

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB594)

Received: 11/30/2005

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. - WCA**

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:

Repossession of motor vehicles

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 11/30/2005	lkunkel 11/30/2005		_____			
/1			jfrantze 12/01/2005	_____	sbasford 12/01/2005	sbasford 12/01/2005	
/2	mkunkel 12/05/2005	lkunkel 12/06/2005	jfrantze 12/06/2005	_____	lnorthro 12/06/2005	lnorthro 12/06/2005	
/3	mkunkel	lkunkel	rschluet	_____	sbasford	sbasford	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	12/09/2005	12/12/2005	12/12/2005 _____		12/12/2005	12/12/2005	
/4	mkunkel 12/13/2005	lkunkel 12/13/2005	chaugen 12/13/2005 _____		mbarman 12/13/2005	mbarman 12/13/2005	

FE Sent For:

<END>

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/2	mkunkel 12/05/2005	lkunkel 12/06/2005	jfrantze 12/06/2005	_____	lnorthro 12/06/2005	lnorthro 12/06/2005	

13/mk12/12
12/25/05
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FE Sent For:

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/?	mkunkel 11/30/2005	lkunkel 11/30/2005		_____			
/1		12/mkc 12/6	jfrantze 12/01/2005	_____	sbasford 12/01/2005	sbasford 12/01/2005	

FE Sent For:

Jb
12/5
Jb/Ch
<END>
12/5

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/?	mkunkel	1/mk 11/30	J 12/1	J/pg 12/1			

FE Sent For:

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lmk

D-NOTE

Friday
before
noon
(12/2)

**SENATE SUBSTITUTE AMENDMENT,
TO 2005 SENATE BILL 387**

50335/1

RM NOT
RUN

ASA to
AB 594

INSERT
1-6

Repeal

INSERT
1-10

VA

1 **AN ACT to repeal** 425.204 (3); **to renumber and amend** 425.401; **to amend**
2 425.205 (1) (intro.), 425.206 (1) (intro.), 425.206 (1) (a), 425.206 (1) (b) and
3 425.207 (2); and **to create** 425.205 (1g), 425.206 (1) (d), 425.2065 and 425.401
4 (2) of the statutes; **relating to:** repossessions under motor vehicle consumer
5 leases and providing a penalty. ✓

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

6 **SECTION 1.** 425.204 (3) of the statutes is repealed.

7 **SECTION 2.** 425.205 (1) (intro.) of the statutes is amended to read:

8 425.205 (1) (intro.) Except as provided in s. 425.206, a creditor seeking to
9 obtain possession of collateral or goods subject to a consumer lease shall may
10 commence, and, for a ~~motor vehicle consumer lease~~ ^{of some} if the customer demands such
11 an action in response to a notice given under sub. (1g) shall commence, an action for
12 replevin of the collateral or leased goods. Those actions shall be conducted in

1 accordance with ch. 799, notwithstanding s. 799.01 (1) (c) and the value of the
2 collateral or leased goods sought to be recovered, except that:

3 **SECTION 3.** 425.205 (1g) of the statutes is created to read:

INSERT
2-5

4 425.205 (1g) (a) A merchant may not take possession of collateral or goods
5 subject to ~~motor vehicle a consumer lease~~ under s. 425.206 (1) (d), unless the
6 merchant gives, by mail, the customer a notice containing all of the following
7 information:

8 1. The name, address, and telephone number of the merchant, a brief
9 identification of the ~~motor vehicle consumer lease~~, and a brief description of the
10 collateral or goods. *Consumer credit transaction*

11 2. A statement that, as a result of the customer's default on the ~~motor vehicle~~
12 ~~consumer lease~~, the merchant may have the right to take possession of the collateral
13 or goods without further notice or court proceeding. *Consumer credit transaction*

14 3. A statement that if the customer is not in default or objects to the merchant's
15 right to take possession of the collateral or goods, the customer may, no later than
16 15 days after the merchant has given the notice, demand that the merchant proceed
17 in court by notifying the merchant in writing.

18 4. A statement that if the merchant proceeds in court, the customer may be
19 required to pay court costs and attorney fees.

20 (b) The information required under par. (a) may be combined with any other
21 notice, except that if the customer has a right to cure under s. 425.105, the
22 information required under par. (a) shall be combined with the notice of right to cure
23 under s. 425.104.

