



2007 SENATE BILL 519

1 **AN ACT** *to amend* 344.578 (1), 344.578 (2), 345.28 (4) (e) 1., 345.28 (4) (e) 2.,
2 345.28 (4) (h), 345.28 (5m) (c) and 345.28 (5r) (c); and *to create* 345.28 (5w) and
3 (5x) of the statutes; **relating to:** nonmoving traffic violations involving rented
4 or leased vehicles, providing an exemption from emergency rule procedures,
5 and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

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

6 **SECTION 1.** 344.578 (1) of the statutes is amended to read:
7 344.578 (1) PROHIBITED DEPOSITS; COLLECTION OF DAMAGES. Except as provided
8 in this subsection or, in sub. (2), or in s. 345.28 (5w), a rental company may not use
9 credit available pursuant to charge a credit card belonging to a renter as a deposit
10 for damages for which the renter may be held liable under the rental agreement or

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1 under s. 344.574 (2) (a) or for any other charges. If a rented private passenger vehicle
2 is damaged or if the renter owes any other charges provided for in the rental
3 agreement, the rental company may use credit available pursuant to charge a credit
4 card belonging to the renter as payment for the damages for which the renter is liable
5 under s. 344.574 (2) (a) or for any other charges provided for in the rental agreement
6 only if the rental company obtains the renter's authorization to use that credit card
7 for payment and the authorization is obtained after the total amount of the renter's
8 liability or other charges is determined and before the rental company processes the
9 credit card charge.

10 **SECTION 2.** 344.578 (2) of the statutes is amended to read:

11 344.578 (2) DEPOSIT FOR RENTAL FEES. If authorized by the renter, a rental
12 company may use credit available pursuant to charge a credit card belonging to the
13 renter as a deposit for the estimated cost of the rental, as determined under this
14 subsection. The estimated cost of the rental may not exceed an amount equal to the
15 daily rental rate specified in the rental agreement, which may include the daily
16 charge for a damage waiver if purchased by the renter, multiplied by the number of
17 days specified in the agreement for which the private passenger vehicle is being
18 rented.

19 **SECTION 3.** 345.28 (4) (e) 1. of the statutes is amended to read:

20 345.28 (4) (e) 1. If the person subsequently pays the amount of the forfeiture
21 and the costs, if any, under par. (d) or appears in court in response to the citation or
22 a notice by the authority who issued the citation or the department, the department
23 shall be immediately notified in the form and manner prescribed by the department.
24 If the vehicle involved in the nonmoving traffic violation is owned by a person
25 engaged in the business of renting or leasing motor vehicles and the owner pays the

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1 costs, if any, under par. (d) and ~~50% of the forfeiture~~ or, if applicable, the amount
2 required under sub. (5w) (b), the authority shall immediately notify the department
3 in the form and manner prescribed by the department.

4 **SECTION 4.** 345.28 (4) (e) 2. of the statutes is amended to read:

5 345.28 (4) (e) 2. If the person subsequently pays the amount of the outstanding
6 towing and storage charges specified in the notice to the department under par. (a)
7 1m. and the costs, if any, under par. (d), the department shall be immediately notified
8 in the form and manner prescribed by the department. If the vehicle to which the
9 towing and storage charges apply is owned by a person engaged in the business of
10 renting or leasing motor vehicles and the owner pays the costs, if any, under par. (d)
11 and ~~50% of the amount of the outstanding towing and storage charges specified in~~
12 the notice to the department under par. (a) 1m. or, if applicable, the amount required
13 under sub. (5w) (b), the authority shall immediately notify the department in the
14 form and manner prescribed by the department.

15 **SECTION 5.** 345.28 (4) (h) of the statutes is amended to read:

16 345.28 (4) (h) 1. If an authority receives payment of ~~50% of a forfeiture~~ or, if
17 applicable, the amount required under sub. (5w) (b), from the owner of a leased or
18 rented vehicle involved in a nonmoving traffic violation and receives payment of the
19 forfeiture from the lessee or renter of the vehicle charged with the violation, the
20 authority shall refund to the owner the ~~50%~~ payment received from the owner.

21 2. If an authority receives payment of ~~50% of the amount of the outstanding~~
22 towing and storage charges specified in the notice to the department under par. (a)
23 1m. or, if applicable, the amount required under sub. (5w) (b), from the owner of a
24 leased or rented vehicle to which the towing and storage charges apply and receives
25 payment of the amount of the outstanding towing and storage charges specified in

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1 the notice to the department under par. (a) 1m. from the lessee or renter of the vehicle
2 to which the towing and storage charges apply, the authority shall refund to the
3 owner the 50% payment received from the owner.

