

State of Wisconsin



2017 Assembly Bill 882

Date of enactment: April 16, 2018
Date of publication*: April 17, 2018

2017 WISCONSIN ACT 286

AN ACT *to create* 349.139 of the statutes; **relating to:** the immobilization or removal, impoundment, and disposal of motor vehicles for multiple nonmoving traffic violations.

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

SECTION 1. 349.139 of the statutes is created to read:

349.139 Authority to immobilize, remove, impound, and dispose of motor vehicles for nonmoving traffic violations. (1) In this section:

(a) "Habitual parking violator" means a person who has received, more than 60 days previously, 5 or more citations for nonmoving traffic violations that remain unpaid and for which the person has not scheduled an appearance in court in response to the citations.

(b) "Immobilization device" has the meaning given in s. 341.65 (1) (a).

(c) "Nonmoving traffic violation" has the meaning given in s. 345.28 (1) (c).

(d) "Owner" has the meaning given in s. 341.65 (1) (am).

(e) "Parking enforcer" means a traffic officer or any other person who enforces nonmoving traffic violations and who is employed by a municipality or county.

(2) The governing body of any municipality or county may by ordinance provide for the immobilization or removal, impoundment, and disposal of vehicles owned by habitual parking violators as provided in this section. Any ordinance under this section shall do all of the following:

(a) Limit application of the ordinance to those motor vehicles for which all of the following apply:

1. The municipality or county has cited the owner of the motor vehicle for 5 or more nonmoving traffic violations that, at the time of the vehicle's immobilization or removal, occurred more than 60 days previously and for which the owner has neither paid the forfeiture for each of these violations nor scheduled an appearance in court in response to each of these citations.

2. a. The municipality or county has mailed to the last-known address of the owner at least one notice that specifies, for each citation counted under subd. 1., the date on which the citation was issued, the license number or vehicle identification number of the vehicle involved, the place where the citation may be paid, the amount of the forfeiture, and the means by which the citation may be contested.

b. The notice under subd. 2. a. shall also inform the owner that any motor vehicle owned by him or her may be immobilized with an immobilization device or removed and impounded if, within 60 days after the owner has received 5 or more citations and at the time the vehicle is immobilized or removed and impounded, the owner has neither paid the forfeiture for each violation that occurred more than 60 days previously nor scheduled an appearance in court in response to each citation

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

issued more than 60 days previously for which the forfeiture has not been paid.

c. The notice under this subdivision may be combined with any other notice provided by the municipality or county to the owner.

(b) Authorize any parking enforcer who discovers any motor vehicle to which par. (a) applies that is legally or illegally parked on any portion of the street, highway, or publicly owned or leased parking facility within the corporate limits of the municipality or county to cause the motor vehicle to be immobilized with an immobilization device or removed to a suitable place of impoundment or both. Upon immobilization or removal of the motor vehicle, the parking enforcer shall follow the notification procedure specified in s. 341.65 (2) (b).

(c) Specify whether the municipality or county may contract with a 3rd party for the performance of services related to immobilization or removal of motor vehicles. The services shall be rendered only at the request of a parking enforcer.

(d) Provide for a reasonable removal fee, if any, that will be charged to remove an immobilization device placed on a vehicle under this section.

(e) Provide for the recovery of reasonable towing or storage charges associated with the removal or impoundment of a vehicle, and of reasonable charges associated with disposal of a vehicle, under this section.

(f) Require that, if the motor vehicle is immobilized, the parking enforcer or a 3rd-party contractor place in a highly visible location and a reasonably secure manner on the vehicle, at the time of immobilization, a written notice that does all of the following:

1. Warns any driver of the vehicle that the immobilization device has been placed on the vehicle.

2. Specifies, for each citation counted under par. (a) 1., the license number or vehicle identification number of the vehicle involved, the place where the citation may be paid, and the means by which the citation may be contested, or provides a telephone number at which an individual is available to provide this information 24 hours a day.

3. States the amount of the removal fee under par. (d), if any, that is in addition to any amount required to be paid as specified in the notice under par. (a) 2. a.

