

Paper Ballot

Senate Committee on Insurance, Tourism and Transportation
Senate Bill 43

Relating to: nonmoving traffic violations involving rented or leased motor vehicles.

By Senators Wirch, Burke, Roessler, Schultz, Farrow and Huelsman; cosponsored by Representatives Duff, Stone, Montgomery, Urban, La Fave, Albers, Pettis, Kedzie, Gronemus, Nass, Vrakas, Ladwig, Townsend, Olsen, Gunderson, Powers, Turner and Grothman.

February 7, 2001 Referred to Committee on Insurance, Tourism, and Transportation.

April 25, 2001 **PUBLIC HEARING HELD**

Present: (2) Senators Breske and Grobschmidt.
Absent: (3) Senators Baumgart, A. Lasee and Farrow.

Appearances for

- Senator Bob Wirch, Author
- Bill Wallschlaeger, Wisconsin Car Rental Alliance

Appearances against

- None.

Appearances for Information Only

- None.

Registrations for

- Brian Mitchell, Wisconsin Car Rental Alliance
- Representative Marc Duff
- J.F. Fleming, City of Milwaukee

Registrations against

- None.

MOTION: *By Senator Breske to introduce and adopt Senate Substitute Amendment 1.*

- Aye
- No

MOTION: *By Senator Breske to recommend passage as amended.*

- Aye
- No

Margaret Farrow

Signature

4-25-01

Date

Paper Ballot

Senate Committee on Insurance, Tourism and Transportation
Senate Bill 43

Relating to: nonmoving traffic violations involving rented or leased motor vehicles.

By Senators Wirch, Burke, Roessler, Schultz, Farrow and Huelsman; cosponsored by Representatives Duff, Stone, Montgomery, Urban, La Fave, Albers, Pettis, Kedzie, Gronemus, Nass, Vrakas, Ladwig, Townsend, Olsen, Gunderson, Powers, Turner and Grothman.

February 7, 2001 Referred to Committee on Insurance, Tourism, and Transportation.

April 25, 2001 **PUBLIC HEARING HELD**

Present: (2) Senators Breske and Grobschmidt.
Absent: (3) Senators Baumgart, A. Lasee and Farrow.

Appearances for

- Senator Bob Wirch, Author
- Bill Wallschlaeger, Wisconsin Car Rental Alliance

Appearances against

- None.

Appearances for Information Only

- None.

Registrations for

- Brian Mitchell, Wisconsin Car Rental Alliance
- Representative Marc Duff
- J.F. Fleming, City of Milwaukee

Registrations against

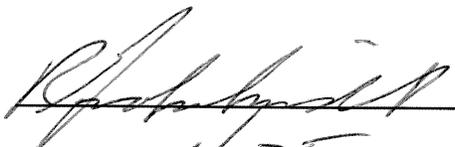
- None.

MOTION: *By Senator Breske to introduce and adopt Senate Substitute Amendment 1.*

Aye
 No

MOTION: *By Senator Breske to recommend passage as amended.*

Aye
 No



4-25-01 Signature

Date

Paper Ballot

Senate Committee on Insurance, Tourism and Transportation

Senate Bill 43

Relating to: nonmoving traffic violations involving rented or leased motor vehicles.

By Senators Wirch, Burke, Roessler, Schultz, Farrow and Huelsman; cosponsored by Representatives Duff, Stone, Montgomery, Urban, La Fave, Albers, Pettis, Kedzie, Gronemus, Nass, Vrakas, Ladwig, Townsend, Olsen, Gunderson, Powers, Turner and Grothman.

February 7, 2001 Referred to Committee on Insurance, Tourism, and Transportation.

April 25, 2001 **PUBLIC HEARING HELD**

Present: (2) Senators Breske and Grobschmidt.
Absent: (3) Senators Baumgart, A. Lasee and Farrow.

Appearances for

- Senator Bob Wirch, Author
- Bill Wallschlaeger, Wisconsin Car Rental Alliance

Appearances against

- None.

Appearances for Information Only

- None.

Registrations for

- Brian Mitchell, Wisconsin Car Rental Alliance
- Representative Marc Duff
- J.F. Fleming, City of Milwaukee

Registrations against

- None.

MOTION: *By Senator Breske to introduce and adopt Senate Substitute Amendment 1.*

Aye
 No

MOTION: *By Senator Breske to recommend passage as amended.*

Aye
 No

Jim Baumgart

Signature

4/25/01

Date



**Testimony before the Senate Committee on Insurance, Tourism, and
Transportation
by
Senator Robert Wirch
Senate Bill 43
April 25, 2001**

Thank you Senator Breske and Committee members for your willingness to consider Senate Bill 43.

Current Wisconsin law allows the Department of Transportation to suspend the vehicle registration of individuals with unpaid nonmoving citations such as parking tickets. The problem is that the rental agency first becomes aware of a citation only after the ticket has gone unpaid. Only then does the car rental agency receive the notice, and is then required to provide the local authority with the renter's name, address and driver's license information from its records.

