

2007 DRAFTING REQUEST

Bill

Received: **04/02/2007**

Received By: **bbalinsk**

Wanted: **As time permits**

Identical to LRB:

For: **Roger Breske (608) 266-2509**

By/Representing: **Elizabeth Piliouras**

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

Drafter: **bbalinsk**

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles**

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **Sen.Breske@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Liability of automobile or leasing company for lessee's parking and towing forfeitures

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>
/?							
/P1	bbalinsk 06/08/2007	kfollett 06/08/2007	pgreensl 06/08/2007	_____	mbarman 06/08/2007		
/1	bbalinsk 01/24/2008	kfollett 01/30/2008	rschluet 01/30/2008	_____	sbasford 01/30/2008		State
/2	bbalinsk 02/08/2008	kfollett 02/14/2008	rschluet 02/14/2008	_____	lparisi 02/14/2008	mbarman 02/19/2008	

FE Sent For:

*at
intro*

<END>

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/2	bbalinsk 02/08/2008	kfollett 02/14/2008	rschluet 02/14/2008	_____	lparisi 02/14/2008		

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/1	bbalinsk 01/24/2008	kfollett 01/30/2008	rschluet 01/30/2008	_____	sbasford 01/30/2008		

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Handwritten notes: 12kf, 2/14

Handwritten signature and scribbles

<END>

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/P1	bbalinsk 06/08/2007	kfollett 06/08/2007	pgreensl 06/08/2007		mbarman 06/08/2007		

FE Sent For:

115f
1130

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<END>

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/?	bbalinsk		<i>6/8 pr</i>	<i>6/8 pr NW</i>			

FE Sent For:

<END>

Balinsky, Brett

From: Shovers, Marc
Sent: Monday, April 02, 2007 8:36 AM
To: Gary, Aaron; Balinsky, Brett
Subject: FW: Breske Drafting request - parking tickets

Hello Aaron and Brett:

I think that this belongs to one of you. Thanks.

Marc

From: Piliouras, Elizabeth
Sent: Friday, March 30, 2007 6:30 PM
To: Shovers, Marc
Subject: Breske Drafting request - parking tickets

Hi Marc:

Roger would like the following drafted:

Rental Car Parking Ticket and Towing Legislation

Amend Statute 345.28 as follows:

- Delete all references to rental or leasing company "owner" liability for 50% of parking tickets and towing violations.
- Allow rental or leasing company to charge lessees credit card for parking and towing charges if lessee fails to respond to notices, appear in court or pay fines.
- Allow rental or leasor to charge an administrative fee of \$30.00 for parking or towing violation payments.

Can you let me know if you're the right person to draft this or who you pass it on to?

Thanks in advance,
Beth

Beth Piliouras
Senator Roger Breske
266-2509

gf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN 6/8/07
Need by 6/8/07

D-Note

Gen

- 1 AN ACT ...; relating to: nonmoving traffic violations involving rented or leased
- 2 vehicles.

Analysis by the Legislative Reference Bureau

Under current law a local authority, state agency, a campus within the University of Wisconsin System or a technical college district (an "authority") may issue citations for nonmoving traffic violations that impose forfeitures and in some circumstances, tow and store the vehicle. If the person charged with the citation fails either to pay the forfeitures and charges for towing and storage or to contest the citation successfully in court, the authority may report the nonmoving traffic violation to the Department of Transportation (DOT), which then may suspend the registration for the vehicle and in certain cases, deny renewal of the person's other vehicles. Under current law, if the owner of a vehicle receiving a nonmoving traffic violation citation is a vehicle rental or leasing company, it may avoid the suspension of the vehicle registration if it provides DOT with information regarding the renter or lessee who was in possession of the vehicle at the time of the nonmoving traffic violation and the renter or lessee pays the authority all amounts owed as forfeitures, costs, and charges for towing and storage. Alternatively, if the renter or lessee fails to pay the forfeitures, costs, and charges, the rental or leasing company may avoid suspension of its registration by DOT if it pays any costs and 50% of the outstanding forfeiture and towing and storage charges owed for the nonmoving traffic violation.

Under current law, vehicle rental and leasing companies may not apply charges against the credit card that the renter or lessee provided as a deposit for damages unless either the charges are for the cost of the rental and the renter or lessee

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consents or the charges are to repair damage that occurred when the vehicle was in the renter or lessee's possession and the rental or leasing company provides the renter or lessee with the total cost of the repairs.

This bill requires that if a renter or lessee of a vehicle that receives a citation for a nonmoving traffic violation fails to pay any forfeiture, costs, or towing and storage charges that are owed to the authority issuing the citation, the vehicle rental or leasing company must pay all of those sums to the authority or DOT may suspend the vehicle's registration. The bill allows a vehicle rental or leasing company to apply charges against the credit of the credit card provided as a deposit for damages by the renter or lessee for any sums it has paid for costs, forfeitures, and towing and storage charges for the nonmoving violation plus assess an administrative fee of not more than \$30 against the renter or lessee.

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

1 SECTION 1. 344.578 (1) of the statutes is amended to read:

2 344.578 (1) PROHIBITED DEPOSITS; COLLECTION OF DAMAGES. Except as provided
3 in this subsection, or in sub. (2), or in s. 345.28 (5w), a rental company may not use
4 credit available pursuant to a credit card belonging to a renter as a deposit for
5 damages for which the renter may be held liable under the rental agreement or under
6 s. 344.574 (2) (a) or for any other charges. If a rented private passenger vehicle is
7 damaged or if the renter owes any other charges provided for in the rental
8 agreement, the rental company may use credit available pursuant to a credit card
9 belonging to the renter as payment for the damages for which the renter is liable
10 under s. 344.574 (2) (a) or for any other charges provided for in the rental agreement
11 only if the rental company obtains the renter's authorization to use that credit and
12 the authorization is obtained after the total amount of the renter's liability or other
13 charges is determined and before the rental company processes the credit card
14 charge.