4 **SECTION 6.** 345.28 (5m) (c) of the statutes is amended to read:

5 345.28 **(5m)** (c) 1. If Except as otherwise provided in sub. (5w) (b), if the renter
6 or lessee does not pay the forfeiture or appear in court in response to the citation for
7 a nonmoving traffic violation within 30 days after the 2nd notice from the authority
8 is mailed to the renter or lessee, the owner shall pay the authority 50% ~~of the~~
9 forfeiture applicable to the nonmoving traffic violation. The authority shall notify
10 the owner in writing of its responsibility for this payment.

11 2. If Except as otherwise provided in sub. (5w) (b), if the owner does not pay 50%
12 ~~of the~~ forfeiture applicable to the citation within 30 days after notice under subd. 1.
13 has been mailed to the owner, the authority may send a notice to the department
14 under sub. (4) (a) 1. The action which the authority shall specify that the department
15 take under sub. (4) (a) 2. is limited to suspension of the registration of the vehicle
16 involved in the nonmoving traffic violation.

17 **SECTION 7.** 345.28 (5r) (c) of the statutes is amended to read:

18 345.28 **(5r)** (c) 1. If Except as otherwise provided in sub. (5w) (b), if the renter
19 or lessee does not pay the amount of the outstanding towing and storage charges
20 within 30 days after the 2nd notice from the authority is mailed to the renter or
21 lessee, the owner shall pay the authority 50% ~~of the~~ amount of the outstanding
22 towing and storage charges. The authority shall notify the owner in writing of its
23 responsibility for this payment.

24 2. If Except as otherwise provided in sub. (5w) (b), if the owner does not pay 50%
25 ~~of the~~ amount of the outstanding towing and storage charges within 30 days after

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1 notice under subd. 1. has been mailed to the owner, the authority may send a notice
2 to the department under sub. (4) (a) 1m. The action which the authority shall specify
3 that the department take under sub. (4) (a) 2. is limited to suspension of the
4 registration of the vehicle to which the towing and storage charges apply.

5 **SECTION 8.** 345.28 (5w) and (5x) of the statutes are created to read:

6 345.28 (5w) (a) If the owner of a rental or leased vehicle has received written
7 notice under sub. (5m) (c) 1. or (5r) (c) 1. and pays any forfeiture, costs, or towing and
8 storage charges for nonmoving traffic violations under this section that occurred
9 while the renter or lessee was in possession of the vehicle, the rental or leased vehicle
10 owner may, within 30 days after receiving the notice, charge a credit card belonging
11 to the renter or lessee as payment for the forfeiture, costs, and charges for which the
12 renter or lessee is liable as well as charge the renter an administrative fee of not more
13 than \$30 for making those payments under this section, if the owner:

14 1. Provided a written notice to the renter or lessee, prior to entering into the
15 rental or lease agreement, that if the renter or lessee fails to pay any forfeitures,
16 costs, or towing and storage charges for nonmoving traffic violations incurred while
17 the renter or lessee is in possession of the rental or leased vehicle, the owner may pay
18 those sums and charge the amount paid for such forfeitures, costs, or charges plus
19 an administrative fee of not more than \$30 to a credit card belonging to the renter
20 or lessee.

21 2. Provides the renter or lessee with a detailed itemization of all amounts
22 charged to the renter's or lessee's credit card, within 30 days after charging that
23 credit card, that includes the date that the charge was made and, for each nonmoving
24 traffic violation forfeiture incurred by the renter or lessee that the owner paid, the

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1 name of the authority issuing the citation, the citation number, and the date of the
2 citation.

3 (b) If the owner of a rental or leased vehicle has received written notice under
4 sub. (5m) (c) 1. or (5r) (c) 1. and is required to pay any forfeiture or towing and storage
5 charges for nonmoving traffic violations under this section that occurred while the
6 renter or lessee was in possession of the vehicle and the renter or lessee did not pay
7 the rental or lease fee with a credit card, or paid with a credit card for which payment
8 of the forfeitures and charges under this section is being declined by the issuer of the
9 credit card, the rental or leased vehicle owner shall pay the authority 50 percent of
10 the amount of the forfeiture under sub. (2) (a) or towing and storage charges,
11 provided that the owner advises the authority that the payment is made under this
12 paragraph.

13 **(5x)** The department of agriculture, trade and consumer protection shall
14 promulgate rules specifying the form of the notice required under sub. (5w) (a) 1.,
15 including the type size and any highlighting of the information described in that
16 paragraph and, if the notice is on a separate form, the size of the paper. The rules
17 must require the notice to be in substantially the same form as the notice under s.
18 344.576 (3) (a) and may specify additional information to be included in the notice
19 and the precise language that must be used.

20 **SECTION 9. Nonstatutory provisions.**

21 (1) The department of agriculture, trade and consumer protection shall submit
22 in proposed form the rules required under section 345.28 (5x) of the statutes, as
23 created by this act, to the legislative council staff under section 227.15 (1) of the
24 statutes no later than the first day of the 4th month beginning after the effective date
25 of this subsection.

