

2003 DRAFTING REQUEST

Bill

Received: **10/15/2003**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **John Ainsworth (608) 266-3097**

By/Representing: **Kristina (aide)**

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

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles
Transportation - traffic laws
Transportation - miscellaneous**

Extra Copies: **TNF, PJH**

Submit via email: **YES**

Requester's email: **Rep.Ainsworth@legis.state.wi.us** ✓

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Responsibility for towing, removal, impoundment if owner provides notice of transfer of title or ownership

Instructions:

See Attached

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>
/?				_____			S&L
/P1	agary 11/05/2003	jdye 11/11/2003	rschluet 11/11/2003	_____	lemery 11/11/2003		S&L
/1	agary	jdye	jfrantze	_____	mbarman	mbarman	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	11/25/2003	11/26/2003	11/26/2003	_____	11/26/2003	11/26/2003	

FE Sent For:

<END>

↳ At
Intro.

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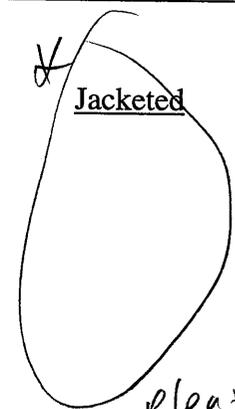
Instructions:

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/?							S&L
/P1	agary 11/05/2003	jdyer 11/11/2003	rschluet 11/11/2003		lemery 11/11/2003		

Handwritten notes:
11/26 jld
11/26 Self
11/26



Handwritten note:
Please send
"1" out
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FE Sent For:

<END>

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1?	agary	PLH jld					

Handwritten signature and scribbles

FE Sent For:

<END>

John Ainsworth

State Representative

The attached is provided for your information.

Please let me know if I can be of further assistance.

Aaron-

Here is the info for the Ainsworth/Leibham drafting request. They would like drafts for items #1 and #2.

Any questions - please call!

Thank you!
P.O. Box 8952, State Capitol, Madison, Wisconsin 53708-8952
(608) 266-3097 • Legislative Hotline: (Toll-free) 1 800-362-9472

Kustura
Printed on recycled paper

Ainsworth

WISCONSIN TOWING ASSOCIATION
LEGISLATIVE PROPOSALS
2003-2004 SESSION

#1

NOTIFICATION BY LAW ENFORCEMENT OF OWNER/LIENHOLDER INFORMATION

Applicable Chapters: Chapter 341; Chapter 342 and Chapter 349
Applicable Statutes 341.65; 342.40; and 349.13

Any law enforcement agency shall within 24 hours of ordering the removal and/or impoundment of a motor vehicle under this chapter provide the name and address of the registered owner and holder(s) of a perfected security interest of said vehicle to the towing service providing the removal and/or impoundment.

Towing services need this information to notify owners and lienholders of the removal of illegally stopped, standing or parked vehicles so that they may be reclaimed.

Police departments have ready access to this information and should provide it to the towing service they requested for the removal.

Towing services are authorized to obtain this information under the Federal Drivers Privacy Protection Act, Title 18, U.S.C. Section 2724.

#2

NOTIFICATION OF PRIVATE SALE OF VEHICLES TO WISCONSIN DOT

Chapter 342 – VEHICLE TITLE AND ANTI-THEFT LAW

Transfer of interest of a motor vehicle by private sale; notification to the department.

If an owner transfers his or her interest in a motor vehicle by private sale, the owner shall within seven (7) business days following the sale or transfer, notify the department of the name and address of the transferee on a form provided by the department and deliver or mail this notification to the department

The owner of any vehicle shall remain responsible for the costs of removal, impoundment and disposal of the vehicle under s. 342.40 until the department receives notification that his or her interest in the vehicle has been transferred along with the name and address of the transferee.

