

**1999 DRAFTING REQUEST**

**Bill**

Received: **09/23/98**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **David Brandemuehl (608) 266-1170**

By/Representing: **Lis Gorenstein**

This file may be shown to any legislator: **NO**

Drafter: **nilsepe**

May Contact:

Alt. Drafters:

Subject: **Transportation - motor vehicles**

Extra Copies: **TNF, ISR**

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**Topic:**

Vehicle liens created bfore 1966

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nilsepe 10/8/98	gilfokm 10/8/98		_____			
/P1	nilsepe 01/20/99		lpaasch 10/9/98	_____	lrb_docadmin 10/12/98		
/1			jfrantze 01/20/99	_____	lrb_docadmin 01/20/99	lrb_docadmin 01/25/99	

FE Sent For:

<END>

*Not Needed*  
↪

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/?	nilsepe 10/8/98	gilfokm 10/8/98		_____			
/P1		1-1-19-99 King	lpaasch 10/9/98	_____	lrb_docadmin 10/12/98		
FE Sent For:			_____	_____			

1/20 1/20  
<END>

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For: Transportation

By/Representing: Lis Gorcnstein

This file may be shown to any legislator: NO

Drafter: nilsepe

May Contact:

Alt. Drafters:

Subject: Transportation - motor vehicles

Extra Copies:

TNF, ~~LSH~~

Topic:

vehicle liens created before 1966

Instructions:

See Attached

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1?	nilsepe	1/1-10-8 kmg.	10-9 LP	10-9 LP JP			

FE Sent For:

<END>

1044  
5

97-0288

WISCONSIN DEPARTMENT OF TRANSPORTATION  
LEGISLATIVE PROPOSAL FORM  
BUDGET / ~~NON-BUDGET~~  
REMEDIAL LEGISLATION

HORT TITLE OF ISSUE: Outdated references to liens on titles\_

DIVISION(S): Motor Vehicles, Bureau of Vehicle Services	DIVISION ADMINISTRATORS' SIGNATURES:  <i>Roger D. Coon</i>
DATE: June 15, 1998	TELEPHONE #:266-0179
OPB CONTACT PERSON:Lis Gorenstein	TELEPHONE #:266-7857
LEAD DIVISION CONTACT PERSON:Carson P. Frazier	TELEPHONE #:266-7364
OGC CONTACT PERSON:Joe Maassen	

DEFINE PROBLEM PRECISELY

Several provisions in Ch. 342 were placed in the statutes to "grandfather" titles in existence before June 1, 1966. This was the date when the current procedure of placing liens on vehicle titles went into effect.

Currently there are 750 titles, still active on DMV's database, which were issued before 1966. Although these titles need not have had a lien placed on them, it has now been thirty-two years since the grandfather date, and it is extremely unlikely that any valid liens survive on those titles.

PROPOSED SOLUTION

342  
Repeal S.342.280, S.342.282, S.342.283, S.342.284, and S.342.285.

LEGISLATIVE BACKGROUND

None.

342.281

342.285 (1), (2)



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0288#  
PEN.....

Handwritten initials and "PI" in a circle.

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Print w/ June #'s

NOTE

head sub Transportation Drivers and Motor Vehicles

Don't Gen. Col.

AN ACT ...; relating to: the budget.

**Analysis by the Legislative Reference Bureau**

Under current law, beginning June 1, 1966, the exclusive means of perfecting security interests in vehicles for which a certificate of title is required is to surrender the existing certificate of title to the department of transportation (DOT) and to make application for a new certificate of title bearing the name and address of the secured party. Prior to June 1, 1966, security interests could be perfected using other means, except that the current means of perfecting security interests by reflecting them on the certificate of title applies upon transfer of the vehicle or upon DOT issuing a certificate of title for the vehicle. This bill repeals the transitional language under which security interests created and perfected prior to June 1, 1966, are not required to be reflected on the vehicle's certificate of title.

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

SECTION 1. 342.12 (2) (b) of the statutes is amended to read:

342.12 (2) (b) Issue a distinctive certificate of title pursuant to s. 342.10 (4) or 342.283.

History: 1973 c. 116 s. 6; 1977 c. 29 s. 1654 (7) (a); 1991 a. 39, 277; 1993 a. 317, 490; 1997 a. 199, 237.