If the renter does not respond to another notice within 30 days of it being mailed, the car rental firm is responsible for payment of 50% of the now-escalated ticket, or its vehicle registration can be suspended.

Senate Bill 43 would change this so that car rental companies would be responsible for the ticket for up to one year if they all necessary information has been

State Capitol, P.O. Box 7882, Madison, Wisconsin 53707-7882 • 608-267-8979

Toll-Free Office Hotline: 1-888-769-4724

Email: Sen.Wirch@legis.state.wi.us • Fax: (608) 267-0984

Home: 3007 Springbrook Road, Kenosha, Wisconsin 53142 • (414) 694-7379

♻️ Printed on Recycled Paper

supplied. This change is consistent with the way other states handle the situation and would not unfairly penalize a third party for something over which they have no control.

The car rental company should not face the possibility of losing its vehicle registration for a problem of which they are unaware. This change is consistent with policies in other states.

SB 43 is a companion to AB 166, which has unanimously passed the Assembly Committee on Highway Safety. There are some discrepancies between the language contained in SB 43 and AB 166, and I would appreciate the Committee introducing the substitute amendment before you which reflects suggested changes by the City of Milwaukee to SB 43. This substitute amendment contains some minor drafting language changes and a provision that allows the municipality to give notice to the rental company for up to a year after the ticket has been issued. Adoption of the substitute amendment will make the bills identical.

Thank you for your time and consideration of the substitute amendment. I would be happy to answer any questions.



Wisconsin Car Rental Alliance

OFFICERS

President

William J. Wallschlaeger
Avis
Appleton

Vice President

Daniel T. Ewald
Mayfair
Milwaukee

Secretary

John G. Nottoli, Jr.
Hertz
Madison

Treasurer

Nancy J. Umland
Avis
Appleton

DIRECTORS

Larry Lanham
Budget
Madison

James R. Loomer
Enterprise
Milwaukee

Ron Moelk
Thrifty
Milwaukee

Sherry Rogers
Avis
Appleton

Chuck Thompson
Les Stumpf Ford
Appleton

Bruce Werschem
National
Kaukauna

Testimony on SB 43

Senate Insurance, Tourism & Transportation Committee

April 25, 2001

Good morning, Mr. Chairman and members of the Committee. I'm Bill Wallschlaeger of Midwestern Wheels, an Avis franchise based in Appleton, appearing in support of Senate Bill 43. I am also the current president of the Wisconsin Car Rental Alliance, our state trade association for rental car companies. My comments today are addressed to the latest draft of this bill which is a substitute amendment prepared by Senator Wirch.

First, I'd like to give you a little background on why the bill is needed:

- Under a provision going back to the early 1980's, current law in Wisconsin allows the Department of Transportation to suspend the registration of a vehicle when there are unpaid nonmoving traffic citations.
- This law was intended to give municipalities additional leverage in collecting unpaid parking fines from vehicle owners who would habitually ignore citations. These persons knew they could accumulate many unpaid tickets before a warrant was ever issued for them in some jurisdictions.
- If a parking ticket is issued to someone driving a rental car, the car rental agency would be unaware of this. The ticket is placed on the rental vehicle and the renter either pays the ticket (in most cases) or occasionally, the renter discards it without our knowledge.

- The car rental agency first becomes aware of a parking violation only if the ticket has gone unpaid. The rental company then receives notice from the local police department that there is an outstanding citation. The rental agency is required to provide the local authority with the renter's name, address, and driver's license information from its records.
- The municipality then attempts to collect the forfeiture by sending up to two different notices to the renter or lessee. If the municipality is unsuccessful in those efforts, the owner of the rental or leased car is notified of that and then becomes liable for 50% of the forfeiture.
- There have been instances where a rental car company has provided the information on the renter and not heard anything more on a citation, only to be notified, in some cases, several years later, that they are liable for the 50% of the forfeiture. We think that's unreasonable!
- This bill would give a municipality one year from the date of issuance of a ticket to hold a rental car company that has provided information on the identity of the renter liable for the 50% of the forfeiture. We believe this is a fair and reasonable period of time to allow local authorities to either collect from the renter or notify us we are liable for the 50%. We don't believe we should be held responsible for citations that are years old.
- A number of states, including Minnesota and Ohio, provide that a rental car company is not liable at all for an unpaid citation, once they have provided the information on the renter. All we're asking for in Wisconsin is some finality after one year. We hope you will support this legislation.

MOTOR VEHICLE LAWS
CHAPTER 345
VEHICLES - CIVIL AND CRIMINAL LIABILITY

345.28 - Nonmoving Violations

345.28 (1) As used in this section:

(a) "Authority" means a local authority, a state agency, any campus of the university of Wisconsin system or any technical college district.

(b) "Forfeiture" includes a fine established under s. 36.11 (8) or 38.14 (13).

