

2007 DRAFTING REQUEST

Bill

Received: 09/06/2007

Received By: agary

Wanted: As time permits

Identical to LRB:

For: Alberta Darling (608) 266-5830

By/Representing: John Hogan

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Transportation - traffic laws

Extra Copies: BAB

Submit via email: YES

Requester's email: Sen.Darling@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Local ordinances authorizing vehicle towing for certain ordinance violations

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>
/?				_____			Local
/P1	agary 09/06/2007	bkraft 09/07/2007	nmatzke 09/07/2007	_____	cduerst 09/07/2007		Local
/1	agary 09/13/2007	bkraft 09/13/2007	jfrantze 09/13/2007	_____	cduerst 09/13/2007	cduerst 09/24/2007	

FE Sent For: @ intro.

<END>

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Received: **09/06/2007**

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/?				_____			Local
/P1	agary 09/06/2007	bkraft 09/07/2007	nmatzke 09/07/2007	_____	cduerst 09/07/2007		

FE Sent For:

1 bjk 9/13
9/18
Self
<END>

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1/?	agary	/pl bjk 9/7	nwn 9/7	<u>nwn</u> <u>9/7</u>			

FE Sent For:

<END>

Gary, Aaron

From: Gary, Aaron
Sent: Thursday, June 21, 2007 1:47 PM
To: Hogan, John
Subject: RE: Cruising bill

Thanks John. I'll wait to hear more from Inspector Ruzinski. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Hogan, John
Sent: Wednesday, June 20, 2007 2:58 PM
To: Gary, Aaron
Cc: 'aruzin@milwaukee.gov'
Subject: RE: Cruising bill

Aaron,

On behalf of Senator Darling, I wish to authorize Deputy Inspector Anna Ruzinski from the MKE PD to work with us on this draft. Ms. Ruzinski has been copied on this email. Anna, could you answer Aaron's questions?

Anna, I know we discussed precisely what Aaron is asking, but I feel you can provide more accurate answers so I'm not speaking on your behalf.

Anna Ruzinski
Deputy Inspector of Police
Intergovernmental Services Division
Milwaukee Police Department
749 West State Street
Milwaukee, WI 53233
Phone: 414-935-7203
Email: aruzin@milwaukee.gov
Fax: 414-935-7040

John Hogan
Office of Senator Alberta Darling
Room 131 South, State Capitol
(608) 266-5830

From: Gary, Aaron
Sent: Wednesday, June 20, 2007 1:27 PM
To: Hogan, John
Subject: RE: Cruising bill

John,
Often these "anti-cruising" ordinances are worded so that the police can designate a point and if a vehicle goes past that point more than a certain number of times in a given time period, the driver commits a cruising violation (for example, going past the "control point" more than 2 times in a 2 hour period). Is it MKE PD's position that those behind the

1st row have not gone past the control point (for example) more than 2 times before being "stuck" in traffic? And if so, what is to distinguish this person from someone who really is stuck in traffic?

Also, s. 947.06 prohibits unlawful assemblies and provides for citation and penalty for the violation. Is MKE PD currently citing anybody under this statute?

Thanks for your feedback.

Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Hogan, John
Sent: Tuesday, June 19, 2007 9:48 AM
To: Gary, Aaron
Subject: Cruising bill

Aaron,

We'd like some additional changes to LRB 2667.

First, here's the situation faced by MKE PD:

"Cruisers" block traffic and create an unlawful assembly. The police can tow 1st row of cars for obstructing traffic. The rest of the cars they can't ticket, but only order them to disperse the unlawful assembly. The offenders say they can't disperse b/c they say they're merely stuck in middle of traffic jam.

We'd like to enable local authorities to enforce unlawful assemblies that relate to vehicles, and authorize ticketing/towing/impounding/disposal of vehicles in relation to unlawful assemblies.

John Hogan
Office of Senator Alberta Darling
Room 131 South, State Capitol
(608) 266-5830

Gary, Aaron

From: Gary, Aaron
Sent: Friday, June 22, 2007 12:55 PM
To: 'Ruzinski, Anna'
Cc: Hogan, John
Subject: RE: Cruising Bill

Anna,

OK, I see. But I need to know what violations you want authority to tow for? I assume it is not unlawful assembly under s. 947.06. Can you provide me the statutory offenses for which you want towing/impoundment authority, and then I can go from there with the draft? Please feel free to forward this to your city attorney.

Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Ruzinski, Anna [mailto:ARUZIN@milwaukee.gov]
Sent: Thursday, June 21, 2007 3:15 PM
To: Gary, Aaron
Subject: Cruising Bill

Aaron,

The problem we have is not towing vehicles for cruising violations, but being able to tow vehicles for violations that occur during cruising. The cruising violation is too cumbersome to enforce, so many times we are citing people for other rules of the road, such as riding on cars, or obstructing traffic. We can not tow for those types of violations, because the state law is specific on impounding vehicles. It might help for you to discuss this with our City Attorney, Linda Burke, who can explain the legal issues we are up against. Feel free to call me and we can discuss it further. We realize what we are looking for is going to be a hard sell. Anna

Anna Ruzinski
Deputy Inspector of Police
Intergovernmental Services Division
Milwaukee Police Department
749 West State Street
Milwaukee, WI 53233
Phone: 414-935-7203
Email: aruzin@milwaukee.gov
Fax: 414-935-7040

06/22/2007

He from } - voice mail

7/3/07

Court Bailiff

4/4 - 286 - 6192

Asst city atty - Milwaukee

Cruising

07-2667

- forwarded e-mails

- what is problem w/ current law? what do you want this draft to do? what changes?

7/12

He to Court →

7/12 - 7/17, back 7/18

He to Court - CMTC → 7/19 1:30 pm

7/24 He w/ Court

- want to tow cars : at owners expense
- what they are doing isn't really cruising
- his immediate boss is out off town
- until Aug. 1 →
- what violation

Gary, Aaron

From: Gary, Aaron
Sent: Thursday, July 05, 2007 4:58 PM
To: Hogan, John
Subject: RE: Cruising Bill

Hi John,

I've been trading calls with the city attorney, but haven't actually spoken with him yet. As to your comment, I am unaware of the particular ruling but the comment makes sense. I would be curious to know why this is different from law enforcement authority to tow for a parking violation or with respect to an abandoned or unregistered vehicle.

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Hogan, John
Sent: Wednesday, June 27, 2007 3:11 PM
To: Gary, Aaron
Subject: RE: Cruising Bill

Aaron,

On page 3 line 10, I believe there was a ruling that does not allow authorities to collect a forfeiture on the spot before the vehicle is released. The way it works (correct me if I'm wrong) is that a hearing or court proceeding is scheduled for a future date at which time the offender would pay the forfeiture. Would this make a difference in the way that section is drafted?

John Hogan
Office of Senator Alberta Darling
Room 131 South, State Capitol
(608) 266-5830

From: Gary, Aaron
Sent: Wednesday, June 27, 2007 2:15 PM
To: Hogan, John
Subject: RE: Cruising Bill

No, I haven't heard anything from the city attorney's office. Aaron

07/05/2007

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Hogan, John
Sent: Wednesday, June 27, 2007 2:14 PM
To: Gary, Aaron; 'Ruzinski, Anna'
Subject: RE: Cruising Bill

Anna,

Any update from the City Attorney on this?

John Hogan
Office of Senator Alberta Darling
Room 131 South, State Capitol
(608) 266-5830

From: Gary, Aaron
Sent: Friday, June 22, 2007 12:55 PM
To: 'Ruzinski, Anna'
Cc: Hogan, John
Subject: RE: Cruising Bill

Anna,

OK, I see. But I need to know what violations you want authority to tow for? I assume it is not unlawful assembly under s. 947.06. Can you provide me the statutory offenses for which you want towing/impoundment authority, and then I can go from there with the draft? Please feel free to forward this to your city attorney.

Thanks. Aaron

Aaron R. Gary
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Legislative Reference Bureau
608.261.6926 (voice)
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aaron.gary@legis.state.wi.us

From: Ruzinski, Anna [mailto:ARUZIN@milwaukee.gov]

07/05/2007

Sent: Thursday, June 21, 2007 3:15 PM

To: Gary, Aaron

Subject: Cruising Bill

Aaron,

The problem we have is not towing vehicles for cruising violations, but being able to tow vehicles for violations that occur during cruising. The cruising violation is too cumbersome to enforce, so many times we are citing people for other rules of the road, such as riding on cars, or obstructing traffic. We can not tow for those types of violations, because the state law is specific on impounding vehicles. It might help for you to discuss this with our City Attorney, Linda Burke, who can explain the legal issues we are up against. Feel free to call me and we can discuss it further. We realize what we are looking for is going to be a hard sell. Anna

