



State of Wisconsin
2015 - 2016 LEGISLATURE

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2015 SENATE BILL 153

May 14, 2015 – Introduced by Senators HARSDORF, OLSEN, MARKLEIN, MILLER and VINEHOUT, cosponsored by Representatives MURTHA, A. OTT, E. BROOKS, HORLACHER, JACQUE, JARCHOW, KITCHENS, KNODL, T. LARSON, MURPHY, MURSAU, PETERSEN, PETRYK, RIPP, TITTL, KAHL, BERCEAU and SUBECK. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to amend* 342.40 (2), 342.40 (3) (b), 342.40 (3) (c), 342.40 (3) (e), 968.20
2 (3) and 973.075 (4); and *to create* 45.095 of the statutes; **relating to:** donation
3 of abandoned or seized vehicles.

Analysis by the Legislative Reference Bureau

Under current law, if a vehicle is left unattended for a certain period of time, the vehicle is generally considered abandoned. Current law requires an abandoned vehicle to be impounded until claimed or disposed of. If an authorized municipal or county representative determines that the cost of towing and storage in impoundment exceeds the abandoned vehicle's value, the municipality or county may junk or sell that abandoned vehicle under certain conditions. This bill allows the municipality or county to donate that abandoned vehicle as well as junk or sell it. If an abandoned vehicle is impounded, current law allows the municipality or county to dispose of an unclaimed impounded vehicle by sealed bid or auction sale as provided by ordinance. If no acceptable bid is received, the municipality or county may readvertise the sale, adjourn the sale, sell the impounded vehicle at a private sale, or junk the impounded vehicle. This bill allows the municipality or county to donate to a nonprofit organization an unclaimed impounded vehicle, either in lieu of the sale or if no acceptable bid is received.

Also, under current law, if a vehicle is seized and forfeited due to the commission of a crime, the law enforcement agency that seizes the vehicle may retain it for official

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use or sell it. This bill allows the law enforcement agency to also donate the vehicle to a nonprofit organization.

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

1 **SECTION 1.** 45.095 of the statutes is created to read:

2 **45.095 Donation of abandoned or seized vehicles.** A nonprofit
3 organization that provides financial assistance or other services to veterans and
4 their dependents that receives a vehicle donated under s. 342.40, 968.20, or 973.075
5 shall use at least 50 percent of the proceeds obtained through the donation to serve
6 the needs of active duty service members, veterans, or the families of veterans.

7 **SECTION 2.** 342.40 (2) of the statutes is amended to read:

8 342.40 (2) Any vehicle in violation of this section shall be impounded until
9 lawfully claimed or disposed of under sub. (3) except that if it is deemed by a duly an
10 authorized municipal or county representative determines that the cost of towing
11 and storage charges for the impoundment would exceed the value of the vehicle, the
12 vehicle may be junked, donated to a nonprofit organization, or sold by the
13 municipality or county prior to expiration of the impoundment period upon
14 determination by the chief of police or sheriff having jurisdiction that the vehicle is
15 not stolen or otherwise wanted for evidence or other reason. All substantially
16 complete vehicles in excess of 19 model years of age shall be disposed of in accordance
17 with sub. (3) (c).

18 **SECTION 3.** 342.40 (3) (b) of the statutes is amended to read:

19 342.40 (3) (b) The owner of any abandoned vehicle except a stolen vehicle is
20 responsible for the abandonment and all costs of impounding and disposing of the
21 vehicle. ~~Costs~~ If the vehicle is sold, costs not recovered from the sale of the vehicle

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1 may be recovered in a civil action by the municipality against the owner. Whether
2 or not the municipality recovers the cost of towing and enforcement, the municipality
3 shall be responsible to the towing service for requisitional towing service and
4 reasonable charges for impoundment.

5 **SECTION 4.** 342.40 (3) (c) of the statutes is amended to read:

6 342.40 (3) (c) Any vehicle which is deemed abandoned by a duly authorized
7 municipal or county representative and not disposed of under sub. (2) shall be
8 retained in storage for a minimum period of 10 days after certified mail notice has
9 been sent to the owner and lienholders of record to permit reclamation of the vehicle
10 after payment of accrued charges. Such notice shall set forth the year, make, model,
11 and serial number of the abandoned motor vehicle, the place where the vehicle is
12 being held, and shall inform the owner and any lienholders of their right to reclaim
13 the vehicle. The notice shall state that the failure of the owner or lienholders to
14 exercise their rights to reclaim the vehicle under this section ~~shall be deemed is~~ a
15 waiver of all right, title, and interest in the vehicle and a consent to the sale or
16 donation of the vehicle. Each retained vehicle not reclaimed by its owner or
17 lienholder may be sold. ~~The or donated to a nonprofit organization. If the vehicle is~~
18 sold, the municipality or county may dispose of the vehicle by sealed bid or auction
19 sale as provided by ordinance. At such sale the highest bid for any such motor vehicle
20 shall be accepted unless ~~the same is deemed~~ an authorized municipal or county
21 representative finds the bid inadequate by a duly authorized municipal or county
22 representative, in which event all bids may be rejected. If all bids are rejected or no
23 bid is received, the municipality or county may ~~either~~ readvertise the sale, adjourn
24 the sale to a definite date, sell the motor vehicle at a private sale ~~or~~, junk the vehicle,
25 or donate the vehicle to a nonprofit organization. Any interested person may offer

