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Details:

(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2007-08

(session year)

### Senate

(Assembly, Senate or Joint)

### Committee on ... Labor, Elections and Urban Affairs (SC-LEUA)

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

## Senate

### Record of Committee Proceedings

#### Committee on Labor, Elections and Urban Affairs

##### Senate Bill 530

Relating to: the use of traffic control photographic systems to monitor intersections, imposing liability on the owners of vehicles involved in traffic control signal violations, and providing a penalty.

By Senator Carpenter; cosponsored by Representatives Zepnick, Honadel, Berceau, Fields, Sinicki, Black, Bies, Townsend, Soletski, Parisi, Musser, Ballweg and A. Ott.

February 25, 2008      Referred to Committee on Labor, Elections and Urban Affairs.

March 5, 2008      **PUBLIC HEARING HELD**

Present:    (4)    Senators Coggs, Wirch, Lehman and Grothman.

Absent:    (1)    Senator A. Lasee.

##### Appearances For

- Tim Carpenter — Senator

##### Appearances Against

- None.

##### Appearances for Information Only

- Brian Mitchell — Wisconsin Car Rental Alliance

##### Registrations For

- Daniel Miskinis — Captain, Kenosha Police Department
- Tom Genthner — Kenosha Police Department
- Curt Witynski — League of Wisconsin Municipalities
- Michael Miller — City of Milwaukee

##### Registrations Against

- None.

##### Registrations for Information Only

- None.

March 5, 2008      **EXECUTIVE SESSION HELD**

Present:    (4)    Senators Coggs, Wirch, Lehman and Grothman.

Absent: (1) Senator A. Lasee.

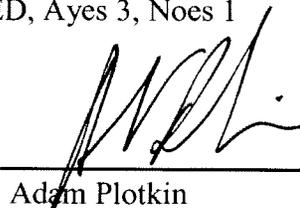
Moved by Senator Lehman, seconded by Senator Coggs that  
**Senate Bill 530** be recommended for passage.

Ayes: (3) Senators Coggs, Wirch and Lehman.

Noes: (1) Senator Grothman.

Absent: (1) Senator A. Lasee.

PASSAGE RECOMMENDED, Ayes 3, Noes 1

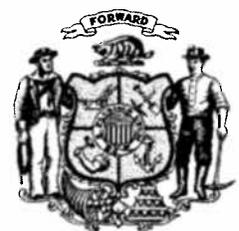


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Adam Plotkin  
Committee Clerk



# WISCONSIN STATE LEGISLATURE



## Vote Record

### Committee on Labor, Elections and Urban Affairs

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Date: **Wednesday, March 5, 2008**

Moved by: LEHMAN      Seconded by: COGGS

AB \_\_\_\_\_ SB **530** \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:  
 Passage     Adoption     Confirmation     Concurrence     Indefinite Postponement  
 Introduction     Rejection     Tabling     Nonconcurrence

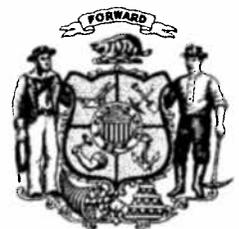
<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Senator Spencer Coggs, Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Robert Wirch</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator John Lehman</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Glenn Grothman</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Alan Lasee</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	_____	_____	_____	_____

Motion Carried

Motion Failed



# WISCONSIN STATE LEGISLATURE



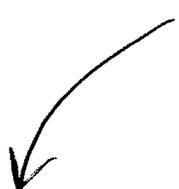
January 29, 2008

To: Senator Robert W. Wirth  
Representative James Kreuser  
Representative John Steinbrink  
Representative Samantha Kerkman

From: Chief of Police John W. Morrissey  
Kenosha Police Department

Re: 2007 Assembly Bill 528 / *Senate Bill 530*

Cc: Mayor John Antaramian  
City Administrator Nick Arnold  
City Attorney Patrick Sheehan



I am in full support of a law to allow law enforcement to utilize the use of traffic control photographic systems to monitor violations of traffic control devices at intersections. However, in reviewing 2007 Assembly Bill 528, I offer the following concerns and suggestions in reference to statute 349.107.

**(3) (a) dictates that we must erect signs, within a sufficient distance, warning operators that the intersection is monitored by a traffic control photographic system.**

It is my opinion that this would diminish one of the very positive aspects that could be derived from this law. If the public has warnings at the monitored intersections only, it would not take long and those will be the only intersections that they make certain not to violate the signals. If we could post these warnings at the main roadways into the city (much like the alternate street parking and snow emergency laws) then we could benefit from the operators not knowing exactly which intersections are monitored and perhaps causing them to feel they need to conform to the traffic signal laws at all intersections.