24 (c) A merchant is presumed to have given notice under par. (a) if the merchant
25 sent the notice by certified or registered mail. A merchant who fails to give notice

1 under par. (a) by certified or registered mail is subject to the penalties specified in
2 s. 425.302 (1), but such failure does not constitute a failure to comply with s. 425.206
3 (1) (d).

4 **SECTION 4.** 425.206 (1) (intro.) of the statutes is amended to read:

5 425.206 (1) (intro.) Notwithstanding any other provision of law, no merchant
6 may take possession of collateral or goods subject to a consumer lease in this state
7 ~~by means other than legal process in accordance with this subchapter~~ except when
8 any of the following apply:

9 **SECTION 5.** 425.206 (1) (a) of the statutes is amended to read:

10 425.206 (1) (a) The customer has surrendered the collateral or leased goods;.

11 **SECTION 6.** 425.206 (1) (b) of the statutes is amended to read:

12 425.206 (1) (b) Judgment for the merchant has been entered in a proceeding
13 for recovery of collateral or leased goods under s. 425.205, or for possession of the
14 collateral or leased goods under s. 425.203 (2); or.

15 **SECTION 7.** 425.206 (1) (d) of the statutes is created to read:

16 425.206 (1) (d) For a ~~motor vehicle consumer lease~~, the customer has not made
17 a demand as specified in s. 425.205 (1g) (a) 3. and, no sooner than 15 days after the
18 merchant gives the notice specified in s. 425.205 (1g) (a), the merchant has taken
19 possession of the collateral or goods in accordance with sub. (2).

20 **SECTION 8.** 425.2065 of the statutes is created to read:

21 **425.2065 Notice to law enforcement.** (1) In this section, “law enforcement
22 agency” means the police department, combined protective services department
23 under s. 61.66, or sheriff, that has primary responsibility for providing police
24 protection services in the city, village, or town in which a repossession is expected to
25 occur.

INSERT
3-16

INSEAT 4-2

1 (2) A merchant who repossesses collateral or goods subject to a ~~consumer motor~~
2 ~~vehicle lease~~ under s. 425.206 (1) (d), or a person who repossess the collateral or goods
3 on behalf of the merchant, shall notify, verbally or in writing, the law enforcement
4 agency about the repossession. The notification shall include the names of the
5 customer, merchant, and, if applicable, the person who repossesses the collateral or
6 goods on behalf of the merchant. The notification shall also include a description of
7 the collateral or goods. Notification under this subsection shall be made before the
8 repossession occurs.

9 (3) Failure to comply with this subsection does not constitute a failure to
10 comply with s. 425.206 (1) (d).

11 **SECTION 9.** 425.207 (2) of the statutes is amended to read:

12 425.207 (2) A merchant who reasonably believes that a customer has
13 abandoned collateral or goods subject to a consumer lease may take possession of
14 such collateral or leased goods and preserve it. However, the customer may recover
15 such collateral or leased goods upon request unless at the time of request the
16 ~~customer has surrendered the collateral or leased goods, or judgment for the~~
17 ~~merchant has been entered in a proceeding for recovery of collateral or leased goods~~
18 ~~under s. 425.205 or in a judgment described in s. 425.203 (2)~~ perfected the right to
19 possession under s. 425.206 (1) (a), (b), or (d). A merchant taking possession of
20 collateral or leased goods pursuant to this section shall promptly send notification
21 to the customer's last-known address of such action and of the customer's right to
22 recover such collateral or leased goods under this section. If the collateral or leased
23 goods are recovered by the customer pursuant to this section, it shall be returned to
24 the customer at the location where the merchant took possession of such collateral
25 or leased goods pursuant to this section or, at the option of the merchant, at such

1 other location designated by the customer; and any expense incurred by the
 2 merchant in taking possession of, holding and returning the collateral or leased
 3 goods to the customer shall be borne by the merchant. If after taking possession of
 4 collateral or leased goods pursuant to this subsection, the merchant perfects the
 5 right to possession ~~through a surrender by the customer or a judgment under s.~~
 6 ~~425.203 (2) or 425.205~~ under s. 425.206 (1) (a), (b), or (d), the customer is liable for
 7 the expenses set forth in s. 409.615 (1). In determining such expenses, leased goods
 8 shall be considered collateral under s. 409.615 (1). However, a customer is not liable
 9 for expenses of holding the collateral or leased goods from the time the merchant
 10 takes possession until the merchant perfects the right to possession in the manner
 11 provided in this subsection.