Part of the abandoned vehicle problem is a result of individuals purchasing older model vehicles via private sale and not properly titling and/or registering the vehicle as required by state law upon purchase. The reasons for not properly titling and/or registering these vehicles are very apparent:

- Often, persons buying vehicles of minimal value do so only to use it until it stops running and the costs of repair exceed the value of the vehicle.
- They do not wish to pay sales tax on the purchase price of the vehicle or the required title and registration fees.

We think it is absolutely critical that some sort of notification requirement to the DOT on the private sale of motor vehicles be established for the following reasons:

- Notification would help compel purchaser of vehicles by private sale to pay the state and county sales taxes applicable to their purchase as well as the lawful title and registration fees.
- When the car stops running, it is abandoned and left to a county or municipality to bear the cost of removal, impoundment, and disposal. This cost should be paid by the vehicle owner rather than tax payers or towing companies. Unfortunately, because the vehicle was not titled or registered it often cannot be traced to the legal owner.

- Abandoned vehicles are an environmental liability and their disposal can be very costly. Gasoline tanks must be removed and fuel disposed of as a hazardous waste along with the battery. Tires are no longer accepted in landfills and must be properly disposed of also. Refrigerants from the air conditioning systems must be recovered and recycled. Other engine fluids such as oil, antifreeze, transmission and brake fluids must also be collected and disposed of. Most all of these procedures are required by state and/or federal regulations and result in a considerable expense which should be the responsibility of the vehicle owner and not local governments and their taxpayers; nor should this expense be the responsibility of the towing company that may not be able to charge this expense back to the local unit of government that hired it to dispose of the vehicle.
- Motor vehicle dealers must notify DOT when they sell a car and salvage dealers must do likewise when they take possession. (When a licensed used or new car dealer sells a vehicle he must apply to DMV for title/registration for the new owner (342.16). We also know that when a vehicle is sold for salvage or junked, the salvage dealer must forward the title to DMV (342.34). However, there is no such requirement to notify the DMV of the purchaser's identity of a vehicle by private sale.) Why shouldn't a similar requirement be established for sellers/buyers involved in private vehicle sales?

We feel all individuals should pay state and county sales taxes, registration and title fees on the vehicles they purchase and operate. They should also be held responsible for costs resulting from the vehicles they abandon. Making sure there is a record of ownership for all vehicles operated in Wisconsin is a positive step towards this goal.

• TOWING AND STORAGE LIENS

779.415 LIENS ON MOTOR VEHICLES FOR TOWING AND STORAGE.

(1)

(a) Every motor carrier holding a permit to perform vehicle towing services, every licensed motor vehicle salvage dealer and every licensed motor vehicle dealer who performs vehicle towing services or stores a motor vehicle, when such towing or storage is performed at the direction of a traffic officer or the owner of the vehicle, shall, if the vehicle is not claimed as provided herein, have a lien on such vehicle for reasonable towing and storage charges, and may retain possession of such property until such charges are paid. If the vehicle is subject to a lien perfected under ch. 342, a towing lien shall have priority only to the extent of \$75 for a motor vehicle having a gross weight of 20,000 pounds or less and \$250 for a motor vehicle having a gross weight of more than 20,000 pounds and a storage lien shall have priority only to the extent of ~~\$7~~ **\$15** per day ~~but for a total amount of not more than \$420~~ for a motor vehicle having a gross weight of 20,000 pounds or less and ~~\$20~~ **\$30** per day ~~but for a total amount of not more than \$1,200~~ for a vehicle having a gross weight of more than 20,000 pounds. If the value of the vehicle exceeds ~~\$500~~ **\$1,200**, the lien may be enforced under s. 779.48 (2). If the value of the vehicle ~~does not exceed \$500, is \$1,200 or less~~, the lien may be enforced by sale or junking substantially as provided in sub. (2). The term gross weight for purposes of this subsection means when applied to a motor vehicle used in the transportation of persons or property shall mean the actual weight of such motor vehicle unloaded plus the licensed carrying capacity of such motor vehicle

(b) If the vehicle is towed or stored under the directions of a traffic officer, any personal property within the vehicle shall be released to the owner of the vehicle as provided under s. 349.13 (5) (b) 2. No additional charge may be assessed against the owner for the removal or release of the personal property within the vehicle.