SECTION 2. 342.19 (4) of the statutes is amended to read:

*Fix spaces*

342.19 (4) The rules of priority stated in s. 409.312, and the other sections therein referred to, shall, to the extent appropriate, apply to conflicting security interests in a vehicle of a type for which a certificate of title is required, ~~or in a "previously certificated vehicle" as defined in s. 342.281.~~ A security interest perfected under this section ~~or under ss. 342.284 and 342.285~~ is a security interest perfected otherwise than by filing for purposes of s. 409.312.

History: 1973 c. 336 s. 79; 1975 c. 286, 422; 1977 c. 29, 1654 (7) (a).

**SECTION 3.** 342.281 of the statutes is repealed.

**SECTION 4.** 342.282 of the statutes is repealed.

**SECTION 5.** 342.283 of the statutes is repealed.

**SECTION 6.** 342.284 of the statutes is repealed.

**SECTION 7.** 342.285 of the statutes is repealed.

**SECTION 8.** 409.302 (3) (b) of the statutes is amended to read:

409.302 (3) (b) The following vehicle title statutes: ss. 342.19, and 342.20, 342.284 and 342.285; but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of ss. 409.401 to 409.408 apply to a security interest in that collateral created by that person as debtor; or

History: 1973 c. 215; 1985 a. 187, 237; 1989 a. 31; 1991 a. 39, 148, 316; 1995 a. 449; 1997 a. 297.

**SECTION 9150. Nonstatutory provisions; transportation.**

(1) LIENS IN OLDER VEHICLES. If a security interest in a previously certificated vehicle, as defined in section 342.281, 1997 ~~was~~, was created, but was unperfected prior to June 1, 1966, under any laws of this state other than chapter 342 of the statutes, the security interest may be perfected under chapter 342 of the statutes, but such perfection dates only from the date on which the department of

*stats.*

transportation receives the application for a new certificate of title showing the security interest.

(END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0288~~0~~in

PEN...  
*king*

*Alden*

Do you want to require DOT to issue new certificates of title to these older vehicles? See s. 342.282 (2), stats. Do you want to require security interests that are perfected prior to June 1, 1966, but not perfected under ch. 342, stats., to be perfected under that chapter?

Paul E. Nilsen  
Legislative Attorney  
261-6926

I have not done extensive research on the issue of whether this draft operates to upset the legal rights of pre-1966 lienholders in violation of the <sup>intra</sup>contracts clause of the state <sup>or</sup> federal <sup>cons</sup> constitutions. Please let me know if you would like me to research this issue.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0288/P1dn  
PEN:kmg:lp

October 9, 1998

Do you want to require DOT to issue new certificates of title to these older vehicles? See s. 342.282 (2), stats. Do you want to require security interests that are perfected prior to June 1, 1966, but not perfected under ch. 342, stats., to be perfected under that chapter?

I have not done extensive research on the issue of whether this draft operates to upset the legal rights of pre-1966 lienholders in violation of the contracts clause of the state or federal constitutions. Please let me know if you would like me to research this issue.

Paul E. Nilsen  
Legislative Attorney  
261-6926

**Nilsen, Paul**

**From:** Buckmaster, Carol [carol.buckmaster@dot.state.wi.us]  
**Sent:** Monday, October 26, 1998 10:34 AM  
**To:** Nilsen, Paul  
**Subject:** FW: Corrections for NON-BUDGET legislation

Paul - Please make these suggested corrections. Thank you.

-----  
From: Frazier, Carson  
To: Buckmaster, Carol 267-6979  
Cc: Wehrle, Barb; Niva, Gregory; Brummond, Scott R.; Gorenstein, Elisabeth 266-0179; MAASSEN, JOE; WEISSHAAR, CARL  
Subject: Corrections for NON-BUDGET legislation  
Date: Monday, October 26, 1998 10:10AM



Redraft  
- 0288

Carol, could you forward to Paul Nilsen these corrections to LRB-0288/P1, which you have listed as T044:

\*\*\*\*\*

1. Page 1, line 1, relating clause: can you delete reference to the budget? This is a non-budget item, and Rep Brandemuehl is going to introduce it for us.
2. Page 2, line19 - page 3, line 2, Nonstatutory provisions: We presume that this is Paul's response to his drafter's note. It is fine with us.

