

State of Wisconsin



1995 Assembly Bill 748

Date of enactment: **June 10, 1996**
Date of publication*: **June 24, 1996**

1995 WISCONSIN ACT 434

AN ACT to create 349.135 of the statutes; relating to: regulating the use of immobilization devices to enforce motor vehicle parking restrictions.

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

SECTION 1. 349.135 of the statutes is created to read:
349.135 Authority to regulate use of motor vehicle immobilization devices. (1) In this section:

(a) "Operator" has the meaning given in s. 340.01 (41).

(b) "Parking area" means an area used for parking that is not on a highway.

(c) "Parking enforcer" means a person who enforces restrictions against unauthorized parking. The term includes a person who owns or operates a parking area and any employes or agents of an owner or operator.

(d) "Removal fee" means a fee charged by a parking enforcer to remove an immobilization device, including any amounts imposed for parking in violation of a restriction against unauthorized parking.

(e) "Unauthorized parking" means parking a motor vehicle in a parking area contrary to a sign posted under s. 346.55 (4).

(2) No person may use an immobilization device to immobilize a motor vehicle to enforce restrictions against unauthorized parking except in conformity with a municipal ordinance enacted under this section or a rule adopted under s. 36.11 (8).

(3) The governing body of any municipality may by ordinance or the chancellor of a campus of the University

of Wisconsin System may by rule under s. 36.11 (8) provide for the use of immobilization devices to enforce restrictions against unauthorized parking. Any ordinance under this subsection or rule under s. 36.11 (8) shall do all of the following:

(a) Require the owner or operator of a parking area in which immobilization devices may be used to post and maintain in a manner that is clearly visible to operators entering the parking area a sign at each vehicular entrance to the parking area. At least one additional sign shall be posted for every 10 parking spaces in the parking area. The ordinance or rule shall require all such signs to be at least 12 inches by 18 inches in size and to clearly indicate all of the following:

1. That unauthorized parking is prohibited in the parking area.

2. That an immobilization device may be used in the parking area to enforce restrictions against unauthorized parking.

3. Whether a removal fee will be charged to remove an immobilization device and, if so, the amount of the fee.

(ag) Prohibit a parking enforcer from using an immobilization device to immobilize a motor vehicle to enforce parking restrictions against unauthorized parking unless the parking enforcer possesses a valid license authorizing that activity issued by the municipality.

* Section 991.11, WISCONSIN STATUTES 1993-94: 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 as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(am) Establish a process by which the owner, lessee or operator of a motor vehicle may contest the propriety of the use of an immobilization device or the amount of a removal fee.

(b) Require the parking enforcer, before using an immobilization device, to do all of the following:

2. Maintain in effect a policy of bodily injury and property damage liability insurance for injury or damage arising from the use of an immobilization device in an amount of at least \$1,000,000 per use of an immobilization device.

3. Notwithstanding s. 346.94 (4), at the time of immobilization of a motor vehicle, place a written notice in a reasonably secure manner on the motor vehicle that clearly states all of the following:

a. The name of the parking enforcer and a telephone number that a person may call to request the removal of the immobilization device.

b. The amount of the removal fee, if any.

c. The terms of the deferral agreement described in par. (d) 2.

4. Have a person available 24 hours a day either at the parking area or at the telephone number shown on the notice described in subd. 3. to take requests for removal and to remove the immobilization device.

(c) Require the parking enforcer, before removing an immobilization device, to do all of the following:

1. Display prominently an identification card that identifies that person as a parking enforcer and that contains a photograph of that person.

2. Inform the owner, lessee or operator of the motor vehicle, orally and in writing, before removing an immobilization device, of all of the following:

a. If a removal fee is charged, that the owner, lessee or operator is required either to pay the removal fee or to sign a deferral agreement described in par. (d) 2.

b. That a parking enforcer may commence legal action to collect any removal fee that has not been paid within 14 days after the removal of an immobilization device.

c. That the owner, lessee or operator of an immobilized motor vehicle may contest the propriety of the use of an immobilization device on his or her motor vehicle or the validity of a removal fee using the process described in par. (am), and may contest any legal action commenced to collect a removal fee.

d. That, except for the payment of the removal fee or the signing of a deferral agreement, no person may be required to do anything to have an immobilization device removed.

e. That, if a parking enforcer uses an immobilization device on a motor vehicle that is not parked in violation of a restriction against unauthorized parking, the owner, lessee or operator shall not be required to pay a removal fee and the parking enforcer shall be liable to the owner

or lessee of the motor vehicle for an amount equal to the removal fee.

(d) Require the owner, lessee or operator of a motor vehicle to do any of the following before an immobilization device may be removed:

1. Pay the removal fee.

2. Sign a deferral agreement under which the person signing the agreement agrees to pay the removal fee to the parking enforcer or contest the removal fee, or the propriety of the use of an immobilization device on his or her motor vehicle, using the process described in par. (am) within 14 days after the immobilization device is removed.

(e) Require the parking enforcer to remove the immobilization device without undue delay after receiving a request to remove the device, not to exceed 60 minutes whenever a request for removal is made by telephone.

(f) Require that, whenever a deferral agreement is signed, the parking enforcer provide the owner or operator of the motor vehicle a copy of the signed deferral agreement.

(g) Require a person who signs a deferral agreement and does not do any of the activities described in par. (d) 2. within 14 days after the removal of the immobilization device to pay an amount not to exceed 3 times the removal fee plus the reasonable costs incurred to collect the removal fee to the parking enforcer within 30 days after the removal of the immobilization device.

(h) Require a parking enforcer who uses an immobilization device on a motor vehicle that is not parked in violation of a restriction against unauthorized parking to pay an amount equal to the removal fee to the owner of the motor vehicle within 14 days after the determination that the immobilization device was used improperly.

(i) Prohibit a parking enforcer from requiring a person to transfer any goods, perform any services, or waive any available legal rights or remedies, as a condition for removing an immobilization device, except as specified in par. (d).

(j) Specify the maximum removal fee that may be charged.

(4) (a) A municipality may enact or enforce any regulation of the use of immobilization devices to enforce parking restrictions that is not contrary to or inconsistent with this section.

(b) A chancellor of a campus of the University of Wisconsin System may adopt or enforce any rule under s. 36.11 (8) regulating the use of immobilization devices to enforce parking restrictions that is not contrary to or inconsistent with this section.

SECTION 2. Initial applicability.

(1) This act first applies to motor vehicles parked on the effective date of this subsection.

SECTION 3. Effective date.

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(1) This act takes effect on the first day of the 13th month beginning after publication.