(1m) Within ~~40~~ **30** days after taking possession of a vehicle, every motor carrier, licensed motor vehicle salvage dealer and licensed motor vehicle dealer under sub. (1) shall send written notice by certified mail to the owner or the vehicle and to the holder of the senior lien on the vehicle informing them that they must take steps to obtain release of the motor vehicle. A reasonable effort to so notify the holder of the senior lien satisfies the notice requirement of this subsection. Failure to make a reasonable effort to so notify the senior lienholder renders void

Soon
forward
in 11/5

ARG:.....

US-
note

id

D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1 AN ACT ...; relating to: transfers of ownership of vehicles and the costs of
2 removing, impounding, and disposing of abandoned vehicles.

Analysis by the Legislative Reference Bureau

Current law requires the owner of a vehicle (owner), when transferring an interest in the vehicle, to record certain information on the vehicle's certificate of title and deliver the certificate of title to the person taking the interest in the vehicle (buyer). Upon receiving the certificate of title, the buyer must promptly complete an application for a new certificate of title and submit the application and the old certificate of title to the Department of Transportation (DOT) ~~which~~ then updates its records to show the new owner and issues a new certificate of title for the vehicle. Except as between the parties, a transfer is not effective until all requirements of the owner and buyer have been satisfied.

period
DOT

This bill provides that a transfer of a vehicle is effective, regardless of whether the buyer satisfies his or her obligations, if the owner satisfies his or her obligations and also notifies DOT of the transfer by submitting to DOT a completed notice of transfer form prescribed by DOT. The bill further requires DOT to keep records of notices of transfer received from owners.

Current law prohibits any person from abandoning a vehicle on a highway or public or private property and subjects abandoned vehicles to, among other things, removal and impoundment. Any municipality or county may enact an ordinance related to abandoned vehicles. Upon discovery of an abandoned vehicle ~~on~~ on a highway or public or private property, a law enforcement officer must cause the vehicle to be removed to a suitable place of impoundment. Except for a stolen vehicle,

on

*

the vehicle owner is responsible for payment of all costs of removing, impounding, and disposing of an abandoned vehicle. Specified notice must be provided to the vehicle owner and lienholders related to impoundment and disposal of a vehicle.

This bill specifies that, for purposes of responsibility for the costs of, and notice related to, the removal, impoundment, or disposal of a vehicle, an "owner" includes the buyer of a vehicle regardless of whether the buyer has satisfied his or her obligation to apply for a new certificate of title and the transferor of the vehicle if the transferor has not submitted to DOT the notice of transfer form specified above and the buyer has not applied for a new certificate of title.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 342.09 (2) (intro.) of the statutes is amended to read:

2 342.09 (2) (intro.) The department shall maintain a record of all applications
3 and, all certificates of title issued by it, and all notices of transfer received by it under
4 s. 342.15 (3):

5 SECTION 2. 342.15 (3) of the statutes is amended to read:

6 342.15 (3) Except as provided in s. ss. 342.16 and 342.40 (3) (b) and as between
7 the parties, a transfer by an owner is not effective until the provisions of this section
8 subs. (1), (2), and (4) have been complied with. An or, unless the vehicle is a junk
9 vehicle or has been junked, until the owner has complied with the provisions of subs.
10 (1) and (4) and has mailed or delivered to the department a notice of transfer on a
11 form prescribed by the department, which shall include the name and address
12 of the transferee, if the notice is delivered to the department or deposited in the mail
13 properly addressed to the department with postage prepaid within 7 business days
14 of delivery of the vehicle to the transferee. Subject to s. 342.40 (3) (b), an owner who
15 has delivered possession of the vehicle to the transferee and has complied with the

1 provisions of ~~this section~~ [✓] subs. (1) and (4) is not liable as owner for any damages
2 thereafter resulting from operation of the vehicle.