To answer specifically the drafter note questions

1. We do NOT want to require DOT to issue new titles to these older vehicles. There are only 750 active titles still on our data base, and none of them have a lien on them. These would be titles that have never come in to us, which (if they had) we'd have perfected the existing lien on under Ch. 342.
2. We do NOT want to REQUIRE security interests that were perfected before 6/1/66 but perfected under some other provision of statutes to perfect under Ch 342 -- we'd like this permissive, which is what we understand the non-statutory provision does. We believe it's unlikely that any liens exist that were perfected some other way, but if there are, they should certainly have the opportunity to perfect under Ch 342.
3. If we give people a permissive way to perfect a lien now if they hold a lien that dates from before 1966 and is still valid (as we do in the non-statutory provisions), why would there be any question about their legal or constitutional rights (this question is sincere, I have no idea what the issue would be). But, if Paul thinks there might be any question and can take the time to do so, it might be reassuring to have the research.

Paul can call me directly if he has any questions about this, thanks a whole lot.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0288/P1

PEN:kmg:lp

11

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

WPO: This is in  
PEN's Inbox.

1

*Pen Cat.*  
AN ACT relating to: ~~motor vehicles~~

older security interests in motor  
vehicles

*Analysis by the Legislative Reference Bureau*

**TRANSPORTATION**

**DRIVERS AND MOTOR VEHICLES**

Under current law, beginning on June 1, 1966, the exclusive means of perfecting security interests in vehicles for which a certificate of title is required is to surrender the existing certificate of title to the department of transportation (DOT) and to make application for a new certificate of title bearing the name and address of the secured party. Prior to June 1, 1966, security interests could be perfected using other means, except that the current means of perfecting security interests by reflecting them on the certificate of title applies upon transfer of the vehicle or upon DOT issuing a certificate of title for the vehicle. This bill repeals the transitional language under which security interests created and perfected prior to June 1, 1966, are not required to be reflected on the vehicle's certificate of title.

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

2

SECTION 1. 342.12 (2) (b) of the statutes is amended to read:

3

342.12 (2) (b) Issue a distinctive certificate of title pursuant to s. 342.10 (4) or

4

342.283.

1           **SECTION 2.** 342.19 (4) of the statutes is amended to read:

2           342.19 (4) The rules of priority stated in s. 409.312, and the other sections  
3 therein referred to, shall, to the extent appropriate, apply to conflicting security  
4 interests in a vehicle of a type for which a certificate of title is required, ~~or in a~~  
5 ~~“previously certificated vehicle” as defined in s. 342.281.~~ A security interest  
6 perfected under this section ~~or under ss. 342.284 and 342.285~~ is a security interest  
7 perfected otherwise than by filing for purposes of s. 409.312.

8           **SECTION 3.** 342.281 of the statutes is repealed.

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10          **SECTION 5.** 342.283 of the statutes is repealed.

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12          **SECTION 7.** 342.285 of the statutes is repealed.

13          **SECTION 8.** 409.302 (3) (b) of the statutes is amended to read:

14          409.302 (3) (b) The following vehicle title statutes: ss. 342.19, and 342.20,  
15 ~~342.284 and 342.285~~; but during any period in which collateral is inventory held for  
16 sale by a person who is in the business of selling goods of that kind, the filing  
17 provisions of ss. 409.401 to 409.408 apply to a security interest in that collateral  
18 created by that person as debtor; or

19          **SECTION 9150.** ~~Nonstatutory provisions transportation.~~ <sup>#</sup> *STET*

20          (1) LIENS IN OLDER VEHICLES. If a security interest in a previously certificated  
21 vehicle, as defined in section 342.281, 1997 stats., was created, but was unperfected  
22 prior to June 1, 1966, under any laws of this state other than chapter 342 of the  
23 statutes, the security interest may be perfected under chapter 342 of the statutes,  
24 but such perfection dates only from the date on which the department of

1 transportation receives the application for a new certificate of title showing the  
2 security interest.

3 (END)

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU**  
**Legal Section Telephone: 266-3561**  
**5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 1/20/99

**To:** Representative Brandemuehl

**Relating to LRB drafting number:** LRB-0288

**Topic**

Vehicle liens created before 1966

**Subject(s)**

Transportation - motor vehicles

1. **JACKET** the draft for introduction Brandemuehl

in the **Senate** \_\_\_\_ or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Paul E. Nilsen, Legislative Attorney  
Telephone: (608) 261-6926