(c) "Nonmoving traffic violation" is any parking of a vehicle in violation of a statute, an ordinance, a rule under s. 36.11 (8) or a resolution under s. 38.14 (13).

345.28 (2) (a) A person charged with a nonmoving traffic violation may mail the amount of the forfeiture to any of the places specified in s. 345.26 (1) or to a violations bureau, or to the city, town or county clerk or treasurer if the traffic citation so provides. In that case, the citation shall not be filed with or transmitted to court.

(b) If the person appears in response to a citation for a nonmoving traffic violation, the procedures under ss. 345.34 to 345.47 apply, except as provided in par. (c).

(c) If the appearance date specified in the citation is inconvenient for the person, he or she may contact the clerk of circuit court or the municipal court, whichever is applicable, to schedule a more convenient time. The revised date may provide for an appearance during an evening session, as required under s. 753.23 or authorized by a court. The court may revise the appearance date. The date specified in the citation applies unless the person receives written confirmation of the revised appearance date from the court.

345.28 (3) (a) If the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation is issued, the authority which issued the citation may issue a summons under s. 968.04 (3) (b) to the person and, in lieu of or in addition to issuing the summons, may proceed under sub. (4) or (5) but, except as provided in this section, no warrant may be issued for the person.

(b) If the person appears in response to a summons for a nonmoving traffic violation, the procedures under ss. 345.34 to 345.47 apply.

345.28 (4) (a) 1. If the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation is issued, the authority may notify the department in the form and manner prescribed by the department that a citation has been issued to the person and the citation remains unpaid.

345.28 (4) Continued

(a) 2. The authority shall specify whether the department is to suspend the registration of the vehicle involved under s. 341.63 (1) (c) or refuse registration of any vehicle owned by the person under s. 341.10 (7m) or both.

(b) The notice to the department under par. (a) 1. shall include the name and last-known address of the person against whom the citation was issued, the date the citation was issued, the license number of the vehicle involved, certification that 2 notices which meet the requirements under par. (c) or sub. (5m) (d) have been mailed to the last-known address of the person against whom the citation was issued and that the citation remains unpaid on the date specified in the citation or, if no date is specified in the citation, 28 days after the citation was issued, the place that the citation may be paid, the means by which the citation may be contested and the action the department is to take.

(c) The notices to the person required under par. (b) shall be mailed on 2 separate days to the last-known address of the person to whom the citation was issued and shall include the date the citation was issued, the license number of the vehicle involved, the place the citation may be paid, the means by which the citation may be contested and the date by which the person must pay or contest the citation to avoid further action by the authority. The notice shall inform the person of the specific actions which the authority and the courts are authorized to take under this section if the person fails to pay the forfeiture or appear in court in response to the citation by the date specified in the notice.

(d) The authority may assess the person for the cost of using the traffic violation and registration program as established by the department under s. 85.13.

(e) If the person subsequently pays the amount of the forfeiture and the costs, if any, under par. (d) or appears in court in response to the citation or a notice by the authority who issued the citation or the department, the department shall be immediately notified in the form and manner prescribed by the department. If the vehicle involved in the nonmoving traffic violation is owned by a person engaged in the business of renting or leasing motor vehicles and the owner pays the costs, if any, under par. (d) and 50% of the forfeiture, the authority shall immediately notify the department in the form and manner prescribed by the department.

(f) Upon the person's appearance in court in response to a notice by the authority who issued the citation or the department, the procedures under ss. 345.34 to 345.47 apply.

(g) Notification of the department under par. (a) 1. shall toll any applicable statute of limitation for 4 years from the date of the notification.

(h) If an authority receives payment of 50% of a forfeiture from the owner of a leased or rented vehicle involved in a nonmoving traffic violation and receives payment of the forfeiture from the lessee or renter of the vehicle charged with the violation, the authority shall refund to the owner the 50% payment received.

345.28 (4) Continued

(i) Notwithstanding any other provision of this subsection or ss. 341.10 (7m) and 341.63 (1) (c), the department may permit an authority to send a single notice to the department under par. (a) 1. with respect to 2 or more citations that have been issued to a person and remain unpaid and, if an authority sends a notice specified in this paragraph to the department, the authority and department shall treat any such notice for purposes of any other provision of this section or ss. 341.10 (7m) and 341.63 (1) (c) in the same manner as a notice to the department under par. (a) 1. with respect to a single citation.

345.28 (5) (a) In lieu of the procedure under sub. (4), if the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation was issued, the authority, after sending 2 notices which meet the requirements under sub. (4) (c), may issue a warrant under par. (b) for the person.

(b) 1. If a person fails to respond to the notices under par. (a) within the time specified in the notice, a warrant that substantially complies with the mandatory provisions under s. 968.04 (3) (a) may be issued for the person, except that the warrant shall direct the officer to accept the person's deposit of money or his or her valid Wisconsin operator's license, as provided under subd. 2. a., in lieu of serving the warrant and arresting the person.

