

2005 DRAFTING REQUEST

Assembly Amendment (AA-AB594)

Received: 10/25/2005

Received By: mkunkel

Wanted: As time permits

Identical to LRB:

For: Jean Hundertmark (608) 266-3794

By/Representing: Jason

This file may be shown to any legislator: NO

Drafter: mkunkel

May Contact:

Addl. Drafters:

Subject: Fin. Inst. - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Hundertmark@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Notice requirements

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>
/?	mkunkel 10/25/2005	csicilia 10/25/2005		_____			
/1			pgreensl 10/25/2005	_____	lemery 10/25/2005	lemery 10/25/2005	
/2	mkunkel 11/08/2005	csicilia 11/08/2005	rschluet 11/08/2005	_____	lemery 11/08/2005	lemery 11/08/2005	

FE Sent For:

<END>

2005 DRAFTING REQUEST

Assembly Amendment (AA-AB594)

Received: 10/25/2005

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Jean Hundertmark (608) 266-3794**

By/Representing: **Jason**

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - miscellaneous**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Notice requirements

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>
/?	mkunkel 10/25/2005	csicilia 10/25/2005		_____			
/1		12 js 11/8 05	pgreensl 10/25/2005	_____	lemery 10/25/2005	lemery 10/25/2005	

FE Sent For:

<END>

11/8/05

2005 DRAFTING REQUEST

Assembly Amendment (AA-AB594)

Received: 10/25/2005

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Jean Hundertmark (608) 266-3794**

By/Representing: **Jason**

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - miscellaneous**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Notice requirements

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>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/?	mkunkel						
----	---------	--	--	--	--	--	--

			10/25 P8	10/25 P8			
--	--	--	-------------	-------------	--	--	--

FE Sent For:

<END>

By 9am
TUED
10/26

**ASSEMBLY AMENDMENT,
TO 2005 ASSEMBLY BILL 594**

cjs
a1246/1
RM NOT
RUN

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 4: after "leases" insert "and providing a penalty".

3 **2.** Page 3, line 6: after "gives" insert ", by ~~certified or registered~~ mail,".

4 **3.** Page 3, line 22: delete that line and substitute "notice, except that if the
5 customer has a right to cure under s. 425.105, the information required under par.
6 (a) shall be combined with the notice of right to cure under s. 425.104.".

7 **4.** Page 3, line 22: after that line insert:

8 "(c) A merchant is presumed to have given notice under par. (a) by ~~certified or~~
9 ~~registered~~ mail. If a customer alleges that the customer did not receive the notice,
10 the merchant has the burden of proving that the merchant provided notice by
11 ~~certified or registered~~ mail."

12 **5.** Page 4, line 13: after that line insert:

INSERT 1-11

1 **“SECTION 7m.** 425.2065 of the statutes is created to read:

2 **425.2065 Notice to law enforcement.** (1) In this section, “law enforcement
3 agency” means the police department, combined protective services department
4 under s. 61.66, or sheriff, that has primary responsibility for providing police
5 protection services in the city, village, or town in which a repossession is expected to
6 occur.

7 (2) A merchant who repossesses collateral or goods subject to a consumer lease
8 under s. 425.206 (1) (d), or a person who repossess the collateral or goods on behalf
9 of the merchant, shall notify, verbally or in writing, the law enforcement agency
10 about the repossession. The notification shall include the names of the customer,
11 merchant, and, if applicable, the person who repossesses the collateral or goods on
12 behalf of the merchant. The notification shall also include a description of the
13 collateral or goods. Notification under this subsection shall be made before, or no
14 later than one hour after, the repossession occurs.

15 (3) Failure to comply with this subsection does not constitute a failure to
16 comply with s. 425.206 (1) (d).”.

17 **6.** Page 5, line 14: after that line insert:

18 **“SECTION 8g.** 425.401 of the statutes is renumbered 425.401 (1) and amended
19 to read:

20 425.401 (1) ~~–A–~~ Except as provided in sub. (2), a person who willfully and
21 knowingly engages in any conduct or practice in violation of chs. 421 to 427 may be
22 fined not more than \$2,000.

23 **SECTION 8r.** 425.401 (2) of the statutes is created to read:

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1246/lins
MDK:.....

1

INSERT 1-11:

2

(d) A merchant that does not give notice under par. (a) by certified or registered

3

mail is subject to a forfeiture of not more than \$500. Failure to give notice under par.

4

(a) by certified or registered mail does not constitute a failure to comply with s.

5

425.206 (1) (d).”.

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

LRBa1246/1dn

MDK:.....

ej

Rep. Hundertmark:

This amendment is identical to LRBa1237/1, except that notice by regular, certified, or registered mail is required to repossess under s. 425.206 (1) (d). However, if a merchant uses regular, rather than certified or registered mail, the merchant is subject to a civil forfeiture of not more than \$500.

