

1991 Senate Bill 463

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1991 WISCONSIN ACT 233

AN ACT *to amend* 342.30 (1); and *to create* 341.65, 342.30 (2m) and 885.237 of the statutes, **relating to:** permitting the immobilization, impoundment and disposal of unregistered motor vehicles, creating a presumption that a motor vehicle located on a highway has been operated by its owner and ensuring that vehicle identification numbers are readable.

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

SECTION 1. 341.65 of the statutes is created to read:

341.65 Unregistered motor vehicles prohibited; immobilization; removal; disposal. (1) In this section:

(a) "Immobilization device" means a device or mechanism which immobilizes a motor vehicle by locking around a wheel, thereby making the motor vehicle inoperable.

(b) "Unregistered motor vehicle" means any motor vehicle that is not currently registered and which is located upon a highway for such time and under such circumstances as to cause the motor vehicle to reasonably appear to have been unregistered for not less than 30 days.

(2) (a) Any municipality or county may enact ordinances prohibiting any unregistered motor vehicle from being located upon a highway and governing the immobilization, removal and disposal of unregistered motor vehicles and provide a forfeiture in addition to providing for the recovery by the municipality or county of the cost of immobilizing the motor vehicle with an immobilization device or impounding and disposing of the motor vehicle or both. Any ordinance permitting immobilization of a motor vehicle may prohibit any person from removing, disconnecting, tampering with or otherwise circumventing the operation of an immobilization device except upon release of the motor vehicle to the owner or

to make necessary repairs to a malfunctioning immobilization device.

(b) Any municipal or university police officer, sheriff's deputy, county traffic patrolman, state traffic officer or conservation warden who discovers any unregistered motor vehicle located upon any highway may cause the motor vehicle to be immobilized with an immobilization device or removed to a suitable place of impoundment. Upon immobilization or removal of the motor vehicle, the officer or warden shall notify the sheriff or chief of police of the location of the immobilized or impounded motor vehicle and the reason for the immobilization or impoundment.

(c) A person charged with violating an ordinance enacted under this subsection may not be convicted if he or she produces in court or in the office of the arresting officer satisfactory evidence that, at the time of issuance of the citation, either a complete application for registration for the motor vehicle, including evidence of inspection under s. 110.20 when required, accompanied by the required fee had been delivered to the department or deposited in the mail properly addressed with postage prepaid, or the motor vehicle was exempt from registration under this chapter.

(d) The owner of any unregistered motor vehicle is responsible for all costs of immobilizing, impounding and disposing of the motor vehicle. Costs not recovered from the sale of the motor vehicle may be recovered in a civil action by the municipality against the owner.

Whether or not the municipality recovers the cost of towing and enforcement, the municipality shall be responsible to the towing service for requisitional towing service and reasonable charges for impoundment.

(e) Notwithstanding par. (g), the owner of an unregistered motor vehicle that is immobilized with an immobilization device or impounded under this subsection may secure release of the motor vehicle by doing any of the following:

1. Paying any forfeiture imposed for violation of the municipal or county ordinance and the reasonable costs of immobilizing or impounding the motor vehicle or both, and providing satisfactory evidence of one of the following:

a. That the motor vehicle is currently registered in this state.

b. That a complete application for registration for the motor vehicle, including evidence of inspection under s. 110.20 when required, accompanied by the required fee has been delivered to the department or deposited in the mail properly addressed with postage prepaid.

c. That the motor vehicle is exempt from registration under this chapter.

2. Providing satisfactory evidence that, at the time of immobilization or impoundment of the motor vehicle, whichever is earlier, either a complete application for registration for the motor vehicle, including evidence of inspection under s. 110.20 when required, accompanied by the required fee had been delivered to the department or deposited in the mail properly addressed with postage prepaid, or the motor vehicle was exempt from registration under this chapter.

(f) Any motor vehicle in violation of this section may be immobilized with an immobilization device or impounded until lawfully claimed or disposed of under par. (g) except that if it is deemed by a duly authorized municipal or county representative that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the motor vehicle may be junked or sold by the municipality or county prior to expiration of the impoundment period upon determination by the chief of police or sheriff having jurisdiction that the motor vehicle is not stolen or otherwise wanted for evidence or other reason. All substantially complete motor vehicles in excess of 19 model years of age shall be disposed of in accordance with par. (g).