Anna Ruzinski

Deputy Inspector of Police

Intergovernmental Services Division

Milwaukee Police Department

749 West State Street

Milwaukee, WI 53233

Phone: 414-935-7203

Email: aruzin@milwaukee.gov

Fax: 414-935-7040

Gary, Aaron

From: Ruzinski, Anna [ARUZIN@milwaukee.gov]
Sent: Thursday, July 05, 2007 11:21 AM
To: Gary, Aaron
Subject: cruising

Aaron,

I've forwarded our correspondence to the City Attorney and they should be in contact with you. I know they had some real concerns. Thanks for the help. Anna

Gary, Aaron

From: Hogan, John
Sent: Tuesday, September 04, 2007 8:58 AM
To: Gary, Aaron
Subject: RE: Out of Office AutoReply: Cruising Bill

Excellent

From: Gary, Aaron
Sent: Friday, August 31, 2007 4:48 PM
To: Hogan, John
Subject: RE: Out of Office AutoReply: Cruising Bill

John,

I heard back from Curt Bailing. He left a message saying they just want to defer to local govt to, by ordinance, determine which violations will have towing authority. I will proceed to draft it that way, assuming we're limiting it to traffic violations, unless I hear otherwise from you. (The other part of Curt's message was the he'll be gone on vacation for 2 weeks.)

Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Hogan, John
Sent: Wednesday, August 08, 2007 3:11 PM
To: Gary, Aaron
Subject: RE: Out of Office AutoReply: Cruising Bill

I'll give her a call as well.

From: Gary, Aaron
Sent: Wednesday, August 08, 2007 3:06 PM
To: Hogan, John
Subject: RE: Out of Office AutoReply: Cruising Bill

John,

I haven't heard back from Curt Bailing. He was supposed to talk to his boss and get back to me. They were going to brainstorm about exactly what offenses they wanted towing authority for.

I'm really not sure what an unlawful assembly of vehicles might be. Since there is a constitutional right to assembly, to the extent we can build the bill around traffic violations and stay away from the "assembly" issue, the

09/04/2007

better the chance the bill is going to stand up to court scrutiny.

I'm rather surprised that it has been so difficult for the city atty's office to tell me what the problem is. If people are "stopping, standing, or parking" their vehicles in the street, isn't there already towing authority for that? If the problem is that traffic is being obstructed, we should tailor the bill around that and not a hard-to-define and possibly constitutionally protected notion of unlawful assembly.

Again, I feel like there is not much I can do until the city can actually describe the problem and tell me why current legal tools available to it are insufficient, which has yet to occur despite a now-long period of me trying to get this information from them. Perhaps I should go back to Anna and see if she can give me the info. that is not forthcoming from the city atty.

Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Hogan, John
Sent: Wednesday, August 08, 2007 8:46 AM
To: Gary, Aaron
Subject: RE: Out of Office AutoReply: Cruising Bill

Aaron,

What if we allowed discretionary towing for unlawful assembly of vehicles, and penalties?

John Hogan
Office of Senator Alberta Darling
Room 131 South, State Capitol
(608) 266-5830

From: Gary, Aaron
Sent: Tuesday, July 24, 2007 3:09 PM
To: Hogan, John
Subject: RE: Out of Office AutoReply: Cruising Bill

John,

I finally reached Curt Bailing today (after several unsuccessful tries). They still are not sure how they want to approach this. He said that tying the towing to a cruising violation doesn't really work because what these people do isn't really cruising. I asked what violations we could tie the towing to, and he wasn't sure - he wants to discuss it with his immediate supervisor (who is out of the office until August 1) and said he will get back to me after they've kicked the idea around a bit.

Aaron

09/04/2007

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Hogan, John
Sent: Monday, July 16, 2007 9:30 AM
To: Gary, Aaron
Subject: RE: Out of Office AutoReply: Cruising Bill

Ok, we'll keep on them.

From: Gary, Aaron
Sent: Friday, July 13, 2007 4:04 PM
To: Hogan, John
Subject: RE: Out of Office AutoReply: Cruising Bill

John,

His name is Curt Bailing (not sure of spelling). He called me, I called him, and then I called him again just yesterday because I hadn't heard back and it had been a while. According to his voice mail, he is out of the office until 7/18, so I'm planning to call him then. I still don't have any idea what exactly they want to do with this bill.

Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Hogan, John
Sent: Friday, July 13, 2007 3:54 PM
To: Gary, Aaron
Subject: FW: Out of Office AutoReply: Cruising Bill

Aaron - Who is the city attorney you've traded calls with? I'd like to make a call to him to get this thing going. Ms. Ruzinski will be out until the 23rd.

John Hogan
Office of Senator Alberta Darling
Room 131 South, State Capitol
(608) 266-5830

09/04/2007

From: Ruzinski, Anna [mailto:ARUZIN@milwaukee.gov]
Sent: Friday, July 13, 2007 3:53 PM
To: Hogan, John
Subject: Out of Office AutoReply: Cruising Bill

I will be out of the office attending a conference until July 23, 2007. If you need assistance please contact my assistant, Julie Gaszak, ph #935-7203, or email jgasza@milwaukee.gov. Thank you, Deputy Inspector Anna Ruzinski

8/29

Ac w/ Court Bailing - VM

- allow city / common council that

allows city to authorize fees

for violators they deem appropriate -
give them the authority

414-286-6192

RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman


(Request Made By: ANG) (Date: 9, 6, 07)




Please transfer the drafting file for

2005 LRB _____ to the drafting file

for 2007 LRB _____

 The final version of the 2005 draft and the final Request Sheet will be copied on yellow paper, and returned to the original 2005 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".


 For research purposes, because the 2005 draft was incorporated into a 2007 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the 2007 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.


--- OR ---

Please copy the drafting file for

2007 LRB 2667 / 1 (include the version) and place it in the

drafting file for 2007 LRB 3138

 For research purposes, because the original 2007 draft was incorporated into another 2007 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the new 2007 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

 The original drafting file will then returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

m 9/6

Lbjk

soon

✓ PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

SA ✓
X-ref ✓

gen. cat.

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

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 removed to a suitable place of impoundment. ✓ The owner of the towed and impounded vehicle may 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. ✓

towed

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 removing, 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.

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

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

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

(2) (a) Any ordinance enacted by the governing body of a municipality under s. 349.06 or as otherwise authorized under this chapter may also provide for the removal 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.

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

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

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

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

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

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

14 (b) 2.

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

20 (5) The procedures and provisions of s. 341.65 (2) (f) to (h) shall apply with
21 respect to the impoundment and disposal of motor vehicles authorized to be removed,
22 impounded, and disposed of under this section to the same extent as these provisions
23 apply to the impoundment and disposal of unregistered motor vehicles that are
24 removed under authority of s. 341.65, except that reclamation of the vehicle by the
25 owner requires compliance with sub. (3) (c) rather than s. 341.65 (2) (e). The

SECTION 1

1 provisions of s. 349.13 (5) (b) shall apply with respect to vehicles removed or stored
2 under this section to the same extent as these provisions apply with respect to
3 vehicles removed or stored under authority of s. 349.13.

4 (END)

→ D-note

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

LRB-3138/P1dn

ARG:.....

Lbjk

Date

ATTN: John Hogan

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

The attached draft is based upon instructions received from the Milwaukee City Attorney's office, which asked that municipalities have discretion to determine for which violations they will have authority to tow and impound motor vehicles. ✓
Accordingly, the draft is pretty broad. A city could decide to give itself authority to tow and impound for any traffic violation. A defendant's liability for towing and storage costs arises upon issuance of the traffic ticket, not upon conviction, so the defendant is responsible for towing and storage costs even if the defendant is subsequently found not guilty of the underlying ordinance violation. ✓

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft. ✓

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

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

LRB-3138/P1dn
ARG:bjk:nwn

September 7, 2007

ATTN: John Hogan

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



State of Wisconsin
2007 - 2008 LEGISLATURE

Seen

m 9/13

LRB-3138/PT

ARG:hjk:awn

stays

KMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

9/13 The c/ John - OK - make //

2007 Bill

No changes

regen.

SAV

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.

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 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.

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.

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

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)

Duerst, Christina

From: Hogan, John
Sent: Friday, September 21, 2007 4:41 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-3138/1 Topic: Local ordinances authorizing vehicle towing for certain ordinance violations

Please Jacket LRB 07-3138/1 for the SENATE.