3 **SECTION 3.** 342.40 (3) (f) [✓] of the statutes is created to read:

4 342.40 (3) (f) In this [✓] subsection, "owner" includes any transferor of a vehicle
5 required to comply with the provisions of s. 342.15 (1) and (4) [✓] who has not mailed or
6 delivered to the department the notice of transfer specified under s. [✓] 342.15 (3), unless
7 the transferee has complied with all requirements of s. 342.15 (2), and any transferee
8 regardless of whether the transferee has complied with the requirements under s.
9 342.15 (2). [✓]

10 **SECTION 4. Initial applicability.**

11 (1) This act first applies to transfers of vehicles occurring on the effective date
12 of this subsection. [✓]

13 **SECTION 5. Effective date.**

14 (1) This act takes effect on the first day of the [✓] 4th month beginning after
15 publication.

16 (END)

D - Note

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

LRB-3497/P1dn

ARG:.....
Jed

ATTN: Kristina Boardman

Please review the attached draft carefully to ensure that it is consistent with your intent.

* The attached ^{draft} ~~bill~~ does not provide any forfeiture for failure of a vehicle owner to complete and submit the notice of transfer form prescribed by DOT. Is this okay?

The costs referenced in s. 342.40 (3) (b) [✓] include the costs of disposal. I created s. 342.40 (3) (f), [✓] rather than amending s. 342.40 (3) (b), so that notice is required to be provided to any "owner" commensurate with the expanded responsibility of the "owner" for costs of removal, impoundment, and disposal. Accordingly, the draft expands the notice requirements commensurate with the expanded ability to collect costs of disposal. Is this okay?

The attached draft includes a delayed effective date of approximately three [✓] months to allow DOT time to create the notice of transfer form and otherwise prepare for implementation of the bill. Is this okay?

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3497/P1dn
ARG:jld:rs

November 11, 2003

ATTN: Kristina Boardman

Please review the attached draft carefully to ensure that it is consistent with your intent.

The attached draft does not provide any forfeiture for failure of a vehicle owner to complete and submit the notice of transfer form prescribed by DOT. Is this okay?

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The attached draft includes a delayed effective date of approximately three months to allow DOT time to create the notice of transfer form and otherwise prepare for implementation of the bill. Is this okay?

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Gary, Aaron

From: Boardman, Kristina
Sent: Tuesday, November 25, 2003 2:06 PM
To: Gary, Aaron
Subject: LRB 3496 and 3497

Aaron:

Representative Ainsworth is fine with LRB 3496 and 3497 as drafted. Could we have them converted to a slash one and jacketed?

Thank you! Have a Happy Thanksgiving!

Kristina

Kristina Boardman
Representative Ainsworth's Office
608.266.3097



State of Wisconsin
2003 - 2004 LEGISLATURE

Needed
by 11/26
noon

LRB-3497/1

ARG:jd:rs

RMN

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 AN ACT *to amend* 342.09 (2) (intro.) and 342.15 (3); and *to create* 342.40 (3) (f)
2 of the statutes; **relating to:** transfers of ownership of vehicles and the costs of
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Current law requires the owner of a vehicle (owner), when transferring an interest in the vehicle, to record certain information on the vehicle's certificate of title and deliver the certificate of title to the person taking the interest in the vehicle (buyer). Upon receiving the certificate of title, the buyer must promptly complete an application for a new certificate of title and submit the application and the old certificate of title to the Department of Transportation (DOT). DOT then updates its records to show the new owner and issues a new certificate of title for the vehicle. Except as between the parties, a transfer is not effective until all requirements of the owner and buyer have been satisfied.

This bill provides that a transfer of a vehicle is effective, regardless of whether the buyer satisfies his or her obligations, if the owner satisfies his or her obligations and also notifies DOT of the transfer by submitting to DOT a completed notice of transfer form prescribed by DOT. The bill further requires DOT to keep records of notices of transfer received from owners.

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16 (END)