

2003 Assembly Bill 419

Date of enactment: April 8, 2004
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2003 WISCONSIN ACT 201

AN ACT *to renumber* 345.28 (4) (e) and 345.28 (4) (h); *to renumber and amend* 345.28 (4) (b) and 345.28 (4) (c); *to amend* 85.13, 341.08 (4m), 341.10 (7m), 345.28 (3) (a), 345.28 (5) (a), 345.28 (5m) (a) (intro.), 345.28 (5m) (a) 3., 345.28 (5m) (d) and 345.28 (7); and *to create* 345.28 (4) (a) 1m., 345.28 (4) (b) 2., 345.28 (4) (c) 2., 345.28 (4) (e) 2., 345.28 (4) (h) 2. and 345.28 (5r) of the statutes; **relating to:** towing and storage charges associated with non-moving traffic violations.

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

SECTION 1. 85.13 of the statutes is amended to read:

85.13 Cost of traffic violation and registration program. The department shall develop a system for charging local units of government or other authority as defined in s. 345.28 (1) (a) for the cost of the development and operation of the traffic violation and registration program under ss. 341.08 (4m), 341.10 (7) and (7m), 341.63 (1) (c), 345.28 (4) and 345.47 (1) (d) based on the number of transactions processed by the local unit of government or other authority. A notice under s. 345.28 (4) submitted by an authority with respect to unpaid towing and storage charges shall be considered a separate transaction for purposes of this section. No notices under s. 345.28 (4) submitted by an authority or under s. 345.47 (1) (d) submitted by the court may be processed by the department unless the local unit of government or other authority involved has paid the department the appropriate amount determined by the department under this section.

SECTION 2. 341.08 (4m) of the statutes is amended to read:

341.08 (4m) At least 30 days prior to the expiration of a vehicle's registration, the department shall mail to

the last-known address of the registrant a notice of the date upon which the registration must be renewed and an application form for renewal of registration. The application form or an accompanying document shall include a list of any unpaid citations for nonmoving traffic violations or any judgments for violation of ch. 110, 194, or 341 to 350, an administrative rule of the department, or an ordinance enacted in accordance with s. 349.06, including parking violations, and of any unpaid towing and storage charges associated with nonmoving traffic violations entered against the registrant which that remain unpaid. The list of unpaid citations for nonmoving traffic violations and of unpaid towing and storage charges associated with nonmoving traffic violations shall be based on information obtained under s. 345.28 (4). The list of unpaid judgments shall be based on information obtained under s. 345.47 (1) (d). If there is a citation for any nonmoving traffic violation entered against the registrant which that is unpaid, he or she shall be notified that the vehicle may not be registered until the citation is paid or the registrant appears in court to respond to the citation. If there are any towing and storage charges entered against the registrant that are unpaid, he or she shall be notified that the vehicle may not be registered until such towing and storage charges are paid. If

* Section 991.11, WISCONSIN STATUTES 2001-02 : 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].

there is a judgment entered against the registrant which is unpaid, he or she shall be notified that the vehicle may not be registered until the judgment is paid.

SECTION 3. 341.10 (7m) of the statutes is amended to read:

341.10 (7m) An authority has notified the department under s. 345.28 (4) that a citation for a nonmoving traffic violation has been issued against the applicant and the applicant has not paid the citation or appeared in court to respond to the citation or that the applicant has not paid towing and storage charges associated with a citation for a nonmoving traffic violation issued against the applicant.

SECTION 4. 345.28 (3) (a) of the statutes is amended to read:

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~~ that 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. If the person does not pay towing and storage charges associated with a citation for a nonmoving traffic violation, the authority that issued the citation may proceed under sub. (4).

SECTION 5. 345.28 (4) (a) 1m. of the statutes is created to read:

345.28 (4) (a) 1m. If the person does not pay the outstanding towing and storage charges associated with a nonmoving traffic violation, the authority may notify the department in the form and manner prescribed by the department that towing and storage charges remain unpaid. Outstanding storage charges under this subdivision may not exceed 20 days of such storage.

SECTION 6. 345.28 (4) (b) of the statutes is renumbered 345.28 (4) (b) 1. and amended to read:

345.28 (4) (b) 1. 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) 1. 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.

SECTION 7. 345.28 (4) (b) 2. of the statutes is created to read:

345.28 (4) (b) 2. The notice to the department under par. (a) 1m. shall include the name and last-known

address of the person against whom the outstanding towing and storage charges apply, the license number of the vehicle involved, certification that 2 notices which meet the requirements under par. (c) 2. have been mailed to the last-known address of the person against whom the towing and storage charges apply and that the towing and storage charges remain unpaid, the amount of the outstanding towing and storage charges, the place where the towing and storage charges may be paid, and the action that the department is to take.