15 SECTION 2. 345.28 (5w) of the statutes is created to read:

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344.28 (5w) If the owner of a rental or leased vehicle pays costs, forfeitures, or towing and storage charges for nonmoving traffic violations under this section that occurred while the renter or lessee was in possession of the vehicle, the rental or leased vehicle owner may use credit available pursuant to a credit card belonging to the renter as payment for ^{the forfeiture} those costs, forfeitures, and charges for which the renter is liable as well as charge the renter an administrative fee of not more than \$30 for making those payments under this section.

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

345.28 (4) (e) 1. If the person subsequently pays the amount of the forfeiture and the costs, if any, under par. (d) or appears in court in response to the citation or a notice by the authority who issued the citation or the department, the department shall be immediately notified in the form and manner prescribed by the department. If the vehicle involved in the nonmoving traffic violation is owned by a person engaged in the business of renting or leasing motor vehicles and the owner pays the costs, if any, under par. (d) and 50% of the forfeiture, the authority shall immediately notify the department in the form and manner prescribed by the department.

History: 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

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

345.28 (4) (e) 2. If the person subsequently pays the amount of the outstanding towing and storage charges specified in the notice to the department under par. (a) 1m. and the costs, if any, under par. (d), the department shall be immediately notified in the form and manner prescribed by the department. If the vehicle to which the towing and storage charges apply is owned by a person engaged in the business of renting or leasing motor vehicles and the owner pays the costs, if any, under par. (d) and 50% of the amount of the outstanding towing and storage charges specified in

1 the notice to the department under par. (a) 1m., the authority shall immediately
2 notify the department in the form and manner prescribed by the department.

History: 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

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

4 345.28 (4) (h) 1. If an authority receives payment of 50% of a forfeiture from
5 the owner of a leased or rented vehicle involved in a nonmoving traffic violation and
6 receives payment of the forfeiture from the lessee or renter of the vehicle charged
7 with the violation, the authority shall refund to the owner the 50% payment received.

8 2. If an authority receives payment of 50% of the amount of the outstanding
9 towing and storage charges specified in the notice to the department under par. (a)
10 1m. from the owner of a leased or rented vehicle to which the towing and storage
11 charges apply and receives payment of the amount of the outstanding towing and
12 storage charges specified in the notice to the department under par. (a) 1m. from the
13 lessee or renter of the vehicle to which the towing and storage charges apply, the
14 authority shall refund to the owner the 50% payment received.

History: 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

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

16 345.28 (5m) (c) 1. If the renter or lessee does not pay the forfeiture or appear
17 in court in response to the citation for a nonmoving traffic violation within 30 days
18 after the 2nd notice from the authority is mailed to the renter or lessee, the owner
19 shall pay the authority 50% of the forfeiture applicable to the nonmoving traffic
20 violation. The authority shall notify the owner in writing of its responsibility for this
21 payment.

22 2. If the owner does not pay 50% of the forfeiture applicable to the citation
23 within 30 days after notice under subd. 1. has been mailed to the owner, the authority

1 may send a notice to the department under sub. (4) (a) 1. The action which the
2 authority shall specify that the department take under sub. (4) (a) 2. is limited to
3 suspension of the registration of the vehicle involved in the nonmoving traffic
4 violation.

History: 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

History: 1989 a. 328; 2005 a. 173.

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

6 345.28 (5r) (c) 1. If the renter or lessee does not pay the amount of the
7 outstanding towing and storage charges within 30 days after the 2nd notice from the
8 authority is mailed to the renter or lessee, the owner shall pay the authority 50%[✓] of
9 the amount of the outstanding towing and storage charges. The authority shall
10 notify the owner in writing of its responsibility for this payment.

11 2. If the owner does not pay 50%[✓] of the amount of the outstanding towing and
12 storage charges within 30 days after notice under subd. 1. has been mailed to the
13 owner, the authority may send a notice to the department under sub. (4) (a) 1m. The
14 action which the authority shall specify that the department take under sub. (4) (a)
15 2. is limited to suspension of the registration of the vehicle to which the towing and
16 storage charges apply.

History: 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

17 **SECTION 8. Initial applicability.**

18 (1) ^{This act} The treatment of sections 344.578 (1) and 345.28 (4) (e), (h), (5m) (c), (5r)
19 (c), and (5w) first applies to nonmoving traffic violations with vehicles whose vehicle
20 rental or leasing contracts were entered into on the effective date of this act.

21 **SECTION 9. Effective date.**

22 (1) This act takes effect on the first day of the ^{3rd} month following publication.

23

(END)

D-NOTE

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2355/P1dn

BAB: *lgf*

Date

ATTN: Elizabeth Piliouras

The attached draft has been prepared in preliminary form. Please review the draft carefully to ensure that it is consistent with your intent. Your request specified that car rental and leasing companies be allowed to charge against a renter's credit card any amounts the company paid for costs, forfeitures, and towing and storage charges that the rental or leasing company incurred as a result of a nonmoving traffic violation citation for which the renter or lessee is liable. Given that the rental or leasing company may not become liable and pay for its renter's or lessee's citation until several months after the renter or lessee returned the car to the company, there may be issues involved with adequacy of notice of the charge on the credit card, as most credit card holders would not expect a charge on their credit card two or more months after they last dealt with a business.

Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2355/P1dn
BAB:kjf:pg

June 8, 2007

ATTN: Elizabeth Piliouras

The attached draft has been prepared in preliminary form. Please review the draft carefully to ensure that it is consistent with your intent. Your request specified that car rental and leasing companies be allowed to charge against a renter's credit card any amounts the company paid for costs, forfeitures, and towing and storage charges that the rental or leasing company incurred as a result of a nonmoving traffic violation citation for which the renter or lessee is liable. Given that the rental or leasing company may not become liable and pay for its renter's or lessee's citation until several months after the renter or lessee returned the car to the company, there may be issues involved with adequacy of notice of the charge on the credit card, as most credit card holders would not expect a charge on their credit card two or more months after they last dealt with a business.

Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

Balinsky, Brett

From: Piliouras, Elizabeth
Sent: Wednesday, December 19, 2007 9:30 AM
To: Balinsky, Brett
Subject: RE: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Nope. I haven't heard back. Go ahead. We'll see how it flies, but I think it's reasonable.