**(3) (c) indicates that a traffic officer shall serve the owner of the vehicle with a citation by mailing the citation by certified mail addressed to the owner's last-known address within 48 hours of the violation.**

I believe the law should allow for personal service to the owner, due to the allowable defenses in the law, in which the owner may provide the operator's

information. The restriction of 48 hours of the violation should be increased to 5 business days, this would allow for officers assigned to Monday through Friday work weeks, such as court officers to be assigned with these duties. This would also limit the owner defense that the vehicle involved was stolen before the violation occurred or within a reasonable time after the violation occurred.

**(3) (d) (1) indicates that an owner defense could be that the vehicle involved was reported as stolen before the violation occurred or within a reasonable time after the violation occurred.**

A reasonable time will have to be defined as later in the bill it states that we have to issue a citation under this bill within 48 hours of the violation. As we have seen with the Hit and Run owner's liability statute, it will not take long for the violators to start claiming a nameless friend's friend took the vehicle without consent as soon as they are made aware of the citation. I would hope that this "reasonable time" would be less than two days. This section should also address the issue of stolen license plates.

**(3) (d) (2) indicates that should the owner identify the driver of the vehicle at the time of the violation and that driver admits to the violation, we can issue that driver under 346.37.**

I take this to mean that the citation issued to the "admitting driver" would in fact carry any demerit points as well as count toward a suspension/revocation as it is for the signal violation and not owner liability. I would also think that if the owner admitted to the violation then he/she could be issued under the 346.37 and get assessed points and work toward suspension/revocation. Of course, if the only option is we mail the citation then he/she may just pay it under owner liability to avoid these additional penalties.

*This is different under the sub.*

**(3) (d) (4) indicates that with a DEALER owned vehicle, if the dealer provides us with the name/address/operators license number of the driver at the time of the violation, we would issue under 346.37 instead of this statute.**

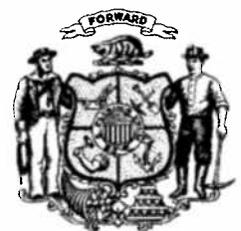
Dealers would need to be aware that they would need to have that information to prevent them from obtaining citations for "test drivers" or perhaps "employees using company cars". This section should clarify if the citation should be issued to the owner of the dealership, as some individuals own many dealerships throughout the state.

**Other concerns** that I have deal with open record laws in relation to the images that are captured on the system and the requirement on the length of time the "evidence" would need to be maintained after conviction.

If you have any questions please feel free to contact me.



# WISCONSIN STATE LEGISLATURE





SB 530 ?

WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO

<b>2007 Assembly Bill 528</b>	<b>Assembly Substitute Amendment 1</b>
<i>Memo published: February 25, 2008</i>	<i>Contact: Don Dyke, Chief of Legal Services (266-0292)</i>

The substitute amendment makes the following changes to the original bill:

1. **The violation.** The bill authorizes the use of a traffic control photographic system to detect a violation of s. 346.37 (1) (c) 1. or 3., Stats., or a local ordinance in conformity with those provisions. In addition to prohibiting running a red light, the referenced statutory provision also regulates, among other things, where a vehicle must stop in relation to a crosswalk and when it is appropriate to make a right turn on red. The substitute amendment deletes the reference to the statutory regulations and allows the use of a traffic control photographic system to detect when a vehicle proceeds through a controlled intersection without stopping or when after stopping at an intersection, a vehicle proceeds through the intersection before the traffic control signal exhibits a green light (if the vehicle is not making a right turn). See page 14, lines 5 to 12, of the substitute amendment.

2. **Nonmoving violation.** While the bill provides that a violation does not result in the suspension or revocation of a person's operating license or result in demerit points against a person's driving record, the violation is in other respects treated as a moving traffic violation. The substitute amendment treats a violation of an ordinance enacted under the proposal as a nonmoving traffic violation; i.e., the violation is treated as a parking ticket.

3. **Photograph of rear of vehicle only.** The substitute amendment provides that any local ordinance enacted under the bill require that any photograph, video, or digital image produced by the traffic control photographic system be taken from a direction to the rear of the vehicles moving through the intersection and be focused on the rear registration plate. See page 16, lines 7 to 10, of the substitute amendment. There is no similar requirement in the original bill.