2. If an officer contacts a person for whom a warrant for a nonmoving traffic violation has been issued under subd. 1.:

a. The officer shall accept a deposit of money or a deposit of the person's valid Wisconsin operator's license in lieu of serving the warrant and arresting the person. If the license is deposited with the officer, the officer shall issue to the licensee a receipt, on a form provided by the department, which is valid as an operator's license through a date specified on the receipt, not to exceed 30 days from the date of contact, which shall be the same as the court appearance date and the officer shall at the earliest possible time prior to the court appearance date deposit the license with the court. If a deposit of money is made, s. 345.26 (1) (a) and (2) to (5) applies. The officer shall notify the person who deposits money or his or her license, in writing, of the specific actions which the authority and the courts are authorized to take under this section if the person fails to appear in court at the time specified by the officer, not to exceed 30 days from the date of contact, or at any subsequent court appearance for the nonmoving traffic violation citation. If the person makes a deposit of money or deposits his or her valid Wisconsin operator's license, the officer shall return the warrant to the court or judge who issued the warrant and the court or judge shall vacate the warrant.

b. The officer may serve the warrant and arrest any person who refuses to make a deposit of money or deposit his or her operator's license. If the officer arrests the person, the officer shall bring the arrested person before a court having jurisdiction to try the action or a judge without unreasonable delay.

345.28 (5) Continued

(c) 1. If the person who was contacted under par. (b) 2. and who has made a deposit of money fails to appear in court at the date specified by the officer under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court appearance for the nonmoving traffic violation, the person shall be deemed to have entered a plea of nocontest. The court shall accept the plea of no contest, find the defendant guilty and proceed under s. 345.47, except that the deposit shall be forfeited and serve as payment of the judgment. The court shall give notice of the entry of judgment to the defendant by mailing a copy of the judgment to the defendant's last-known address.

2. If the person who was contacted under par. (b) 2. and who has deposited his or her operator's license fails to appear in court at the date specified by the officer under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court appearance for the nonmoving traffic violation, the person may be deemed to have entered a plea of no contest. The court may accept the plea of no contest, find the defendant guilty and, except as limited by sub. (6), proceed under s. 345.47. If the court enters judgment under s. 345.47 (1), the court shall give notice of the entry of judgment to the defendant by mailing a copy of the judgment to the defendant's last-known address. The court shall also mail to the defendant's last-known address a statement setting forth the actions the court may take under s. 345.47 if the judgment is not paid. In lieu of accepting the plea of no contest, the court may issue a warrant commanding that the person be arrested and brought before the court. Unless the case is tried immediately with the person's consent, any person who is arrested on a warrant issued under this subdivision may be released on his or her own recognizance or on posting bond or may be released without bail and shall be released if the person posts cash bail for his or her appearance. The court may retain the person's license, but the person's operating privilege may not be suspended until after judgment is entered under s. 345.47 and the judgment is not paid.

3. A default judgment entered under this paragraph may be reopened as provided under s. 345.51.

345.28 (5m) (a) No notice under sub. (4) (a) may be sent to the department, or if the notice has already been sent the notice shall be canceled, and no further action may be taken against the owner under sub. (4) or (5) or s. 341.10 (7m) or 341.63 (1) (c) if:

1. The vehicle involved in a nonmoving traffic violation is owned by a person engaged in the business of renting or leasing motor vehicles;

2. At the time of the violation the vehicle was in the possession of a renter or lessee;

3. The owner of the vehicle provides the information required under s. 343.46 (3) for such renter or lessee to the authority who issued the citation within 10 days after the 2nd notice was sent to the owner under sub. (4) (c); and

4. After being notified by the authority, the renter or lessee identified under subd. 3. pays the forfeiture or appears in court in response to the citation for the nonmoving traffic violation within 30 days after the 2nd notice from the authority is mailed.

345.28 (5m)(a) Continued

(b) If the renter or lessee does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation, the authority may notify the department under sub. (4) (a) 1. that a citation has been issued to the person and the citation remains unpaid. The action which the authority shall specify that the department take under sub. (4) (a) 2. is limited to refusal of the registration of any vehicle owned by the renter or lessee.

(c) 1. If the renter or lessee does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation within 30 days after the 2nd notice from the authority is mailed to the renter or lessee, the owner shall pay the authority 50% of the forfeiture applicable to the nonmoving traffic violation. The authority shall notify the owner in writing of its responsibility for this payment.

2. If the owner does not pay 50% of the forfeiture applicable to the citation within 30 days after notice under subd. 1. has been mailed to the owner, the authority may send a notice to the department under sub. (4) (a) 1. The action which the authority shall specify that the department take under sub. (4) (a) 2. is limited to suspension of the registration of the vehicle involved in the nonmoving traffic violation.