SECTION 8. 345.28 (4) (c) of the statutes is renumbered 345.28 (4) (c) 1. and amended to read:

345.28 (4) (c) 1. The notices to the person required under par. (b) 1. 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.

SECTION 9. 345.28 (4) (c) 2. of the statutes is created to read:

345.28 (4) (c) 2. The notices to the person required under par. (b) 2. shall be mailed on 2 separate days to the last-known address of the person to whom the outstanding towing and storage charges apply and shall include the license number of the vehicle involved, the place where the towing and storage charges may be paid, and the date by which the person must pay the towing and storage charges to avoid further action by the authority. The notice shall inform the person of the specific actions that the authority and the courts are authorized to take under this section if the person fails to pay the towing and storage charges by the date specified in the notice. A notice under this subdivision may be included in a notice mailed to a person under subd. 1. with respect to the nonmoving traffic violation associated with the towing and storage charges.

SECTION 10. 345.28 (4) (e) of the statutes is renumbered 345.28 (4) (e) 1.

SECTION 11. 345.28 (4) (e) 2. of the statutes is created to read:

345.28 (4) (e) 2. If the person subsequently pays the amount of the outstanding towing and storage charges specified in the notice to the department under par. (a) 1m. and the costs, if any, under par. (d), the department shall be immediately notified in the form and manner prescribed by the department. If the vehicle to which the towing and storage charges apply 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 amount of the outstanding towing and storage charges specified in the notice to the department under par. (a) 1m., the authority shall immediately notify the department in the form and manner prescribed by the department.

SECTION 12. 345.28 (4) (h) of the statutes is renumbered 345.28 (4) (h) 1.

SECTION 13. 345.28 (4) (h) 2. of the statutes is created to read:

345.28 (4) (h) 2. If an authority receives payment of 50% of the amount of the outstanding towing and storage charges specified in the notice to the department under par. (a) 1m. from the owner of a leased or rented vehicle to which the towing and storage charges apply and receives payment of the amount of the outstanding towing and storage charges specified in the notice to the department under par. (a) 1m. from the lessee or renter of the vehicle to which the towing and storage charges apply, the authority shall refund to the owner the 50% payment received.

SECTION 14. 345.28 (5) (a) of the statutes is amended to read:

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) 1., may issue a warrant under par. (b) for the person.

SECTION 15. 345.28 (5m) (a) (intro.) of the statutes is amended to read:

345.28 (5m) (a) (intro.) No notice under sub. (4) (a) 1. 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:

SECTION 16. 345.28 (5m) (a) 3. of the statutes is amended to read:

345.28 (5m) (a) 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) 1.; and

SECTION 17. 345.28 (5m) (d) of the statutes is amended to read:

345.28 (5m) (d) The notices to the renter or lessee required under sub. (4) (b) 1. 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) 1. and the name of the owner of the vehicle.

SECTION 18. 345.28 (5r) of the statutes is created to read:

345.28 (5r) (a) No notice under sub. (4) (a) 2. 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 to which towing and storage charges apply is owned by a person engaged in the business of renting or leasing motor vehicles;

2. At the time of its towing and storage 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) 2.; and

4. After being notified by the authority, the renter or lessee identified under subd. 3. pays the amount of the outstanding towing and storage charges within 30 days after the 2nd notice from the authority is mailed.

(b) If the renter or lessee does not pay the amount of the outstanding towing and storage charges, the authority may notify the department under sub. (4) (a) 1m. that towing and storage charges remain 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 amount of the outstanding towing and storage charges 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 amount of the outstanding towing and storage charges. The authority shall notify the owner in writing of its responsibility for this payment.

2. If the owner does not pay 50% of the amount of the outstanding towing and storage charges 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) 1m. 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 to which the towing and storage charges apply.

(d) The notices to the renter or lessee required under sub. (4) (b) 2. 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) 2. and the name of the owner of the vehicle.

SECTION 19. 345.28 (7) of the statutes is amended to read:

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) with respect to the citation 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

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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.

SECTION 20. Nonstatutory provisions.

(1) RECONCILIATION PROVISION. This act is void unless SECTIONS 1 and 2 of 2003 Wisconsin Act ... (Assembly Bill 467) become law on or before the effective date of this act.

SECTION 21. Initial applicability.

(1) This act first applies to persons who incur towing and storage charges on the effective date of this subsection.

SECTION 22. Effective date.

(1) This act takes effect on February 1, 2004, or on the first day of the first month beginning after publication, whichever is later.