4. **Penalty.** The bill provides a civil forfeiture of not less than \$20 and no more than \$40 for a first offense and not less than \$50 nor more than \$100 for a second or subsequent violation within a year. The substitute amendment provides a civil forfeiture of not more than \$50, with no increased penalty for repeat violations. See page 16, lines 5 and 6, of the substitute amendment. (Note, also, that

because the substitute amendment treats a violation as a nonmoving violation, various surcharges and costs that would apply to a moving traffic violation do not apply.)

5. **Defenses.** The substitute amendment eliminates the general defense, provided in the bill, that applies when a person other than the owner admits committing the violation. Other defenses in the bill remain and the substitute amendment authorizes the county or municipality to include any other defense in its ordinance. See page 15, lines 12 to 25, and page 16, lines 1 to 4, of the substitute amendment.

6. **Clarification.** The substitute amendment clarifies that the traffic control photographic system may be used at controlled intersections of state trunk highways or county trunk highways within municipal limits. See page 14, lines 13 to 15, of the substitute amendment. This clarification was suggested by the Department of Transportation in its fiscal estimate.

### **Legislative History**

Assembly Substitute Amendment 1 was offered by Representative Zepnick. The Assembly Committee on Urban and Local Affairs recommended adoption of the substitute amendment by a vote of Ayes, 8; Noes, 0. The committee recommended passage of the bill, as amended, by a vote of Ayes, 7; Noes, 1.

DD:ksm



# WISCONSIN STATE LEGISLATURE



**Comments of Brian Mitchell, Wisconsin Car Rental Alliance  
Appearing for information on SB530  
Senate Committee on Labor, Elections and Urban Affairs  
March 5, 2008**

Good morning Mr. Chairperson and members of the Committee. I'm Brian Mitchell on behalf of the Wisconsin Car Rental Alliance, appearing for information on SB530.

We are a statewide trade association representing primarily franchisees and independent operators in the car rental business. My comments today won't address public safety or any other objectives of the bill; we do however have a basic concern with the section of the bill that relates to allowable defenses that an owner can offer to a violation of an ordinance enacted under this legislation.

Under s.349.107(3)(d)3. at the bottom of page 4 there is language that permits an owner of a leased vehicle, as a defense to a violation, to provide the authorities with the name and address of the lessee of the vehicle. While the intent here may have been to provide this protection to the owners of both leased and rented vehicles, we believe this needs to be made clear. Rental agreements are usually for 30 days or less while leases cover the use of a vehicle for a longer period. In both instances, someone other than the owner (ie. the lessee or renter) may have been operating the vehicle at the time of the violation and we believe it is fair in both cases that the owner should be afforded the opportunity to provide that information.

We thank the Committee for your consideration of our comments and we would welcome the opportunity to work with the author of the bill to clarify this point. I'd be happy to try to address any questions from Committee members.

department, the department may direct a traffic officer to take possession thereof and return them to the department.

(2) Any person who intentionally fails or refuses to return a license and registration plate or plates as required by this section may be required to forfeit not more than \$100.

**History:** 1971 c. 278; 1977 c. 29 ss. 1465, 1654 (7) (a), (c); 1977 c. 43, 203; 1985 a. 29; 1989 a. 72; 1997 a. 84.

**344.46 Transfer of vehicle ownership to defeat purpose of chapter.** (1) No owner of a motor vehicle involved in an accident in this state which is reportable under s. 346.70 shall transfer the ownership or registration of any vehicle whose registration is subject to suspension or revocation under this chapter until all of the applicable provisions of this chapter has been complied with or until the secretary is satisfied that such transfer is proposed in good faith and not for the purpose or with the effect of defeating the purposes of this chapter.

(2) Any person violating this section may be required to forfeit not more than \$200.

(3) This section does not apply to or affect the registration of any vehicle sold by a person who, under the terms or conditions of any written instrument giving a right of repossession, has exercised such right and has repossessed such vehicle from a person whose registration has been suspended or revoked under this chapter.

**History:** 1971 c. 278; 1977 c. 29 s. 1654 (7) (c); 1991 a. 269; 1997 a. 84; 1999 a. 80, 186.

**344.48 Forged proof.** (1) No person shall:

(a) Forge or, without authority, sign any notice provided for in s. 344.14 or 344.15 (4), or both, to the effect that a policy or bond is in effect or, knowing or having reason to believe that the notice has been forged or signed without authority, file or offer the notice for filing; or

(b) Forge or, without authority, sign any evidence of proof of financial responsibility or, knowing or having reason to believe that such evidence has been forged or signed without authority, file or offer such evidence for filing.

(c) Sign or file the affidavit mentioned in s. 344.15 (4), knowing that it contains a false statement.