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1 bids on each abandoned vehicle to be sold. If municipal or county ordinances do not
2 state the procedure to be followed in advertising or providing public notice of the sale,
3 a public notice shall be posted at the office of the municipal police department or the
4 office of the county sheriff. The posting of the notice at the police or sheriff's
5 department shall be in the same form as the certified mail notice sent to the owner
6 or lienholders of record. Upon sale of an abandoned vehicle, the municipality or
7 county shall supply the purchaser with a completed form designed by the
8 department enabling the purchaser to obtain a regular certificate of title for the
9 vehicle. The purchaser shall have 10 days to remove the vehicle from the storage
10 area, but shall pay a reasonable storage fee established by the municipality or county
11 for each day the vehicle remains in storage after the 2nd business day subsequent
12 to the sale date. Ten days after the sale, the purchaser shall forfeit all interest in the
13 vehicle and the vehicle shall be deemed to be abandoned and may be sold again or
14 donated to a nonprofit organization. Any listing of vehicles to be sold by any
15 municipality or county shall be made available to any interested person or
16 organization which makes a written request for such list. The municipality or county
17 may charge a fee for the list.

18 **SECTION 5.** 342.40 (3) (e) of the statutes is amended to read:

19 342.40 (3) (e) Within 5 days after the sale, donation, or disposal of a vehicle as
20 provided in this subsection or sub. (2), the municipality or county shall advise the
21 department of the sale, donation, or disposition on a form supplied by the
22 department.

23 **SECTION 6.** 968.20 (3) of the statutes is amended to read:

24 968.20 (3) (a) First class cities shall dispose of dangerous weapons or
25 ammunition seized 12 months after taking possession of them if the owner,

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1 authorized under sub. (1m), has not requested their return and if the dangerous
2 weapon or ammunition is not required for evidence or use in further investigation
3 and has not been disposed of pursuant to a court order at the completion of a criminal
4 action or proceeding. Disposition procedures shall be established by ordinance or
5 resolution and may include provisions authorizing an attempt to return to the
6 rightful owner any dangerous weapons or ammunition which appear to be stolen or
7 are reported stolen. If enacted, any such provision shall include a presumption that
8 if the dangerous weapons or ammunition appear to be or are reported stolen an
9 attempt will be made to return the dangerous weapons or ammunition to the
10 authorized rightful owner. If the return of a seized dangerous weapon other than a
11 firearm is not requested by its rightful owner under sub. (1) and is not returned by
12 the officer under sub. (2), the city shall safely dispose of the dangerous weapon or,
13 if the dangerous weapon is a motor vehicle, as defined in s. 340.01 (35), sell or donate
14 the motor vehicle ~~following the procedure~~ under s. 973.075 (4) or authorize a law
15 enforcement agency to retain and use the motor vehicle. If the return of a seized
16 firearm or ammunition is not requested by its authorized rightful owner under sub.
17 (1) and is not returned by the officer under sub. (2), the seized firearm or ammunition
18 shall be shipped to and become property of the state crime laboratories. A person
19 designated by the department of justice may destroy any material for which the
20 laboratory has no use or arrange for the exchange of material with other public
21 agencies. In lieu of destruction, shoulder weapons for which the laboratories have
22 no use shall be turned over to the department of natural resources for sale and
23 distribution of proceeds under s. 29.934 or for use under s. 29.938.

24 (b) Except as provided in par. (a) or sub. (1m) or (4), a city, village, town or
25 county or other custodian of a seized dangerous weapon or ammunition, if the

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1 dangerous weapon or ammunition is not required for evidence or use in further
2 investigation and has not been disposed of pursuant to a court order at the
3 completion of a criminal action or proceeding, shall make reasonable efforts to notify
4 all persons who have or may have an authorized rightful interest in the dangerous
5 weapon or ammunition of the application requirements under sub. (1). If, within 30
6 days after the notice, an application under sub. (1) is not made and the seized
7 dangerous weapon or ammunition is not returned by the officer under sub. (2), the
8 city, village, town or county or other custodian may retain the dangerous weapon or
9 ammunition and authorize its use by a law enforcement agency, except that a
10 dangerous weapon used in the commission of a homicide or a handgun, as defined
11 in s. 175.35 (1) (b), may not be retained. If a dangerous weapon other than a firearm
12 is not so retained, the city, village, town or county or other custodian shall safely
13 dispose of the dangerous weapon or, if the dangerous weapon is a motor vehicle, as
14 defined in s. 340.01 (35), sell or donate the motor vehicle following the procedure
15 under s. 973.075 (4). If a firearm or ammunition is not so retained, the city, village,
16 town or county or other custodian shall ship it to the state crime laboratories and it
17 is then the property of the laboratories. A person designated by the department of
18 justice may destroy any material for which the laboratories have no use or arrange
19 for the exchange of material with other public agencies. In lieu of destruction,
20 shoulder weapons for which the laboratory has no use shall be turned over to the
21 department of natural resources for sale and distribution of proceeds under s. 29.934
22 or for use under s. 29.938.

23 **SECTION 7.** 973.075 (4) of the statutes is amended to read:

24 973.075 (4) When property is forfeited under ss. 973.075 to 973.077, the agency
25 seizing the property may sell the property that is not required by law to be destroyed

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1 or transferred to another agency. The agency may retain any vehicle for official use
2 or, sell the vehicle, or donate the vehicle to a nonprofit organization. The agency
3 seizing the property may deduct 50% of the sale amount received for administrative
4 expenses of seizure, maintenance of custody, advertising and court costs and the
5 costs of investigation and prosecution reasonably incurred. The remainder shall be
6 deposited in the school fund as the proceeds of the forfeiture. If the property forfeited
7 under ss. 973.075 to 973.077 is money, all the money shall be deposited in the school
8 fund.

9 (END)