February 20, 2008 – Introduced by Senators BRESKE, SCHULTZ, ERPENBACH, KAPANKE and PLALE, cosponsored by Representatives PETROWSKI, STONE, POCAN and VAN ROY. Referred to Committee on Transportation and Tourism.

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

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**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
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.

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 leased vehicle owner’s liability to 50 percentage of the amount of the forfeiture and towing and storage charges.

For further information see the state 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. 344.578 (1) of the statutes is amended to read:

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

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

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

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 or, if applicable, the amount required under sub. (5w) (b), the authority shall immediately notify the department in the form and manner prescribed by the department.

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 the notice to the department under par. (a) 1m. or, if applicable, the amount required under sub. (5w) (b), the authority shall immediately notify the department in the form and manner prescribed by the department.

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

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

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

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

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

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

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

345.28 (5r) (c) 1. If Except as otherwise provided in sub. (5w) (b), if the renter
or lessee does not pay the amount of the outstanding towing and storage charges
within 30 days after the 2nd notice from the authority is mailed to the renter or
lessee, the owner shall pay the authority 50% of the amount of the outstanding
towing and storage charges. The authority shall notify the owner in writing of its
responsibility for this payment.
2. If except as otherwise provided in sub. (5w) (b), if the owner does not pay 50% of the amount of the outstanding towing and storage charges within 30 days after notice under subd. 1. has been mailed to the owner, the authority may send a notice to the department under sub. (4) (a) 1m. The action which the authority shall specify that the department take under sub. (4) (a) 2. is limited to suspension of the registration of the vehicle to which the towing and storage charges apply.

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

345.28 (5w) (a) If the owner of a rental or leased vehicle has received written notice under sub. (5m) (c) 1. or (5r) (c) 1. and 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, within 30 days after receiving the notice, charge a credit card belonging to the renter or lessee as payment for the forfeiture, costs, and charges for which the renter or lessee is liable as well as charge the renter an administrative fee of not more than $30 for making those payments under this section, if the owner:

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

2. Provides the renter or lessee with a detailed itemization of all amounts charged to the renter’s or lessee’s credit card, within 30 days after charging that credit card, that includes the date that the charge was made and, for each nonmoving
traffic violation forfeiture incurred by the renter or lessee that the owner paid, the
name of the authority issuing the citation, the citation number, and the date of the
citation.

(b) If the owner of a rental or leased vehicle has received written notice under
sub. (5m) (c) 1. or (5r) (c) 1. and is required to pay any forfeiture 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 and the renter or lessee did not pay
the rental or lease fee with a credit card, the rental or leased vehicle owner shall pay
the authority 50 percent of the amount of the outstanding forfeitures or towing and
storage charges, provided that the owner advises the authority that the payment is
made under this paragraph.

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


(1) The department of agriculture, trade and consumer protection shall submit
in proposed form the rules required under section 345.28 (5x) of the statutes, as
created by this act, to the legislative council staff under section 227.15 (1) of the
statutes no later than the first day of the 4th month beginning after the effective date
of this subsection.
(2) Using the procedure under section 227.24 of the statutes, the department of agriculture, trade and consumer protection may promulgate as emergency rules the rules required under section 345.28 (5x) of the statutes, as created by this act, for the period before the effective date of the rules submitted under subsection (1). Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until the date on which the rules submitted under subsection (1) take effect or until July 1, 2009, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of agriculture, trade and consumer protection is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

**SECTION 10. Initial applicability.**

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

**SECTION 11. Effective dates.** This act takes effect on the first day of the 4th month beginning after publication, except as follows:

(1) SECTION 9 (1) and (2) of this act takes effect on the day after publication.