From: Balinsky, Brett
Sent: Wednesday, December 19, 2007 9:27 AM
To: Piliouras, Elizabeth
Subject: RE: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Hi Beth,

Have you heard anything further regarding the rental agreement form? Or, would you like for me just to go ahead and require both an itemization at the time the rental company charges the customer's credit card for the nonmoving traffic violation and related fees and a notice of the possibility of such charges at the time the customer signs the rental or leasing agreement?

Thanks

Brett

From: Piliouras, Elizabeth
Sent: Monday, November 26, 2007 4:43 PM
To: Balinsky, Brett
Subject: RE: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Ok good. That's what I thought.

I haven't lost my mind - yet.

From: Balinsky, Brett
Sent: Monday, November 26, 2007 4:22 PM
To: Piliouras, Elizabeth
Subject: RE: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Hi Beth,

I haven't received any further information - I believe we were waiting to see a copy of a typical rental contract in order to determine if there was a need for the initial disclosure language.

Brett

12/19/2007

From: Piliouras, Elizabeth
Sent: Monday, November 26, 2007 4:08 PM
To: 'Andrew Franken'
Cc: Balinsky, Brett
Subject: RE: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

*Andy, Brett:
I don't remember touching base after this?*

*Any thoughts?
Beth*

From: Piliouras, Elizabeth
Sent: Friday, November 09, 2007 11:47 AM
To: 'Andrew Franken'
Cc: Balinsky, Brett
Subject: RE: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Can you get me the disclosure language in the contract?

I think I misspoke. I believe Brett was talking about sending an itemized bill to the customer whenever charges have been made to their card – not necessarily when they return the vehicle.

I hope that makes sense why I still have a question?

From: Andrew Franken [mailto:franken@hamilton-consulting.com]
Sent: Friday, November 09, 2007 11:21 AM
To: Piliouras, Elizabeth
Subject: FW: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

FYI

From: Skinner, Shane [mailto:Shane.Skinner@erac.com]
Sent: Thursday, November 08, 2007 9:17 AM
To: Andrew Franken
Subject: RE: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Hi Andy. It would be impossible to do a disclosure on the itemized bill, as most renters don't tell us they received a ticket when they return the car and get their itemized bill. We already have a disclosure on our contract, and signs posted at our locations with a disclosure as well. That sounds like ample disclosure. Thanks, Shane

From: Andrew Franken [mailto:franken@hamilton-consulting.com]
Sent: Thursday, November 08, 2007 9:01 AM
To: Skinner, Shane

12/19/2007

Subject: FW: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Your thoughts?

From: Piliouras, Elizabeth [mailto:Elizabeth.Piliouras@legis.wisconsin.gov]

Sent: Wednesday, November 07, 2007 7:08 PM

To: Andrew Franken

Subject: FW: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

So... what do you think? Disclosure on the itemized bill, or disclosure ahead of time?

I suppose I sort of thought a little of both. On the front end, the customer is told that the admin fee is up to \$30 and the charges will be fully disclosed (or itemized) on the final bill?

Thanks Andy!

Beth

From: Balinsky, Brett

Sent: Wednesday, November 07, 2007 1:47 PM

To: Piliouras, Elizabeth

Subject: RE: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Hi Beth,

I am putting the finishing touches on the changes to this and I have a question: when you mention the "disclosure part" are you referring only to the itemization of charges that will be required once the rental company has charged the renter's credit card for the nonmoving traffic violation forfeitures, costs and charges or do you want a provision, in addition to the itemization, that requires the rental or leasing company to give written notice at the time the renter enters into the rental or lease agreement that such amounts might be charged to the renter's credit card?

Thanks

Brett

From: Piliouras, Elizabeth

Sent: Thursday, October 25, 2007 10:57 AM

To: Balinsky, Brett

Subject: RE: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Hi Brett:

Sorry to do this to you... I got a late message on this. Would like to go back to the "up to \$30" for the Administrative fee, but insert the disclosure part..

If you like, you can call Janet Jenkins at DATCP to run the disclosure language by her to see what the Department is most comfortable with.

Janet Jenkins

12/19/2007

Administrator
Division of Trade & Consumer Protection
WI Dept. of Agriculture, Trade & Consumer Protection
608-224-4929

Thank you!
Beth

From: Balinsky, Brett
Sent: Wednesday, October 24, 2007 10:28 AM
To: Piliouras, Elizabeth
Subject: RE: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Hi Beth,

I don't believe I've seen that. I'll incorporate those changes for you and try to get it done by the end of the week. Would you like this as a /P2 draft or as an introducible /1 draft?

Thanks

Brett Balinsky

From: Piliouras, Elizabeth
Sent: Wednesday, October 24, 2007 10:05 AM
To: Balinsky, Brett
Subject: FW: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Brett:

Did I forward these changes to you? The only change from Janet's suggestions is that under #3 replace the \$30 fee with a "reasonable and disclosed" fee.

Thanks!
Beth

From: Jenkins, Janet A - DATCP [mailto:Janet.Jenkins@Wisconsin.gov]
Sent: Friday, August 24, 2007 2:13 PM
To: Piliouras, Elizabeth
Cc: Moll, Keeley A - DATCP
Subject: RE: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Beth -

Attached is my attempt at amending the bill as currently drafted. LRB will obviously have to put it in official statute-speak, and I'd like our legal counsel to review and that won't happen until next week since he is on vacation this week. W/ that said however, I'm passing this along as our initial thoughts.

Essentially, our suggested changes are:

1. Requiring the rental company to wait for the notification from the municipality before charging against the renter's credit card. This will make sure that there aren't duplicate payments, i.e., the renter paid the amount due and the rental company also charged it against the renter's credit card.
2. Requiring the rental company to make any charges against the renter's credit card w/in 30 days after being notified by the municipality that the rental company is on the hook. We prefer that any charges against the renter's credit card be made as soon as possible after the notification under 1 above rather than having months go by before the credit card is charged.
3. Requiring the rental company to notify the renter in writing when the renter's credit card is charged w/ an itemization of the amounts charged and the reasons therefor. The current bill provides for an up to \$30 administrative charge that the rental company can charge if it has to charge the renter's credit card. We have no problem with this charge, but a consumer might not understand that this has occurred and s/he might also not know how much the "ticket" is w/ penalties, late fees, etc. Given concerns about id theft and unauthorized charges against people's credit cards, we think it makes sense to let the renter know what charges have been made and the reasons why.