Note that I created a civil forfeiture, rather than a criminal penalty, because it seems more appropriate to treat this requirement in a civil, rather than criminal, proceeding. Is that okay?

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1246/1dn
MDK:cjs:pg

October 25, 2005

Rep. Hundertmark:

This amendment is identical to LRBa1237/1, except that notice by regular, certified, or registered mail is required to repossess under s. 425.206 (1) (d). However, if a merchant uses regular, rather than certified or registered mail, the merchant is subject to a civil forfeiture of not more than \$500.

Note that I created a civil forfeiture, rather than a criminal penalty, because it seems more appropriate to treat this requirement in a civil, rather than criminal, proceeding. Is that okay?

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Kunkel, Mark

From: Rostan, Jason
Sent: Monday, October 31, 2005 11:31 AM
To: Kunkel, Mark
Subject: RE: AB 594

I try to get clever and it never works out. There is a little blue mark at the end of the first paragraph. You bring your cursor over it and the language pops up. It is:

A merchant is presumed to have given notice under par (a) if it is sent by certified or registered mail. Failure to give notice under par (a) by certified or registered mail is a violation subject to s. 425.302, but does not constitute a failure to comply with s. 425.206 (1) (d).

From: Kunkel, Mark
Sent: Monday, October 31, 2005 11:29 AM
To: Rostan, Jason
Subject: RE: AB 594

Jason: I think I'm missing the new language. You've crossed out page 1 lines 8 to 12 and page 2 lines 1 and 2, but I don't see any replacement language.

From: Rostan, Jason
Sent: Monday, October 31, 2005 11:20 AM
To: Kunkel, Mark
Subject: AB 594

Hi Mark,

I apologize for having to amend AB 594 again. I've attached a copy of the latest amendment with the changes that we would like. I hope this works. If it doesn't let me know. I've crossed out a couple of sections and then added some new language under (c).

Jason Rostan
Research Assistant
Rep. Jean Hundertmark
40th Assembly District

<< File: 05a12461.pdf >>



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBa1246/1
MDK:cs:pg

2

CS

Today
4:30pm

ASSEMBLY AMENDMENT,
TO 2005 ASSEMBLY BILL 594

bill list ✓

INSERT 4-8

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 1, line 4: after "leases" insert "and providing a penalty".
- 3 **2.** Page 3, line 6: after "gives" insert ", by mail,".
- 4 **3.** Page 3, line 22: delete that line and substitute "notice, except that if the
- 5 customer has a right to cure under s. 425.105, the information required under par.
- 6 (a) shall be combined with the notice of right to cure under s. 425.104.".
- 7 **4.** Page 3, line 22: after that line insert:
- 8 "(c) A merchant is presumed to have given notice under par. (a) by mail. If a
- 9 customer alleges that the customer did not receive the notice, the merchant has the
- 10 burden of proving that the merchant provided notice by mail.
- 11 (d) A merchant that does not give notice under par. (a) by certified or registered
- 12 mail is subject to a forfeiture of not more than \$500. Failure to give notice under par.

1 (a) by certified or registered mail does not constitute a failure to comply with s.
2 425.206 (1) (d).”

3 **5.** Page 4, line 13: after that line insert:

4 “SECTION 7m. 425.2065 of the statutes is created to read:

5 **425.2065 Notice to law enforcement.** (1) In this section, “law enforcement
6 agency” means the police department, combined protective services department
7 under s. 61.66, or sheriff, that has primary responsibility for providing police
8 protection services in the city, village, or town in which a repossession is expected to
9 occur.

10 (2) A merchant who repossesses collateral or goods subject to a consumer lease
11 under s. 425.206 (1) (d), or a person who repossess the collateral or goods on behalf
12 of the merchant, shall notify, verbally or in writing, the law enforcement agency
13 about the repossession. The notification shall include the names of the customer,
14 merchant, and, if applicable, the person who repossesses the collateral or goods on
15 behalf of the merchant. The notification shall also include a description of the
16 collateral or goods. Notification under this subsection shall be made before, or no
17 later than one hour after, the repossession occurs.

18 (3) Failure to comply with this subsection does not constitute a failure to
19 comply with s. 425.206 (1) (d).”

20 **6.** Page 5, line 14: after that line insert:

21 “SECTION 8g. 425.401 of the statutes is renumbered 425.401 (1) and amended
22 to read:

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1246/2ins
MDK:.....

1
2
3
4
5

INSERT 4-8:

A merchant is presumed to have given notice under par. (a) if the merchant ~~gives~~ the
notice by certified or registered mail. A merchant who fails to give notice under par.
(a) by certified or registered mail is subject to the penalties specified in s. 425.302 (1),
but such failure does not constitute a failure to comply with s. 425.206 (1) (d)."

sent