(d) The notices to the renter or lessee required under sub. (4) (b) shall be mailed on 2 separate days to the last-known address of the renter or lessee and shall include the information specified in sub. (4) (c) and the name of the owner of the vehicle.

345.28 (6) No person may be arrested or imprisoned under s. 345.47 (1) (a) or ch. 785 for failure to pay a judgment assessed under this section and s. 345.47.

345.28 (7) Nothing in this section prevents a court from issuing a warrant under s. 345.36 or 345.37 if the person appears in court in response to a citation for a nonmoving traffic violation or after notice by the authority who issued the citation or the department under sub. (4) or on the date specified by the officer or the court under sub. (5) and then fails to appear in court at any time fixed by subsequent postponement. Unless the case is tried immediately with the person's consent, any person who is arrested on a warrant issued under this subsection may be released on his or her own recognizance or on posting bond or may be released without bail and shall be released if the person posts cash bail for his or her appearance.

345.28 - ANNOT.

History: 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237.

(4) Shall, if the alleged violator is released under sub. (1) or (2), specify on the citation a return date which may not be more than 90 days after the issue date.

History: 1971 c. 278; 1973 c. 218; 1977 c. 305, 418; 1983 a. 189 s. 329 (32); 1989 a. 105, 170, 359.

345.24 Officer's action after arrest for driving under influence of intoxicant. (1) A person arrested under s. 346.63 (1) or (5) or an ordinance in conformity therewith or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, may not be released until 12 hours have elapsed from the time of his or her arrest or unless a chemical test administered under s. 343.305 shows that the person has an alcohol concentration of less than 0.04, but the person may be released to his or her attorney, spouse, relative or other responsible adult at any time after arrest.

(2) If the person was issued an out-of-service order under s. 343.305 (7) (b), the person may be released as provided under sub. (1) but the person's license may be retained until the out-of-service period has expired.

History: 1971 c. 278; 1977 c. 193; 1981 c. 20; 1985 a. 337; 1987 a. 3; 1989 a. 105; 1995 a. 436.

345.255 Deposit after release. A person arrested under s. 345.22 for the violation of a traffic regulation who is released under s. 345.23 (1) shall be permitted to make a deposit any time prior to the court appearance date. The deposit shall be made in person or by mailing it to the clerk of the court of the county in which the alleged violation occurred.

History: 1973 c. 218.

345.26 Deposit. (1) (a) A person arrested under s. 345.22 or 345.28 (5) for the violation of a traffic regulation who is allowed to make a deposit under s. 345.23 (2) (a) or 345.28 (5) shall deposit the money as the arresting officer directs by either mailing the deposit at a nearby mailbox to the office of the sheriff, headquarters of the county traffic patrol, district headquarters or station of the state traffic patrol, city, village or town police headquarters or a precinct station, the office of the municipal judge, the office of the clerk of court, or by going, in the custody of the arresting officer, to any of those places to make the deposit.

(b) The arresting officer or the person receiving the deposit shall notify the arrested person, orally or in writing, that:

1. If the person makes a deposit for a violation of a traffic regulation, the person need not appear in court at the time fixed in the citation, and the person will be deemed to have tendered a plea of no contest and submitted to a forfeiture and a penalty assessment, if required by s. 165.87, a jail assessment, if required by s. 302.46 (1), a railroad crossing improvement assessment, if required by s. 346.177, 346.495 or 346.65 (4r), and a crime laboratories and drug law enforcement assessment, if required by s. 165.755, plus any applicable fees prescribed in ch. 814, not to exceed the amount of the deposit that the court may accept as provided in s. 345.37; and

2. If the person fails to make a deposit for a violation of a traffic regulation or appear in court at the time fixed in the citation, the court may enter a default judgment finding the person guilty of the offense or issue a warrant for his or her arrest.

(2) (a) The basic amount of the deposit for the alleged violation of a traffic regulation shall be determined in accordance with a deposit schedule which the judicial conference shall establish. Annually, the judicial conference shall review and may revise the schedule.

(b) In addition to the amount in par. (a), the deposit shall include court costs, including any applicable fees prescribed in ch. 814, any applicable penalty assessment, any applicable jail assessment, any applicable railroad crossing improvement assessment and any applicable crime laboratories and drug law enforcement assessment.

(3) (a) The arresting officer or the person accepting the deposit may allow the alleged violator to submit a check for the amount of the deposit or make the deposit by use of a credit card,

and the check or credit charge receipt shall be considered a receipt in lieu of par. (b).

(b) The person receiving the deposit shall furnish a receipt on a serially numbered form, and shall deliver the original receipt to the alleged violator if requested, and shall state to the alleged violator that inquiry may be made at the office of the clerk of court or municipal judge regarding the disposition of the deposit.

(4) An alleged violator in custody shall be released after making the deposit specified in this section.

