

## 2007 SENATE BILL 296

November 2, 2007 – Introduced by Senators DARLING and PLALE, cosponsored by Representatives HONADEL, ZEPNICK and TOWNSEND. Referred to Committee on Ethics Reform and Government Operations.

1     **AN ACT** *to create* 349.175 of the statutes; **relating to:** local ordinances  
2             authorizing the removal, impoundment, and disposal of vehicles involved in  
3             traffic violations.

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### *Analysis by the Legislative Reference Bureau*

Current law provides that the state's traffic laws are to be uniform in operation throughout the state and no local authority may enact or enforce any traffic regulation unless the regulation is not contrary to or inconsistent with state law or is expressly authorized by state law. A local authority may enact and enforce any civil traffic regulation that is in strict conformity with state law or expressly authorized by state law (authorized traffic ordinance).

This bill allows a municipality, as part of any authorized traffic ordinance, to provide for the removal (towing) and impoundment, at the time a citation is issued, of any motor vehicle being operated in connection with the ordinance violation for which the citation is issued and for the disposal of impounded vehicles operated in violation of the ordinance. If an authorized traffic ordinance provides for the towing, impoundment, and disposal of vehicles, the ordinance must: 1) specify whether the municipality may contract with a third party for towing services; and 2) provide for the recovery of reasonable charges for the towing, storage, and disposal of vehicles.

Under the bill, if an authorized traffic ordinance provides for the towing, impoundment, and disposal of vehicles, a traffic officer may, at the time of issuing a citation for an ordinance violation, cause the vehicle involved to be towed to a suitable place of impoundment. The owner of the towed and impounded vehicle may

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secure release of the vehicle by paying any forfeiture for the authorized traffic ordinance violation and the reasonable costs of towing and impounding the vehicle. If the owner fails to timely pay any forfeiture and the towing and impoundment charges, the municipality may dispose of the vehicle. The vehicle owner is responsible for all charges associated with towing, impounding, and disposing of the vehicle, and charges not recovered from the sale of the vehicle may be recovered in a civil action by the municipality against the owner. The bill provides procedures guiding the impoundment and disposal of vehicles, which are the same as those procedures applicable to towed and impounded unregistered vehicles under current law.

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

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

1           **SECTION 1.** 349.175 of the statutes is created to read:

2           **349.175 Authority to remove, impound, and dispose of vehicles**  
3 **involved in traffic violations. (1)** In this section, “owner” has the meaning given  
4 in s. 341.65 (1) (am).

5           **(2)** (a) Any ordinance enacted by the governing body of a municipality under  
6 s. 349.06 or as otherwise authorized under this chapter may also provide for the  
7 removal and impoundment, at the time a citation is issued, of any motor vehicle being  
8 operated in connection with the ordinance violation for which the citation is issued  
9 and for the disposal of impounded vehicles operated in violation of the ordinance.

10           (b) If an ordinance provides for the removal, impoundment, and disposal of  
11 vehicles as described in par. (a), the ordinance shall do all of the following:

12           1. Specify whether the municipality may contract with a 3rd party for the  
13 performance of services related to removal of vehicles, which services shall be  
14 rendered only at the request of a traffic officer.

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1           2. Provide for the recovery of reasonable towing and storage charges associated  
2 with the removal and impoundment of vehicles, and of reasonable charges associated  
3 with disposal of vehicles, under this section.

4           **(3)** (a) If an ordinance provides for the removal, impoundment, and disposal of  
5 vehicles as described in sub. (2) (a), a traffic officer may, at the time of issuing a  
6 citation for violation of the ordinance, cause the motor vehicle involved in the  
7 violation for which the citation is issued to be removed to a suitable place of  
8 impoundment. Upon removal of the vehicle, if the operator of the vehicle is not the  
9 owner of the vehicle, the traffic officer shall follow the notification procedure  
10 specified in s. 341.65 (2) (b).

11           (b) Any motor vehicle impounded as provided in par. (a) shall remain  
12 impounded until lawfully claimed or disposed of as provided in this section.

13           (c) Notwithstanding sub. (5) and s. 341.65 (2) (g), the owner of a motor vehicle  
14 that is removed and impounded under par. (a) may secure release of the vehicle by  
15 paying any forfeiture imposed for violation of the ordinance and the reasonable costs  
16 of removing and impounding the vehicle, as established by ordinance under sub. (2)  
17 (b) 2.

18           **(4)** The owner of any motor vehicle removed and impounded as provided under  
19 this section is responsible for all charges associated with removing, impounding, and  
20 disposing of the vehicle, as provided under sub. (2) (b) 2. Charges not recovered from  
21 the sale of the vehicle may be recovered in a civil action by the municipality against  
22 the owner.

23           **(5)** The procedures and provisions of s. 341.65 (2) (f) to (h) shall apply with  
24 respect to the impoundment and disposal of motor vehicles authorized to be removed,  
25 impounded, and disposed of under this section to the same extent as these provisions

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1 apply to the impoundment and disposal of unregistered motor vehicles that are  
2 removed under authority of s. 341.65, except that reclamation of the vehicle by the  
3 owner requires compliance with sub. (3) (c) rather than s. 341.65 (2) (e). The  
4 provisions of s. 349.13 (5) (b) shall apply with respect to vehicles removed or stored  
5 under this section to the same extent as these provisions apply with respect to  
6 vehicles removed or stored under authority of s. 349.13.

7 **(END)**