We'd be happy to work w/ you and/or Andy Franken re these suggestions. If you have any questions/cor

Janet Jenkins
Administrator
Division of Trade & Consumer Protection
WI Dept. of Agriculture, Trade & Consumer Protection
608-224-4929

From: Piliouras, Elizabeth [mailto:Elizabeth.Piliouras@legis.wisconsin.gov]
Sent: Monday, August 20, 2007 9:30 AM
To: Jenkins, Janet A - DATCP
Subject: FW: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

12/19/2007

Hi Janet:

This is the bill I was speaking of.

Thanks!

Beth

From: Sen.Breske

Sent: Friday, June 08, 2007 4:56 PM

To: Piliouras, Elizabeth

Subject: FW: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

From: Barman, Mike

Sent: Friday, June 08, 2007 3:35 PM

To: Sen.Breske

Subject: Draft review: LRB 07-2355/P1 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Following is the PDF version of draft LRB 07-2355/P1 and drafter's note.

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Suggestions for LRB-2355/P1
(Charging renters' credit cards for non-moving violations)

- Amend Section 7, page 5 as follows:

SECTION 7. 345.28 (5w) of the statutes is created to read:

345.28 (5w) (1) If the owner of a rental or leased vehicle pays any forfeiture, costs, or towing and storage charges for nonmoving traffic violations under this section that occurred while the renter or lessee was in possession of the vehicle, the rental or leased vehicle owner may use credit available pursuant to a credit card belonging to the renter a payment for the forfeiture, costs, and charges for which the renter is liable under this section as well as charge the renter an administrative fee of not more than \$30 for making those payments under this section. The owner may not charge the credit card of the renter until after the owner has received notification from the authority under s. 345.28 (5m) (c) 1 or s. 345.28 (5r) (c) 1, whichever is applicable. All charges against the renter's credit shall be made within 30 days after the owner has received notification from the authority under s. 345.28 (5m) (c) 1 or s. 345.28 (5r) (c) 1, whichever is applicable.

(2) As soon as practicable, but no later than 30 days after the owner has used the renter's credit as provided in sub. (1), the owner shall send the renter written notice of the total amount charged against the renter's credit with an itemization of such charges including the amounts, the authority to which the amounts were paid, and the date the renter's credit was used to pay such amounts.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2355/P1

BAB:kjf/pg

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN 1/24/08

500N

D-NOTE

Regen

1 AN ACT to amend 344.578 (1), 345.28 (4) (e) 1., 345.28 (4) (e) 2., 345.28 (4) (h),
2 345.28 (5m) (c) and 345.28 (5r) (c); and to create 345.28 (5w) of the statutes;
3 relating to: nonmoving traffic violations involving rented or leased vehicles

~~requiring the exercise of rule making authority, and providing an~~
~~exemption from emergency rule procedures, and requiring the exercise~~
Analysis by the Legislative Reference Bureau of rule-making authority.

Under current law a local authority, state agency, a campus within the University of Wisconsin System or a technical college district (an "authority") may issue citations for nonmoving traffic violations that impose forfeitures and in some circumstances, tow and store the vehicle. If the person charged with the citation fails either to pay the forfeiture and charges for towing and storage or to contest the citation successfully in court, the authority may report the nonmoving traffic violation to the Department of Transportation (DOT), which then may suspend the registration for the vehicle and, in certain cases, deny renewal of registration of the person's other vehicles. Under current law, if the owner of a vehicle receiving a nonmoving traffic violation citation is a vehicle rental or leasing company, it may avoid the suspension of the vehicle registration if it provides DOT with information regarding the renter or lessee who was in possession of the vehicle at the time of the nonmoving traffic violation and the renter or lessee pays the authority all amounts owed as a forfeiture, costs, and charges for towing and storage. Alternatively, if the renter or lessee fails to pay any forfeiture, costs, and charges, the rental or leasing company may avoid suspension of its registration by DOT if it pays any costs and 50 percent of the outstanding forfeiture and towing and storage charges owed for the nonmoving traffic violation.

X Under current law, vehicle rental and leasing companies may not apply charges
X against the credit card that the renter or lessee provided as a deposit for damages

2 -
while the vehicle was in the renter's or lessee's possession

unless either the charges are for the cost of the rental and the renter or lessee consents or the charges are to repair any damage that occurred when the vehicle was in the renter's or lessee's possession and the rental or leasing company provides the renter or lessee with the total cost of the repairs.

This bill requires that if a renter or lessee of a vehicle that receives a citation for a nonmoving traffic violation fails to pay any forfeiture, costs, or towing and storage charges that are owed to the authority issuing the citation, the vehicle rental or leasing company must pay all of those sums to the authority or DOT may suspend the vehicle's registration. The bill allows a vehicle rental or leasing company to apply charges against the credit of the credit card provided as a deposit for damages by the renter or lessee for any sums it has paid for costs, forfeitures, and towing and storage charges for the nonmoving violation plus assess an administrative fee of not more than \$30 against the renter or lessee.

← INSERT ANALYSIS

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

1 SECTION 1. 344.578 (1) of the statutes is amended to read:

2 344.578 (1) PROHIBITED DEPOSITS; COLLECTION OF DAMAGES. Except as provided
3 in this subsection, or in sub. (2), or in s. 345.28 (5w), a rental company may not use
4 credit available pursuant to a credit card belonging to a renter as a deposit for
5 damages for which the renter may be held liable under the rental agreement or under
6 s. 344.574 (2) (a) or for any other charges. If a rented private passenger vehicle is
7 damaged or if the renter owes any other charges provided for in the rental
8 agreement, the rental company may use credit available pursuant to a credit card
9 belonging to the renter as payment for the damages for which the renter is liable
10 under s. 344.574 (2) (a) or for any other charges provided for in the rental agreement
11 only if the rental company obtains the renter's authorization to use that credit and
12 the authorization is obtained after the total amount of the renter's liability or other
13 charges is determined and before the rental company processes the credit card
14 charge.