(5) Any person, other than the clerk of court or the municipal judge before whom the defendant is directed to appear, who accepts the deposit shall, before the time fixed for the appearance of the defendant, deliver the deposit and a copy of the receipt and of the citation issued to the defendant to the clerk of the court or the municipal judge. The clerk or municipal judge shall give a receipt therefor, specifying the serial number of the receipt accompanying the deposit.

History: 1971 c. 278; 1973 c. 218, 228, 336; 1977 c. 29; 1977 c. 305 s. 64; 1977 c. 449; 1981 c. 165 s. 20; 1981 c. 317; 1985 a. 29, 332; 1987 a. 27, 399; 1989 a. 107, 170, 359; 1991 a. 39; 1993 a. 16; 1997 a. 27, 135, 237.

Judges may not reduce the amounts of the deposit schedule established under (2) (a). 61 Atty. Gen. 401.

345.27 Information to persons charged. (1) Whenever a person is charged with a violation of a traffic regulation, the law enforcement officer shall inform the person of the following:

(a) That certain convictions may result in revocation or suspension of his or her operating privilege if the conviction will have that effect.

(b) That demerit points may be assessed against his or her driving record for the offense. The law enforcement officer may estimate the number of demerit points for the particular offense and list it on the traffic citation form.

(c) The number of demerit points that is cause for revocation or suspension.

(2) Before taking the plea of a person charged with a violation of law the judge shall inform the violator of the following:

(a) That conviction of the charge may result in the revocation or suspension of his or her operating privilege.

(b) The number of demerit points that may be assessed against the violator upon conviction of the violation, based on the available information.

(3) Whenever a person has been convicted in this state on the basis of a forfeiture of deposit or a plea of guilty or no contest and the person was not informed as required under subs. (1) and (2), the person may, within 60 days after being notified of the revocation or suspension of the operating privilege, petition the court to reopen the judgment and grant him or her an opportunity to defend on the merits. If the court finds that the petitioner was not informed as required under subs. (1) and (2), the court shall order the judgment reopened. The court order reopening the judgment automatically reinstates the revoked or suspended operating privilege.

History: 1989 a. 170.

345.28 Nonmoving violations. (1) As used in this section:

(a) "Authority" means a local authority, a state agency, any campus of the university of Wisconsin system or any technical college district.

(b) "Forfeiture" includes a fine established under s. 36.11 (8) or 38.14 (13).

(c) "Nonmoving traffic violation" is any parking of a vehicle in violation of a statute, an ordinance, a rule under s. 36.11 (8) or a resolution under s. 38.14 (13).

(2) (a) A person charged with a nonmoving traffic violation may mail the amount of the forfeiture to any of the places specified in s. 345.26 (1) or to a violations bureau, or to the city, town or county clerk or treasurer if the traffic citation so provides. In that case, the citation shall not be filed with or transmitted to court.

(b) If the person appears in response to a citation for a nonmoving traffic violation, the procedures under ss. 345.34 to 345.47 apply, except as provided in par. (c).

(c) If the appearance date specified in the citation is inconvenient for the person, he or she may contact the clerk of circuit court of the municipal court, whichever is applicable, to schedule a more convenient time. The revised date may provide for an appearance during an evening session, as required under s. 753.23 or authorized by a court. The court may revise the appearance date. The date specified in the citation applies unless the person receives written confirmation of the revised appearance date from the court.

(3) (a) If the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation is issued, the authority which issued the citation may issue a summons under s. 968.04 (3) (b) to the person and, in lieu of or in addition to issuing the summons, may proceed under sub. (4) or (5) but, except as provided in this section, no warrant may be issued for the person.

(b) If the person appears in response to a summons for a nonmoving traffic violation, the procedures under ss. 345.34 to 345.47 apply.

(4) (a) 1. If the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation is issued, the authority may notify the department in the form and manner prescribed by the department that a citation has been issued to the person and the citation remains unpaid.

2. The authority shall specify whether the department is to suspend the registration of the vehicle involved under s. 341.63 (1) (c) or refuse registration of any vehicle owned by the person under s. 341.10 (7m) or both.

(b) The notice to the department under par. (a) 1. shall include the name and last-known address of the person against whom the citation was issued, the date the citation was issued, the license number of the vehicle involved, certification that 2 notices which meet the requirements under par. (c) or sub. (5m) (d) have been mailed to the last-known address of the person against whom the citation was issued and that the citation remains unpaid on the date specified in the citation or, if no date is specified in the citation, 28 days after the citation was issued, the place that the citation may be paid, the means by which the citation may be contested and the action the department is to take.

(c) The notices to the person required under par. (b) shall be mailed on 2 separate days to the last-known address of the person to whom the citation was issued and shall include the date the citation was issued, the license number of the vehicle involved, the place the citation may be paid, the means by which the citation may be contested and the date by which the person must pay or contest the citation to avoid further action by the authority. The notice shall inform the person of the specific actions which the authority and the courts are authorized to take under this section if the person fails to pay the forfeiture or appear in court in response to the citation by the date specified in the notice.