12 **SECTION 10.** 425.401 of the statutes is renumbered 425.401 (1) and amended
 13 to read:

14 425.401 (1) ~~A~~ Except as provided in sub. (2), a person who willfully and
 15 knowingly engages in any conduct or practice in violation of chs. 421 to 427 may be
 16 fined not more than \$2,000.

17 **SECTION 11.** 425.401 (2) of the statutes is created to read:

18 425.401 (2) A person who intentionally violates s. 425.2065 (2) may be fined not
 19 more than \$500.

20 (END)

↑
 INSERT
 5-19

dn

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0335/lins
MDK:.....

1

✓

INSERT 1-6:

2

SECTION 1. 425.202 of the statutes is renumbered 425.202 (intro.) and amended

3

to read:

4

425.202 Definition: “collateral” Definitions. (intro.) For purposes of this chapter,

5

“collateral”:

6

(1) “Collateral” means goods subject to a security interest in favor of a

7

merchant which secures a customer’s obligations under a consumer credit

8

transaction.

History: 1971 c. 239; 1975 c. 407.

9

SECTION 2. 425.202 (2) of the statutes is created to read:

10

425.202 (2) “Motor vehicle” has the meaning given in s. 218.0101 (22).

11

INSERT 1-10:

12

a consumer credit transaction for the acquisition or use of a motor vehicle,

13

INSERT 2-5:

14

a consumer credit transaction for the acquisition or use of a motor vehicle

15

INSERT 3-16:

16

consumer credit transaction for the acquisition or use of a motor vehicle, ✓

17

INSERT 4-2:

18

consumer credit transaction for the acquisition or use of a motor vehicle ✓

19

INSERT 5-19:

20

SECTION 3. 427.105 (2) of the statutes is amended to read:

21

427.105 (2) If a customer establishes that the customer was induced to

22

surrender collateral (, as defined in s. 425.202) (1), by conduct of the merchant which

23

violates this chapter, the customer shall be entitled to a determination of the right

1 to possession of the collateral pursuant to s. 425.205 (1) (e) in any action brought
2 under this subchapter, and if the customer prevails on such issue, in addition to any
3 other damages under this subchapter, the customer shall be entitled to recover
4 possession of the collateral if still in the merchant's possession, together with actual
5 damages for the customer's loss of use of the collateral.

History: 1971 c. 239; 1991 a. 316.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0335/1dn

MDK:.....

Imk

(date)

✓
Rep. Hundertmark:

✓
This substitute amendment does the following:

1. Limits AB594 to consumer credit transactions for the acquisition or use of a motor vehicle. Such transactions include credit sales, consumer loans, and consumer leases. ✓
2. Incorporates AA1 to AB594, except that it requires notification to law enforcement before repossession (as opposed to either before or no more than 1 hour after repossession). ✓

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

LRBs0335/1dn
MDK:lmk:jf

December 1, 2005

Rep. Hundertmark:

This substitute amendment does the following:

1. Limits AB 594 to consumer credit transactions for the acquisition or use of a motor vehicle. Such transactions include credit sales, consumer loans, and consumer leases.
2. Incorporates AA1 to AB 594, except that it requires notification to law enforcement before repossession (as opposed to either before or no more than 1 hour after repossession).

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, December 05, 2005 11:25 AM
To: Kunkel, Mark
Subject: AAB 594 Sub

Attachments: AB 594 Changes.doc

Here are the changes. Let me know if you have any questions. Thanks.



AB 594
Changes.doc (36 KB)

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

AB 594 Changes:

425.205 Action to recover collateral. (1) Except as provided in s. 425.206, a creditor seeking to obtain possession of collateral other than a motor vehicle or goods subject to a consumer lease ~~may commence~~other than a motor vehicle lease, and if the customer demands such an action in response to a notice given under sub. (1g), a creditor seeking possession of motor vehicle collateral or motor vehicle consumer lease, shall commence, an action for replevin of the collateral or leased goods. Those actions shall be conducted in accordance with ch. 799, notwithstanding s. 799.01 (1) (c) and the value of the collateral or leased goods sought to be recovered, except that:

425.205 (1g) (a) A merchant may not take possession of motor vehicle collateral or goods subject to a motor vehicle consumer lease under s. 425.206 (1) (d), unless the merchant gives the customer a notice by mail containing all of the following information:

1. The name, address, and telephone number of the merchant, a brief identification of the consumer credit transaction, and a brief description of the motor vehicle collateral or leased ~~goods~~motor vehicle.

