rental or leased vehicle has received written notice under
5 sub. (5m) (c) 1. or (5r) (c) 1. and is required to pay any forfeiture or towing and storage
6 charges for nonmoving traffic violations under this section that occurred while the
7 renter or lessee was in possession of the vehicle and the renter or lessee did not pay
8 the rental or lease fee with a credit card, the rental or leased vehicle owner shall pay
9 the authority 50 percent of the amount of the outstanding forfeitures or towing and
10 storage charges, provided that the owner advises the authority that the payment is
11 made under this paragraph.

12 **(5x)** The department of agriculture, trade and consumer protection shall
13 promulgate rules specifying the form of the notice required under sub. (5w) (a) 1.,
14 including the type size and any highlighting of the information described in that
15 paragraph and, if the notice is on a separate form, the size of the paper. The rules
16 must require the notice to be in substantially the same form as the notice under s.
17 344.576 (3) (a) and may specify additional information to be included in the notice
18 and the precise language that must be used.

19 **SECTION 9. Nonstatutory provisions.**

20 (1) The department of agriculture, trade and consumer protection shall submit
21 in proposed form the rules required under section 345.28 (5x) of the statutes, as
22 created by this act, to the legislative council staff under section 227.15 (1) of the
23 statutes no later than the first day of the 4th month beginning after the effective date
24 of this subsection.