(d) The authority may assess the person for the cost of using the traffic violation and registration program as established by the department under s. 85.13.

(e) If the person subsequently pays the amount of the forfeiture and the costs, if any, under par. (d) or appears in court in response to the citation or a notice by the authority who issued the citation or the department, the department shall be immediately notified in the form and manner prescribed by the department. If the vehicle involved in the nonmoving traffic violation is owned by a person engaged in the business of renting or leasing motor vehicles and the owner pays the costs, if any, under par. (d) and 50% of the forfeiture, the authority shall immediately notify the department in the form and manner prescribed by the department.

(f) Upon the person's appearance in court in response to a notice by the authority who issued the citation or the department, the procedures under ss. 345.34 to 345.47 apply.

(g) Notification of the department under par. (a) 1. shall toll any applicable statute of limitation for 4 years from the date of the notification.

(h) If an authority receives payment of 50% of a forfeiture from the owner of a leased or rented vehicle involved in a nonmoving traffic violation and receives payment of the forfeiture from the lessee or renter of the vehicle charged with the violation, the authority shall refund to the owner the 50% payment received.

(i) Notwithstanding any other provision of this subsection or ss. 341.10 (7m) and 341.63 (1) (c), the department may permit an authority to send a single notice to the department under par. (a) 1. with respect to 2 or more citations that have been issued to a person and remain unpaid and, if an authority sends a notice specified in this paragraph to the department, the authority and department shall treat any such notice for purposes of any other provision of this section or ss. 341.10 (7m) and 341.63 (1) (c) in the same manner as a notice to the department under par. (a) 1. with respect to a single citation.

(5) (a) In lieu of the procedure under sub. (4), if the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation was issued, the authority, after sending 2 notices which meet the requirements under sub. (4) (c), may issue a warrant under par. (b) for the person.

(b) 1. If a person fails to respond to the notices under par. (a) within the time specified in the notice, a warrant that substantially complies with the mandatory provisions under s. 968.04 (3) (a) may be issued for the person, except that the warrant shall direct the officer to accept the person's deposit of money or his or her valid Wisconsin operator's license, as provided under subd. 2. a., in lieu of serving the warrant and arresting the person.

2. If an officer contacts a person for whom a warrant for a nonmoving traffic violation has been issued under subd. 1.:

a. The officer shall accept a deposit of money or a deposit of the person's valid Wisconsin operator's license in lieu of serving the warrant and arresting the person. If the license is deposited with the officer, the officer shall issue to the licensee a receipt, on a form provided by the department, which is valid as an operator's license through a date specified on the receipt, not to exceed 30 days from the date of contact, which shall be the same as the court appearance date and the officer shall at the earliest possible time prior to the court appearance date deposit the license with the court. If a deposit of money is made, s. 345.26 (1) (a) and (2) to (5) applies. The officer shall notify the person who deposits money or his or her license, in writing, of the specific actions which the authority and the courts are authorized to take under this section if the person fails to appear in court at the time specified by the officer, not to exceed 30 days from the date of contact, or at any subsequent court appearance for the nonmoving traffic violation citation. If the person makes a deposit of money or deposits his or her valid Wisconsin operator's license, the officer shall return the warrant to the court or judge who issued the warrant and the court or judge shall vacate the warrant.

b. The officer may serve the warrant and arrest any person who refuses to make a deposit of money or deposit his or her operator's license. If the officer arrests the person, the officer shall bring the arrested person before a court having jurisdiction to try the action or a judge without unreasonable delay.

(c) 1. If the person who was contacted under par. (b) 2. and who has made a deposit of money fails to appear in court at the date specified by the officer under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court appearance for the nonmoving traffic violation, the person shall be deemed to have entered a plea of no contest. The court shall accept the plea of no contest, find the defendant guilty and proceed under s.

345.47, except that the deposit shall be forfeited and serve as payment of the judgment. The court shall give notice of the entry of judgment to the defendant by mailing a copy of the judgment to the defendant's last-known address.

2. If the person who was contacted under par. (b) 2. and who has deposited his or her operator's license fails to appear in court at the date specified by the officer under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court appearance for the nonmoving traffic violation, the person may be deemed to have entered a plea of no contest. The court may accept the plea of no contest, find the defendant guilty and, except as limited by sub. (6), proceed under s. 345.47. If the court enters judgment under s. 345.47 (1), the court shall give notice of the entry of judgment to the defendant by mailing a copy of the judgment to the defendant's last-known address. The court shall also mail to the defendant's last-known address a statement setting forth the actions the court may take under s. 345.47 if the judgment is not paid. In lieu of accepting the plea of no contest, the court may issue a warrant commanding that the person be arrested and brought before the court. Unless the case is tried immediately with the person's consent, any person who is arrested on a warrant issued under this subdivision may be released on his or her own recognizance or on posting bond or may be released without bail and shall be released if the person posts cash bail for his or her appearance. The court may retain the person's license, but the person's operating privilege may not be suspended until after judgment is entered under s. 345.47 and the judgment is not paid.