2. A statement that, as a result of the customer's default on the consumer credit transaction, the merchant may have the right to take possession of the motor vehicle collateral or leased ~~goods~~motor vehicle securing the customer's obligation under the transaction without further notice or court proceeding.

3. A statement that if the customer is not in default or objects to the merchant's right to take possession of the motor vehicle collateral or leased ~~goods~~motor vehicle, the customer may, no later than 15 days after the merchant has given the notice, demand that the merchant proceed in court by notifying the merchant in writing.

425.206 (d) The customer has not made a demand as specified in s. 425.205 (1g) (a) 3. and, no sooner than 15 days after the merchant gives the notice specified in s. 425.205 (1g) (a), the merchant has taken possession of the motor vehicle collateral or leased ~~goods~~motor vehicle in accordance with sub. (2).

425.2065 (2) A merchant who repossesses motor vehicle collateral or ~~goods~~a motor vehicle subject to a motor vehicle consumer lease under s. 425.206 (1) (d), or a person who repossess the motor vehicle collateral or ~~goods~~leased motor vehicle on behalf of the merchant, shall notify, verbally or in writing, the law enforcement agency about the repossession. The notification shall include the names of the customer, merchant, and, of applicable, the person who repossesses the motor vehicle collateral or ~~goods~~leased motor vehicle on behalf of the merchant. The notification shall also include a description of the motor vehicle collateral or ~~goods~~leased motor vehicle. Notification under this subsection shall be made before, ~~or no later than one hour after~~, the repossession occurs.

O - NOTE

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12/6
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**ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2005 ASSEMBLY BILL 594**

Reuben

√t

1 **AN ACT** to repeal 425.204 (3); to renumber and amend 425.202 and 425.401;
2 to amend 425.205 (1) (intro.), 425.206 (1) (intro.), 425.206 (1) (a), 425.206 (1)
3 (b), 425.207 (2) and 427.105 (2); and to create 425.202 (2), 425.205 (1g), 425.206
4 (1) (d), 425.2065 and 425.401 (2) of the statutes; relating to: repossessions of
5 motor vehicles and providing a penalty.

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

6 **SECTION 1.** 425.202 of the statutes is renumbered 425.202 (intro.) and amended
7 to read:

8 **425.202 Definition: "collateral" Definitions.** (intro.) For purposes of this
9 chapter, "collateral":

10 (1) "Collateral" means goods subject to a security interest in favor of a
11 merchant which secures a customer's obligations under a consumer credit
12 transaction.

SECTION 2. 425.202 (2) of the statutes is created to read:

425.202 (2) "Motor vehicle" has the meaning given in s. 218.0101 (22).

SECTION 3. 425.204 (3) of the statutes is repealed.

SECTION 4. 425.205 (1) (intro.) of the statutes is amended to read:

425.205 (1) (intro.) Except as provided in s. 425.206, a creditor seeking to obtain possession of collateral or goods subject to a consumer lease shall may commence, and, for a consumer credit transaction for the acquisition or use of a motor vehicle, if the customer demands such an action in response to a notice given under sub. (1g) shall commence, an action for replevin of the collateral or leased goods. Those actions shall be conducted in accordance with ch. 799, notwithstanding s. 799.01 (1) (c) and the value of the collateral or leased goods sought to be recovered, except that:

SECTION 5. 425.205 (1g) of the statutes is created to read:

425.205 (1g) (a) A merchant may not take possession of collateral or goods subject to a consumer credit transaction for the acquisition or use of a motor vehicle under s. 425.206 (1) (d), unless the merchant gives, by mail, the customer a notice containing all of the following information:

1. The name, address, and telephone number of the merchant, a brief identification of the consumer credit transaction, and a brief description of the

~~collateral or goods~~

2. A statement that, as a result of the customer's default on the consumer credit transaction, the merchant may have the right to take possession of the goods without further notice or court proceeding.

3. A statement that if the customer is not in default or objects to the merchant's right to take possession of the collateral or goods, the customer may, no later than

motor vehicle

a leased motor vehicle

of collateral or goods of the motor vehicle

motor vehicle

motor vehicle

motor vehicle

1 15 days after the merchant has given the notice, demand that the merchant proceed
2 in court by notifying the merchant in writing.