(g) Any motor vehicle which is impounded and not disposed of under par. (f) shall be retained in storage for a minimum period of 10 days after certified mail notice has been sent to the owner and lienholders of record, if known or readily ascertainable, to permit reclamation of the motor vehicle after payment of accrued charges and, for reclamation of the motor vehicle by the owner, compliance with par. (e). Such notice shall set forth the year, make, model, and serial number of the motor vehicle and the place where the motor vehicle is being held, and shall

inform the owner and any lienholders of their right to reclaim the motor vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the motor vehicle under this section shall be considered a waiver of all right, title and interest in the motor vehicle and a consent to the sale of the motor vehicle. Each retained motor vehicle not reclaimed by its owner or lienholder may be sold. The municipality or county may dispose of the motor vehicle by sealed bid or auction sale as provided by ordinance. At such sale the highest bid for any such motor vehicle shall be accepted unless the same is considered inadequate by a duly authorized municipal or county representative, in which event all bids may be rejected. If all bids are rejected or no bid is received, the municipality or county may either readvertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale or junk the motor vehicle. Any interested person may offer bids on each motor vehicle to be sold. If municipal or county ordinances do not state the procedure to be followed in advertising or providing public notice of the sale, a public notice shall be posted at the office of the municipal police department or the office of the county sheriff. The posting of the notice at the police or sheriff's department shall be in the same form as the certified mail notice sent to the owner or lienholders of record. Upon sale of a motor vehicle, the municipality or county shall supply the purchaser with a completed form designed by the department enabling the purchaser to obtain a regular certificate of title for the motor vehicle. The purchaser shall have 10 days to remove the motor vehicle from the storage area, but shall pay a reasonable storage fee established by the municipality or county for each day that the motor vehicle remains in storage after the 2nd business day subsequent to the sale date. Ten days after the sale, the purchaser shall forfeit all interest in the motor vehicle and the motor vehicle shall be considered to be abandoned and may be sold again. Any listing of motor vehicles to be sold by any municipality or county shall be made available to any interested person or organization which makes a written request for such list. The municipality or county may charge a fee for the list.

(h) Within 5 days after the sale or disposal of a motor vehicle as provided in this subsection, the municipality or county shall advise the department of the sale or disposition on a form supplied by the department.

SECTION 2. 342.30 (1) of the statutes is amended to read:

342.30 (1) No person may remove, alter or obliterate or intentionally make it impossible to read, as required under sub. (2), an identification number. This subsection does not apply to the obliteration of an identification number which occurs in the process of crushing a vehicle or vehicle part for scrap.

SECTION 3. 342.30 (2m) of the statutes is created to read:

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342.30 (2m) (a) A traffic officer or person authorized to enforce nonmoving traffic violations may use reasonable means to gain access to a vehicle if that vehicle's identification number cannot be read as required under sub. (2).

(b) Any person acting under par. (a) is immune from civil and criminal liability for good faith actions taken within the scope of that person's official duties.

SECTION 4. 885.237 of the statutes is created to read:

885.237 Presumption as to operation of motor vehicle. The fact that a motor vehicle is located on a highway, as defined in s. 340.01 (22), is prima facie evidence, for purposes of ch. 341, that the motor vehicle has been operated on a highway by the owner.

SECTION 4m. Nonstatutory provisions; transportation. (1) VEHICLE REGISTRATION AND TITLE STUDY. The department of transportation shall study the sale of

motor vehicles between private parties to determine whether a notification requirement to the department of transportation by the seller of the motor vehicle is required to ensure that the vehicle registration and title records of the department of transportation accurately reflect the current owner of motor vehicles subject to vehicle registration and titling in this state. The study shall include a recommendation on the feasibility and cost of a notification requirement to the department of transportation of the sale of motor vehicles between private parties. The department shall report its findings, conclusions and recommendations, including any recommended statutory changes, by January 1, 1993, to the chief clerk of each house of the legislature for distribution to the members of the legislature in the manner provided under section 13.172 (2) of the statutes.