3. A default judgment entered under this paragraph may be reopened as provided under s. 345.51.

(5m) (a) No notice under sub. (4) (a) may be sent to the department, or if the notice has already been sent the notice shall be canceled, and no further action may be taken against the owner under sub. (4) or (5) or s. 341.10 (7m) or 341.63 (1) (c) if:

1. The vehicle involved in a nonmoving traffic violation is owned by a person engaged in the business of renting or leasing motor vehicles;

2. At the time of the violation the vehicle was in the possession of a renter or lessee;

3. The owner of the vehicle provides the information required under s. 343.46 (3) for such renter or lessee to the authority who issued the citation within 10 days after the 2nd notice was sent to the owner under sub. (4) (c); and

4. After being notified by the authority, the renter or lessee identified under subd. 3. pays the forfeiture or appears in court in response to the citation for the nonmoving traffic violation within 30 days after the 2nd notice from the authority is mailed.

(b) If the renter or lessee does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation, the authority may notify the department under sub. (4) (a) 1. that a citation has been issued to the person and the citation remains unpaid. The action which the authority shall specify that the department take under sub. (4) (a) 2. is limited to refusal of the registration of any vehicle owned by the renter or lessee.

(c) 1. If the renter or lessee does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation within 30 days after the 2nd notice from the authority is mailed to the renter or lessee, the owner shall pay the authority 50% of the forfeiture applicable to the nonmoving traffic violation. The authority shall notify the owner in writing of its responsibility for this payment.

2. If the owner does not pay 50% of the forfeiture applicable to the citation within 30 days after notice under subd. 1. has been mailed to the owner, the authority may send a notice to the department under sub. (4) (a) 1. The action which the authority shall specify that the department take under sub. (4) (a) 2. is limited to suspension of the registration of the vehicle involved in the nonmoving traffic violation.

(d) The notices to the renter or lessee required under sub. (4) (b) shall be mailed on 2 separate days to the last-known address of the renter or lessee and shall include the information specified in sub. (4) (c) and the name of the owner of the vehicle.

(6) No person may be arrested or imprisoned under s. 345.47 (1) (a) or ch. 785 for failure to pay a judgment assessed under this section and s. 345.47.

(7) Nothing in this section prevents a court from issuing a warrant under s. 345.36 or 345.37 if the person appears in court in response to a citation for a nonmoving traffic violation or after notice by the authority who issued the citation or the department under sub. (4) or on the date specified by the officer or the court under sub. (5) and then fails to appear in court at any time fixed by subsequent postponement. Unless the case is tried immediately with the person's consent, any person who is arrested on a warrant issued under this subsection may be released on his or her own recognizance or on posting bond or may be released without bail and shall be released if the person posts cash bail for his or her appearance.

History: 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237.

345.285 Alternative traffic violation and registration pilot program. (1) The department may administer an alternative traffic violation and registration pilot program. Any pilot program under this section shall provide alternative methods of suspending and refusing vehicle registrations for unpaid citations for nonmoving traffic violations in lieu of applicable requirements of s. 345.28.

(2) The department may contract with a city of the 1st class to permit the city to suspend vehicle registrations for unpaid citations for nonmoving traffic violations. The department may not enter into a contract under this subsection after June 30, 2001. A contract under this subsection shall include all of the following provisions:

(a) The city may suspend the registration of a vehicle if all of the following apply:

1. The city has cited the owner of the vehicle for one or more nonmoving traffic violations for which the owner has neither paid the forfeitures nor appeared in court in response to the violations.

2. The city has mailed to the last-known address of the owner at least 2 notices that meet the requirements of s. 345.28 (4) (c) with respect to each citation counted under subd. 1.

3. The owner has not, by the date specified in the last issued citation that is counted under subd. 1. or, if no date is specified in that citation, within 28 days after the citation is issued, either paid all forfeitures or appeared in court in response to all citations counted under subd. 1. for which the forfeitures have not been paid.

(b) If the city suspends the registration of a vehicle under par. (a), all of the following apply:

1. The city may notify the department to refuse the registration of any vehicle owned by the person under s. 341.10 (7r).

2. The city shall remove the suspension of the vehicle's registration under par. (a) if the owner of the vehicle either pays all forfeitures or appears in court in response to all citations counted under par. (a) 1. for which the forfeitures have not been paid. If a suspension is removed under this subdivision, the department shall be immediately notified in the form and manner prescribed by the department.

(c) Provisions that specify the responsibilities of the department and of the city with respect to the pilot program, the procedures for record and transaction security, and any fee that the city may assess the owner of a vehicle whose registration is suspended under par. (a).

(d) Notwithstanding s. 85.13, the department shall charge the city a fee for the cost of the development and operation of the pilot