3 4. A statement that if the merchant proceeds in court, the customer may be
4 required to pay court costs and attorney fees.

5 (b) The information required under par. (a) may be combined with any other
6 notice, except that if the customer has a right to cure under s. 425.105, the
7 information required under par. (a) shall be combined with the notice of right to cure
8 under s. 425.104.

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

14 **SECTION 6.** 425.206 (1) (intro.) of the statutes is amended to read:

15 425.206 (1) (intro.) Notwithstanding any other provision of law, no merchant
16 may take possession of collateral or goods subject to a consumer lease in this state
17 ~~by means other than legal process in accordance with this subchapter~~ except when
18 any of the following apply:

19 **SECTION 7.** 425.206 (1) (a) of the statutes is amended to read:

20 425.206 (1) (a) The customer has surrendered the collateral or leased goods;

21 **SECTION 8.** 425.206 (1) (b) of the statutes is amended to read:

22 425.206 (1) (b) Judgment for the merchant has been entered in a proceeding
23 for recovery of collateral or leased goods under s. 425.205, or for possession of the
24 collateral or leased goods under s. 425.203 (2); ~~or.~~

25 **SECTION 9.** 425.206 (1) (d) of the statutes is created to read:

1 425.206 (1) (d) For a consumer credit transaction for the acquisition or use of
 2 a motor vehicle, the customer has not made a demand as specified in s. 425.205 (1g)
 3 (a) 3. and, no sooner than 15 days after the merchant gives the notice specified in s.
 4 425.205 (1g) (a), the merchant has taken possession of the collateral or ~~goods~~ in
 5 accordance with sub. (2). *motor vehicle*

leased motor vehicle

6 SECTION 10. 425.2065 of the statutes is created to read:

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

12 (2) A merchant who repossesses collateral or ~~goods~~ subject to a consumer credit
 13 transaction for the acquisition or use of ~~a~~ *motor vehicle* under s. 425.206 (1) (d), or
 14 a person who repossess the ~~collateral or goods~~ *the* on behalf of the merchant, shall notify,
 15 verbally or in writing, the law enforcement agency about the repossession. The
 16 notification shall include the names of the customer, merchant, and, if applicable, the
 17 person who repossesses the ~~collateral or goods~~ *motor vehicle* on behalf of the merchant. The
 18 notification shall also include a description of the ~~collateral or goods~~ *motor vehicle*. Notification
 19 under this subsection shall be made before the repossession occurs.

20 (3) Failure to comply with this subsection does not constitute a failure to
 21 comply with s. 425.206 (1) (d).

22 SECTION 11. 425.207 (2) of the statutes is amended to read:

23 425.207 (2) A merchant who reasonably believes that a customer has
 24 abandoned collateral or goods subject to a consumer lease may take possession of
 25 such collateral or leased goods and preserve it. However, the customer may recover

1 such collateral or leased goods upon request unless at the time of request the
2 ~~customer has surrendered the collateral or leased goods, or judgment for the~~
3 ~~merchant has been entered in a proceeding for recovery of collateral or leased goods~~
4 ~~under s. 425.205 or in a judgment described in s. 425.203 (2)~~ perfected the right to
5 possession under s. 425.206 (1) (a), (b), or (d). A merchant taking possession of
6 collateral or leased goods pursuant to this section shall promptly send notification
7 to the customer's last-known address of such action and of the customer's right to
8 recover such collateral or leased goods under this section. If the collateral or leased
9 goods are recovered by the customer pursuant to this section, it shall be returned to
10 the customer at the location where the merchant took possession of such collateral
11 or leased goods pursuant to this section or, at the option of the merchant, at such
12 other location designated by the customer; and any expense incurred by the
13 merchant in taking possession of, holding and returning the collateral or leased
14 goods to the customer shall be borne by the merchant. If after taking possession of
15 collateral or leased goods pursuant to this subsection, the merchant perfects the
16 right to possession ~~through a surrender by the customer or a judgment under s.~~
17 ~~425.203 (2) or 425.205~~ under s. 425.206 (1) (a), (b), or (d), the customer is liable for
18 the expenses set forth in s. 409.615 (1). In determining such expenses, leased goods
19 shall be considered collateral under s. 409.615 (1). However, a customer is not liable
20 for expenses of holding the collateral or leased goods from the time the merchant
21 takes possession until the merchant perfects the right to possession in the manner
22 provided in this subsection.