INSERT 2-15 →

15 SECTION 2. 345.28 (4) (e) 1. of the statutes is amended to read:

1 345.28 (4) (e) 1. If the person subsequently pays the amount of the forfeiture
2 and the costs, if any, under par. (d) or appears in court in response to the citation or
3 a notice by the authority who issued the citation or the department, the department
4 shall be immediately notified in the form and manner prescribed by the department.
5 If the vehicle involved in the nonmoving traffic violation is owned by a person
6 engaged in the business of renting or leasing motor vehicles and the owner pays the
7 costs, if any, under par. (d) and ~~50%~~ of the forfeiture, the authority shall immediately
8 notify the department in the form and manner prescribed by the department.

9 **SECTION 3.** 345.28 (4) (e) 2. [✓] of the statutes is amended to read:

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

19 **SECTION 4.** 345.28 (4) (h) [✓] of the statutes is amended to read:

20 345.28 (4) (h) 1. If an authority receives payment of ~~50%~~ of a forfeiture from
21 the owner of a leased or rented vehicle involved in a nonmoving traffic violation and
22 receives payment of the forfeiture from the lessee or renter of the vehicle charged
23 with the violation, the authority shall refund to the owner the ~~50%~~ payment received.

24 2. If an authority receives payment of ~~50%~~ of the amount of the outstanding
25 towing and storage charges specified in the notice to the department under par. (a)

1 1m. from the owner of a leased or rented vehicle to which the towing and storage
2 charges apply and receives payment of the amount of the outstanding towing and
3 storage charges specified in the notice to the department under par. (a) 1m. from the
4 lessee or renter of the vehicle to which the towing and storage charges apply, the
5 authority shall refund to the owner the 50% payment received.

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

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

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

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

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

1 2. If the owner does not pay 50% of the amount of the outstanding towing and
2 storage charges within 30 days after notice under subd. 1. has been mailed to the
3 owner, the authority may send a notice to the department under sub. (4) (a) 1m. The
4 action which the authority shall specify that the department take under sub. (4) (a)
5 2. is limited to suspension of the registration of the vehicle to which the towing and
6 storage charges apply.

7 **SECTION 7.** 345.28 (5w) of the statutes is created to read:
8 345.28 (5w) If the owner of a rental or leased vehicle pays any forfeiture, costs,
9 or towing and storage charges for nonmoving traffic violations under this section
10 that occurred while the renter or lessee was in possession of the vehicle, the rental
11 or leased vehicle owner may use credit available pursuant to a credit card belonging
12 to the renter as payment for the forfeiture, costs, and charges for which the renter
13 is liable as well as charge the renter an administrative fee of not more than \$30 for
14 making those payments under this section, if the owner follows the requirements

15 **SECTION 8. Initial applicability.**

16 (1) This act first applies to nonmoving traffic violations with vehicles whose
17 vehicle rental or leasing contracts were entered into on the effective date of this act.

18 **SECTION 9. Effective date.**

19 (1) This act takes effect on the first day of the 3rd month following publication,
20 except as follows:

change to action: ns: effdate E → SECTION 9. Effective date. no #
no # (1) This act takes effect on the first day of the 3rd month following publication, 4th
except as follows: #
← a.r. (a) (END)
← a.r. (b)
← a.r. (c)
text: ns: effdate → (1) SECTION # and # takes effect on the day after publication.

D-NOTE

1 Insert Analysis

no# If the rental or leased vehicle owner intends to make such charges, the vehicle owner must give written notice, to the renter or lessee, before entering into the rental or lease agreement, that charges may be made against the renter's or lessee's credit card for any forfeitures, costs, or towing and storage charges for a nonmoving traffic citation that the renter or lessee fails to pay. The bill requires the Department of Agriculture, Trade and Consumer Protection to promulgate rules specifying the form of this written notice. The rental or leased car owner must charge the renter's or lessee's credit card within 30 days after receiving notice from the authority issuing the citation that the renter or lessee failed to pay the forfeiture, costs, or towing and storage charges and must provide a detailed itemization of the charges to the renter or lessee within 30 days of charging the renter's or lessee's credit card. vehicle

2

3 Insert 2-15

4 SECTION 1. 344.578 (2) of the statutes is amended to read:

5 344.578 (2) DEPOSIT FOR RENTAL FEES. If authorized by the renter, a rental
6 company may use credit available pursuant to charge a credit card belonging to the
7 renter as a deposit for the estimated cost of the rental, as determined under this
8 subsection. The estimated cost of the rental may not exceed an amount equal to the
9 daily rental rate specified in the rental agreement, which may include the daily
10 charge for a damage waiver if purchased by the renter, multiplied by the number of
11 days specified in the agreement for which the private passenger vehicle is being
12 rented.

13 History: 1989 a. 328; 2005 a. 173.

14 Insert 5-15

15 (a) Provided a written notice to the renter or lessee, prior to entering into the
16 rental or lease agreement, that if the renter or lessee fails to pay any forfeitures,
17 costs, or towing and storage charges for nonmoving traffic violations incurred while

1 the renter or lessee is in possession of the rental or leased vehicle, the owner may pay
2 those sums and charge the amount paid for such forfeitures, costs, or charges plus
3 an administrative fee of not more than \$30 to a credit card belonging to the renter
4 or lessee.

5 (b) Provides the renter or lessee with a detailed itemization of all amounts
6 charged to the renter's or lessee's credit card, within 30 days after charging that
7 credit card, that includes the date that the charge was made and, for each nonmoving
8 traffic violation forfeiture incurred by the renter or lessee that the owner paid, the
9 name of the authority issuing the citation, the citation number, and the date of the
10 citation.

11 (5x) The department of agriculture, trade and consumer protection shall
12 promulgate rules specifying the form of the notice required under sub. (5w) (a),
13 including the type size and any highlighting of the information described in that
14 paragraph and, if the notice is on a separate form, the size of the paper. The rules
15 must require the notice to be in substantially the same form as the notice under s.
16 344.576 (3) (a) and may specify additional information to be included in the notice
17 and the precise language that must be used.