(g) If the motor vehicle is immobilized in a time-limited, legal parking space, prohibit the municipality or county from issuing, after the vehicle's immobilization, any citation for a time-limited nonmoving traffic violation for the vehicle within the first 4 hours after the vehicle is immobilized.

(h) If the motor vehicle is immobilized, require the municipality or county, or a 3rd-party contractor, to remove, or provide sufficient information to allow the vehicle owner to remove, the immobilization device without undue delay, not to exceed 3 hours, after receiving notice that the person has satisfied the requirements

for release of the motor vehicle under sub. (3) (b). The ordinance shall also provide a procedure for the municipality, county, or 3rd-party contractor to promptly receive notice when a person has satisfied the requirements for release of a motor vehicle under sub. (3) (b).

(3) (a) Any motor vehicle immobilized or impounded as provided in sub. (2) shall remain immobilized or impounded until lawfully claimed or disposed of as provided in this subsection and sub. (5).

(b) The owner of a motor vehicle that is immobilized under sub. (2) may secure release of the motor vehicle by doing all of the following:

1. Paying any removal fee provided in sub. (2) (d).

2. Paying all forfeitures specified in each notice under sub. (2) (a) 2. a. for, or scheduling an appearance in court in response to, or a combination of paying forfeitures and scheduling appearances with respect to, all citations counted under sub. (2) (a) 1.

(c) The owner of a motor vehicle that is removed and impounded under sub. (2) may secure release of the motor vehicle by doing all of the following:

1. Paying any charges provided in sub. (2) (e).

2. Paying all forfeitures specified in each notice under sub. (2) (a) 2. a. for, or scheduling an appearance in court in response to, or a combination of paying forfeitures and scheduling appearances with respect to, all citations counted under sub. (2) (a) 1.

(d) If an owner secures release of a motor vehicle under par. (b) or (c) by scheduling an appearance in court and thereafter fails to appear or fails to comply with any court order with respect to any citation counted under sub. (2) (a) 1. for which the forfeiture has not been fully paid, including failure to satisfy in full any court-ordered payment plan or other agreement approved by the court, the court may order a law enforcement officer, or an authorized employee or contractor of the municipality or county, to immobilize the motor vehicle involved in the nonmoving traffic violations or the municipality or county may cause the motor vehicle to be immobilized or removed and impounded as provided under sub. (2). If the court orders the motor vehicle immobilized, upon compliance with the court order, the court shall order a law enforcement officer, or an authorized employee or contractor of the municipality or county, to remove the immobilization device.

(e) Notwithstanding par. (a), if any motor vehicle immobilized or impounded is an unregistered motor vehicle for purposes of s. 341.65 or an abandoned motor vehicle for purposes of s. 342.40, the municipality or county may take any action authorized under s. 341.65 or 342.40. Any vehicle immobilized under this section for longer than the period specified in s. 342.40 (1m) shall be considered abandoned for purposes of s. 342.40.

(4) The owner of any motor vehicle immobilized or removed and impounded as provided under this section is responsible for all charges associated with immobiliz-

ing, removing, impounding, and disposing of the motor vehicle, as provided under sub. (2) (d) and (e). Charges not recovered from the sale of the motor vehicle may be recovered in a civil action by the municipality or county against the owner.

(5) The procedures and provisions of s. 341.65 (2) (f) to (h) shall apply with respect to the impoundment and disposal of motor vehicles authorized to be removed, impounded, and disposed of under this section to the same extent as these provisions apply to the impoundment and disposal of unregistered motor vehicles that are removed under authority of s. 341.65, except that reclamation of the motor vehicle by the owner requires compliance with sub. (3) rather than s. 341.65 (2) (e). The

provisions of s. 349.13 (5) (b) shall apply with respect to vehicles removed or stored under this section to the same extent as these provisions apply with respect to vehicles removed or stored under authority of s. 349.13.

(6) Any ordinance enacted under this section permitting immobilization of a motor vehicle may prohibit any person from removing, disconnecting, tampering with, or otherwise circumventing the operation of an immobilization device installed under this section except upon release of the motor vehicle to the owner or to make necessary repairs to a malfunctioning immobilization device.

(7) Section 349.137 does not apply to the use of motor vehicle immobilization devices under this section.