23 **SECTION 12.** 425.401 of the statutes is renumbered 425.401 (1) and amended
24 to read:

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0335/2dn

MDK:.....

mk

(date)

✓
Rep. Hundertmark:

This version refers to “motor vehicle collateral” or a “leased motor vehicle” that is subject to a consumer credit transaction for acquisition or use of the motor vehicle. ✓
Note that it isn't necessary to make changes to the amendment of s. 425.205 (1) (intro.), ✓
because that provision refers ^{to} s. 425.205 (1g). ✓ As a result, the revised reference in s. 425.205 (1g) will apply to s. 425.205 (1) (intro.). ✓

Mark D. Kunkel
Senior Legislative Attorney
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0335/2dn
MDK:lmk:jf

December 6, 2005

Rep. Hundertmark:

This version refers to “motor vehicle collateral” or a “leased motor vehicle” that is subject to a consumer credit transaction for acquisition or use of the motor vehicle. Note that it isn't necessary to make changes to the amendment of s. 425.205 (1) (intro.), because that provision refers to s. 425.205 (1g). As a result, the revised reference in s. 425.205 (1g) will apply to s. 425.205 (1) (intro.).

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Kunkel, Mark

From: Rostan, Jason
Sent: Thursday, December 08, 2005 3:58 PM
To: Kunkel, Mark
Subject: AB 594

Attachments: Changes to ASA1 to AB 594.DOC

Hey Mark,

We have another couple of cleanups. I've highlighted the changes in the attachment. Let me know if you have any questions.

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



Changes to ASA1
to AB 594.DOC ...

AB 594 Changes:

425.205 Action to recover collateral. (1) Except as provided in s. 425.206, a creditor seeking to obtain possession of collateral other than a motor vehicle or goods subject to a consumer lease ~~may commence~~ other than a motor vehicle lease, and if the customer demands such an action in response to a notice given under sub. (1g), a creditor seeking possession of motor vehicle collateral or motor vehicle consumer lease, shall commence, an action for replevin of the collateral or leased goods. Those actions shall be conducted in accordance with ch. 799, notwithstanding s. 799.01 (1) (c) and the value of the collateral or leased goods sought to be recovered, except that:

425.205 (1g) (a) A merchant may not take possession of motor vehicle collateral or goods subject to a motor vehicle consumer lease under s. 425.206 (1) (d), unless the merchant gives the customer a notice by mail containing all of the following information:

1. The name, address, and telephone number of the merchant, a brief identification of the consumer credit transaction, and a brief description of the motor vehicle collateral or leased goods ~~motor vehicle~~.

2. A statement that, as a result of the customer's default on the consumer credit transaction, the merchant may have the right to take possession of the motor vehicle collateral or leased goods ~~motor vehicle~~ securing the customer's obligation under the transaction without further notice or court proceeding.

3. A statement that if the customer is not in default or objects to the merchant's right to take possession of the motor vehicle collateral or leased goods ~~motor vehicle~~, the customer may, no later than 15 days after the merchant has given the notice, demand that the merchant proceed in court by notifying the merchant in writing.

425.206 (d) The customer has not made a demand as specified in s. 425.205 (1g) (a) 3. and, no sooner than 15 days after the merchant gives the notice specified in s. 425.205 (1g) (a), the merchant has taken possession of the motor vehicle collateral or leased goods ~~motor vehicle~~ in accordance with sub. (2).

425.2065 (2) A merchant who repossesses motor vehicle collateral or goods ~~a motor vehicle~~ subject to a motor vehicle consumer lease under s. 425.206 (1) (d), or a person who repossess the motor vehicle collateral or goods ~~leased motor vehicle~~ on behalf of the merchant, shall notify, verbally or in writing, the law enforcement agency about the repossession. The notification shall include the names of the customer, merchant, and, of applicable, the person who repossesses the motor vehicle collateral or goods ~~leased motor vehicle~~ on behalf of the merchant. The notification shall also include a description of the motor vehicle collateral or goods ~~leased motor vehicle~~. Notification under this subsection shall be made before, ~~or no later than one hour after~~, the repossession occurs.

Kunkel, Mark

From: Rostan, Jason
Sent: Monday, December 05, 2005 11:25 AM
To: Kunkel, Mark
Subject: AAB 594 Sub

Attachments: AB 594 Changes.doc

Here are the changes. Let me know if you have any questions. Thanks.



AB 594
Changes.doc (36 KB)

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