18 **SECTION 2. Nonstatutory provisions.**

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

24 (2) Using the procedure under section 227.24 of the statutes, the department
25 of agriculture, trade and consumer protection may promulgate as emergency rules

1 the rules required under section 345.28 (5x) of the statutes, as created by this act,
2 for the period before the effective date of the rules submitted under subsection (1).
3 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules
4 promulgated under this subsection remain in effect until the date on which the rules
5 submitted under subsection (1) take effect or until July 1, 2009, whichever is sooner.
6 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of
7 agriculture, trade and consumer protection is not required to provide evidence that
8 promulgating a rule under this subsection as an emergency rule is necessary for the
9 preservation of the public peace, health, safety, or welfare and is not required to
10 provide a finding of emergency for a rule promulgated under this subsection.

a.r.

a.r.

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

LRB-2355/1dn
BAB:kjf:pg

Date

ATTN: Elizabeth Piliouras

The attached draft includes the changes suggested by the Department of Agriculture, Trade and Consumer Protection (DATCP) and also contains several stylistic changes that do not affect the substance of the draft.

X I have required that DATCP create rules specifying the content of the notice under created s. 345.28 (5w)(a) warning the renter or lessee that the owner may charge the renter's or lessee's credit card for any forfeitures, costs, and charges the owner incurs arising from nonmoving traffic citations while the vehicle is in the renter's or lessee's possession. This provision is consistent with s. 344.576 (3) (a), which requires DATCP to promulgate rules specifying the form of the damage waiver notice that a rental or lease vehicle owner is required to provide the renter or lessee prior to entering into the rental or lease agreement. I have also required DATCP to promulgate emergency rules specifying the content of that notice prior to the effective date of the ^{act}. Is this acceptable?

Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2355/1dn
BAB:kjfrs

January 30, 2008

ATTN: Elizabeth Piliouras

The attached draft includes the changes suggested by the Department of Agriculture, Trade and Consumer Protection (DATCP) and also contains several stylistic changes that do not affect the substance of the draft.

I have required that DATCP create rules specifying the content of the notice under created s. 345.28 (5w) (a) warning the renter or lessee that the owner may charge the renter's or lessee's credit card for any forfeitures, costs, and charges the owner incurs arising from nonmoving traffic citations while the vehicle is in the renter's or lessee's possession. This provision is consistent with s. 344.576 (3) (a), which requires DATCP to promulgate rules specifying the form of the damage waiver notice that a rental or lease vehicle owner is required to provide the renter or lessee prior to entering into the rental or lease agreement. I have also required DATCP to promulgate emergency rules specifying the content of that notice prior to the effective date of the act. Is this acceptable?

Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

Balinsky, Brett

From: Piliouras, Elizabeth
Sent: Tuesday, February 05, 2008 4:09 PM
To: Balinsky, Brett
Subject: RE: Rental Car Agreements

Do a /2 - Andy didn't call in lately.

Thanks!

From: Balinsky, Brett
Sent: Tuesday, February 05, 2008 4:08 PM
To: Piliouras, Elizabeth
Subject: RE: Rental Car Agreements

Hi Beth,

It does not look like this has been introduced yet - do you still want me to do an amendment or should I make the changes Andy requested, change this to a /2 version and see if I can get it to you in the next day or so?

Brett

From: Piliouras, Elizabeth
Sent: Thursday, January 31, 2008 5:00 PM
To: Balinsky, Brett
Cc: 'Andrew Franken'; Meinholz, Susan
Subject: FW: Rental Car Agreements

Can you log in a request for an amendment to LRB 2355 based on Andy's comments?

From: Andrew Franken [mailto:franken@hamilton-consulting.com]
Sent: Thursday, January 31, 2008 2:57 PM
To: Piliouras, Elizabeth; Meinholz, Susan
Subject: RE: Rental Car Agreements

We want current law for non credit card rentals, i.e. the rental company only on the hook for 50% of ticket... in the event the renter pays by credit card then we can charge the renter 100% of ticket and forward that amount to the municipality. Therefore, the munis will end up getting more money 100% and we won't be on hook for tickets by renters who use credit cards.

From: Piliouras, Elizabeth [mailto:Elizabeth.Piliouras@legis.wisconsin.gov]
Sent: Thursday, January 31, 2008 2:52 PM
To: Andrew Franken; Meinholz, Susan
Subject: FW: Rental Car Agreements

2/8/2008

From: Balinsky, Brett
Sent: Thursday, January 31, 2008 10:19 AM
To: Piliouras, Elizabeth
Subject: RE: Rental Car Agreements

Hi Beth,

I do not think that we can get this to you today because of the short time constraints and the heavy volume of drafts already in editing. I would recommend that we address any changes in an amendment.

However, I am not sure I understand what Andy is requesting - is he asking that the bill provide that if the renter/lessee paid by means other than credit card, the vehicle rental and leasing companies will only be liable for 50% of the forfeitures and costs, whereas if the renter/lessee paid by credit card, the owner is liable for 100% of the forfeitures and costs, but can then charge those amounts to the renter's/lessee's credit card? If so, in cases in which the renter/lessee tendered a credit card as security for the various fees and potential expenses that may be incurred but settled up the bill after returning the vehicle with cash, check or other non-credit card payment, would the owner be liable for 50% or 100%? Do you want to address the issue of what would happen if the vehicle owner attempts to charge the credit card for the amounts of the forfeitures and costs, but the credit card is declined?

For your reference, the original drafting instructions on this 50% liability issue were as follows:

Delete all references to rental or leasing company "owner" liability for 50% of parking tickets and towing violations.

The /P1 version of this draft that we submitted to you in June followed these instructions and struck all references to 50% liability for rental and lease vehicle owners, making the owners liable for 100% of those amounts. I understood that the tradeoff that rental and leasing companies were making to be allowed to charge the customer's credit card for these amounts was to be fully responsible for those amounts, rather than 50% responsible.

Thanks

Brett

From: Piliouras, Elizabeth
Sent: Wednesday, January 30, 2008 9:03 PM
To: Balinsky, Brett
Subject: FW: Rental Car Agreements

Brett:

For some reason, I thought that the language that Andy talks about below -- the 50% responsibility - was already included in current law. Should it be reaffirmed in the draft? If so, how quickly do you think we can get the draft back? Roger wants to circulate the draft ASAP - tomorrow if possible. If it's not possible, Roger would be looking at an amendment.

Thanks!
Beth
266-2509

From: Andrew Franken [mailto:franken@hamilton-consulting.com]
Sent: Wednesday, January 30, 2008 5:18 PM
To: Piliouras, Elizabeth
Cc: Meinholz, Susan

2/8/2008

Subject: RE: Rental Car Agreements

We need to clarify that still only owe 50% for renters who do not pay for by credit card...we can do this through quick redraft or amendment..I would like to get it circulated

From: Piliouras, Elizabeth [mailto:Elizabeth.Piliouras@legis.wisconsin.gov]

Sent: Wednesday, January 30, 2008 4:40 PM

To: Andrew Franken

Cc: Meinholz, Susan

Subject: Rental Car Agreements

Hi Andy:

Can you take a look at these and let me know what you think? We just got it back today.

Thanks!

Beth

Beth Piliouras

Senator Roger Breske

608-266-2509



State of Wisconsin
2007 - 2008 LEGISLATURE

12
LRB-2355/4

BAB:kjf:ts

RMR

2007 BILL

FN 2/8/08

SOON

Regen

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

Under current law a local authority, state agency, a campus within the University of Wisconsin System or a technical college district (an "authority") may issue citations for nonmoving traffic violations that impose forfeitures and in some circumstances, tow and store the vehicle. If the person charged with the citation fails either to pay the forfeiture and charges for towing and storage or to contest the citation successfully in court, the authority may report the nonmoving traffic violation to the Department of Transportation (DOT), which then may suspend the registration for the vehicle and, in certain cases, deny renewal of registration of the person's other vehicles. Under current law, if the owner of a vehicle receiving a nonmoving traffic violation citation is a vehicle rental or leasing company, it may avoid the suspension of the vehicle registration if it provides DOT with information regarding the renter or lessee who was in possession of the vehicle at the time of the nonmoving traffic violation and the renter or lessee pays the authority all amounts owed as a forfeiture, costs, and charges for towing and storage. Alternatively, if the renter or lessee fails to pay any forfeiture, costs, and charges, the rental or leasing

BILL

company may avoid suspension of its registration by DOT if it pays any costs and 50 percent of the outstanding forfeiture and towing and storage charges owed for the nonmoving traffic violation.

Under current law, vehicle rental and leasing companies may not charge a credit card that the renter or lessee provided as a deposit for damages unless either the charges are for the cost of the rental and the renter or lessee consents or the charges are to repair any damage that occurred when the vehicle was in the renter's or lessee's possession and the rental or leasing company provides the renter or lessee with the total cost of the repairs.

This bill requires that if a renter or lessee of a vehicle that receives a citation for a nonmoving traffic violation, while the vehicle was in the renter's or lessee's possession, fails to pay any forfeiture, costs, or towing and storage charges that are owed to the authority issuing the citation, the vehicle rental or leasing company must pay all of those sums to the authority or DOT may suspend the vehicle's registration. The bill allows a vehicle rental or leasing company to charge a credit card provided as a deposit for damages by the renter or lessee for any sums it has paid for costs, forfeitures, and towing and storage charges for the nonmoving violation plus assess an administrative fee of not more than \$30 against the renter or lessee. If the rental or leased vehicle owner intends to make such charges, the vehicle owner must give written notice, to the renter or lessee, before entering into the rental or lease agreement, that charges may be made against the renter's or lessee's credit card for any forfeitures, costs, or towing and storage charges for a nonmoving traffic citation that the renter or lessee fails to pay. The bill requires the Department of Agriculture, Trade and Consumer Protection to promulgate rules specifying the form of this written notice. The rental or leased vehicle owner must charge the renter's or lessee's credit card within 30 days after receiving notice from the authority issuing the citation that the renter or lessee failed to pay the forfeiture, costs, or towing and storage charges and must provide a detailed itemization of the charges to the renter or lessee within 30 days of charging the renter's or lessee's credit card.

FEES *INSERT ANALYSTS*
requiring the rental or lease company to provide a detailed itemization of the charges to the renter or lessee within 30 days of charging the renter's or lessee's credit card.

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

- 1 **SECTION 1.** 344.578 (1) of the statutes is amended to read:
- 2 344.578 (1) PROHIBITED DEPOSITS; COLLECTION OF DAMAGES. Except as provided
- 3 in this subsection or, in sub. (2), or in s. 345.28 (5w), a rental company may not use
- 4 credit available pursuant to charge a credit card belonging to a renter as a deposit
- 5 for damages for which the renter may be held liable under the rental agreement or
- 6 under s. 344.574 (2) (a) or for any other charges. If a rented private passenger vehicle

BILL

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

9 **SECTION 2.** 344.578 (2) [✓] of the statutes is amended to read:

10 344.578 (2) DEPOSIT FOR RENTAL FEES. If authorized by the renter, a rental
11 company may use ~~credit available pursuant to~~ charge a credit card belonging to the
12 renter as a deposit for the estimated cost of the rental, as determined under this
13 subsection. The estimated cost of the rental may not exceed an amount equal to the
14 daily rental rate specified in the rental agreement, which may include the daily
15 charge for a damage waiver if purchased by the renter, multiplied by the number of
16 days specified in the agreement for which the private passenger vehicle is being
17 rented.

18 **SECTION 3.** 345.28 (4) (e) 1. [✓] of the statutes is amended to read:

19 345.28 (4) (e) 1. If the person subsequently pays the amount of the forfeiture
20 and the costs, if any, under par. (d) or appears in court in response to the citation or
21 a notice by the authority who issued the citation or the department, the department
22 shall be immediately notified in the form and manner prescribed by the department.
23 If the vehicle involved in the nonmoving traffic violation is owned by a person
24 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, the authority shall immediately
2 notify the department in the form and manner prescribed by the department.

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

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

4 use times
↓

Sub. (5w)
↑

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

14 345.28 (4) (h) 1. If an authority receives payment of ~~50%~~ of a forfeiture ^{from}
15 the owner of a leased or rented vehicle involved in a nonmoving traffic violation and
16 receives payment of the forfeiture from the lessee or renter of the vehicle charged
17 with the violation, the authority shall refund to the owner the 50% payment received.

2 ←

18 2. If an authority receives payment of ~~50%~~ of the amount of the outstanding
19 towing and storage charges specified in the notice to the department under par. (a)
20 1m. ^{from} from the owner of a leased or rented vehicle to which the towing and storage
21 charges apply and receives payment of the amount of the outstanding towing and
22 storage charges specified in the notice to the department under par. (a) 1m. from the
23 lessee or renter of the vehicle to which the towing and storage charges apply, the
24 authority shall refund to the owner the 50% payment received.

from the owner
↑
use twice

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

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use 4 times
Except as otherwise provided in sub. 345.28(5w)(b), if

1 345.28 (5m) (c) 1. ~~If~~ the renter or lessee does not pay the forfeiture or appear
2 in court in response to the citation for a nonmoving traffic violation within 30 days
3 after the 2nd notice from the authority is mailed to the renter or lessee, the owner
4 shall pay the authority 50% of the forfeiture applicable to the nonmoving traffic
5 violation. The authority shall notify the owner in writing of its responsibility for this
6 payment.

7 2. ~~If~~ the owner does not pay 50% of the forfeiture applicable to the citation
8 within 30 days after notice under subd. 1. has been mailed to the owner, the authority
9 may send a notice to the department under sub. (4) (a) 1. The action which the
10 authority shall specify that the department take under sub. (4) (a) 2. is limited to
11 suspension of the registration of the vehicle involved in the nonmoving traffic
12 violation.

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

14 345.28 (5r) (c) 1. ~~If~~ the renter or lessee does not pay the amount of the
15 outstanding towing and storage charges within 30 days after the 2nd notice from the
16 authority is mailed to the renter or lessee, the owner shall pay the authority 50% of
17 the amount of the outstanding towing and storage charges. The authority shall
18 notify the owner in writing of its responsibility for this payment.

19 2. ~~If~~ the owner does not pay 50% of the amount of the outstanding towing and
20 storage charges within 30 days after notice under subd. 1. has been mailed to the
21 owner, the authority may send a notice to the department under sub. (4) (a) 1m. The
22 action which the authority shall specify that the department take under sub. (4) (a)
23 2. is limited to suspension of the registration of the vehicle to which the towing and
24 storage charges apply.

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

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

9 ^{1.}
10 (a) Provided a written notice to the renter or lessee, prior to entering into the
11 rental or lease agreement, that if the renter or lessee fails to pay any forfeitures,
12 costs, or towing and storage charges for nonmoving traffic violations incurred while
13 the renter or lessee is in possession of the rental or leased vehicle, the owner may pay
14 those sums and charge the amount paid for such forfeitures, costs, or charges plus
15 an administrative fee of not more than \$30 to a credit card belonging to the renter
16 or lessee.

17 ^{2.}
18 (b) Provides the renter or lessee with a detailed itemization of all amounts
19 charged to the renter's or lessee's credit card, within 30 days after charging that
20 credit card, that includes the date that the charge was made and, for each nonmoving
21 traffic violation forfeiture incurred by the renter or lessee that the owner paid, the
22 name of the authority issuing the citation, the citation number, and the date of the
23 citation.

24 ⁶⁻²²
25 (5x) The department of agriculture, trade and consumer protection shall
26 promulgate rules specifying the form of the notice required under sub. (5w) (a),
27 including the type size and any highlighting of the information described in that
28 paragraph and, if the notice is on a separate form, the size of the paper. The rules

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1 must require the notice to be in substantially the same form as the notice under s.
2 344.576 (3) (a) and may specify additional information to be included in the notice
3 and the precise language that must be used.

SECTION 9. Nonstatutory provisions.

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

10 (2) Using the procedure under section 227.24 of the statutes, the department
11 of agriculture, trade and consumer protection may promulgate as emergency rules
12 the rules required under section 345.28 (5x) of the statutes, as created by this act,
13 for the period before the effective date of the rules submitted under subsection (1).
14 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules
15 promulgated under this subsection remain in effect until the date on which the rules
16 submitted under subsection (1) take effect or until July 1, 2009, whichever is sooner.
17 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of
18 agriculture, trade and consumer protection is not required to provide evidence that
19 promulgating a rule under this subsection as an emergency rule is necessary for the
20 preservation of the public peace, health, safety, or welfare and is not required to
21 provide a finding of emergency for a rule promulgated under this subsection.

SECTION 10. Initial applicability.

22
23 (1) This act first applies to nonmoving traffic violations with vehicles whose
24 vehicle rental or leasing contracts were entered into on the effective date of this act.

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LRB-2355/1ans
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1 Insert Analysis

The bill provides an exception for nonmoving violations incurred by a renter or lessee who did not pay for the cost of the rental or lease with a credit card, lowering the rental or lease vehicle owner's liability to 50% of the amount of the forfeiture and towing and storage charges.

2

3 Insert 6-22

4

5 ~~SECTION 1. 345.28 (5w) (b) of the statutes is created to read:~~

6 ~~345.28 (5w) (b)~~ If the owner of a rental or leased vehicle has received written
7 notice under sub. (5m) (c) 1. or (5r) (c) 1. and is required to pay any forfeiture or towing
8 and storage charges for nonmoving traffic violations under this section that occurred
9 while the renter or lessee was in possession of the vehicle and the renter or lessee did
10 not pay the rental or lease fee with a credit card, the rental or leased vehicle owner
11 shall pay the authority 50% of the amount of the outstanding forfeitures or towing
12 and storage charges, provided that the owner advises the authority that the payment
13 is made under this paragraph.

percent

Duerst, Christina

From: Piliouras, Elizabeth

Sent: Tuesday, February 19, 2008 12:41 PM

To: LRB.Legal

Subject: Draft Review: LRB 07-2355/2 Topic: Liability of automobile or leasing company for lessee's parking and towing forfeitures

Please Jacket LRB 07-2355/2 for the SENATE.