(2) Any person violating this section may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

**History:** 1985 a. 29; 1997 a. 283; 2001 a. 109.

## SUBCHAPTER V

### FINANCIAL RESPONSIBILITY FOR RENTED AND HUMAN SERVICES VEHICLES

**344.51 Financial responsibility for domestic rented or leased vehicles.** (1g) In this section:

(a) "Lessor" means a person who, for compensation, leases a motor vehicle to a lessee to be operated by or with the consent of the lessee or who acquires a contract for the leasing of a motor vehicle from another person.

(b) "Motor vehicle" means a self-propelled vehicle.

(c) "Rental company" means a person who, for compensation, rents a motor vehicle to a renter to be operated by or with the consent of the renter or who acquires a contract for the renting of a motor vehicle from another person.

(1m) No lessor or rental company may for compensation rent or lease any motor vehicle unless there is filed with the department on a form prescribed by the department a certificate for a good and sufficient bond or policy of insurance issued by an insurer authorized to do an automobile liability insurance or surety business in this state. The certificate shall provide that the insurer which issued it will be liable for damages caused by the negligent operation of the motor vehicle in the amounts set forth in s. 344.01 (2) (d). No lessor or rental company complying with this subsection,

and no lessor or rental company entering into or acquiring an interest in any contract for the rental or leasing of a motor vehicle for which any other lessor or rental company has complied with this subsection, is liable for damages caused by the negligent operation of the motor vehicle by another person.

(2) Any lessor or rental company failing to comply with this section is directly liable for damages caused by the negligence of the person operating such rented or leased vehicle, but such liability may not exceed the limits set forth in s. 344.01 (2) (d) with respect to the acceptable limits of liability when furnishing proof of financial responsibility.

(3) Any person violating this section may be required to forfeit not more than \$200.

**History:** 1971 c. 278; 1977 c. 29 s. 1654 (7) (a); 1979 c. 102; 1995 a. 329; 1997 a. 48.

A lessor is not liable to the lessee's insurer for monies that the insurer paid to a victim of the lessee's negligence. *American Family Mutual Insurance Co. v. Reciprocal Ins. Service Exchange Mgt. Co.* 111 Wis. 2d 308, 330 N.W.2d 223 (Ct. App. 1983).

When a lessee's insurance was insufficient to cover all damages, the lessor's errors and omissions policy was required to cover remaining damages. *Germanotta v. National Indemnity Co.* 119 Wis. 2d 293, 349 N.W.2d 733 (Ct. App. 1984).

Sections 344.30 and 344.16 permit car rental agencies to satisfy their obligation of proving financial responsibility by filing a certificate of self-insurance and receiving a certificate from DOT confirming their ability to pay. A self-insured agency is not the equivalent of an uninsured driver as it is not otherwise liable for its lessee's negligence. Its liability is limited to the amount an insurer would be required to pay, which under s. 344.01 (2) (d) is fixed at \$25,000. *Boatright v. Spiewak*, 214 Wis. 2d 507, 570 N.W.2d 897 (Ct. App. 1997), 97-0036.

No statute requires a self-insured entity under s. 344.16 to provide uninsured motorist coverage as part of the optional insurance it offers to its customers. *Prophet v. Enterprise Rent-A-Car Company, Inc.* 2000 WI App 171, 238 Wis. 2d 150, 617 N.W.2d 225, 99-0776.

**344.52 Financial responsibility for foreign rented vehicles.** (1g) In this section, "motor vehicle" means a self-propelled vehicle.

(1r) Whenever any motor vehicle rented for compensation outside this state is operated in this state, the lessor of the motor vehicle is directly liable for all damages to persons or property caused by the negligent operation of the rented vehicle unless, at the time when the damage or injury occurs, the operation of the rented vehicle is effectively covered by a policy of insurance that provides coverage at least in the amounts specified in s. 344.01 (2) (d) for property damage, personal injury, or death suffered by any person on account of the negligent operation of the rented vehicle. The amount of liability imposed upon the lessor by this section in the absence of insurance coverage shall not exceed the limits set forth in s. 344.01 (2) (d) with respect to the acceptable limits of liability when furnishing proof of financial responsibility. The fact that the rented vehicle is operated in this state contrary to any understanding or agreement with the lessor is not a defense to any liability imposed by this section.

(2) (a) If a motor vehicle rented for compensation outside this state is operated in this state, the lessor of the vehicle is considered to have irrevocably appointed the secretary as the agent or attorney upon whom legal process may be served in any action or proceeding against the lessor or the lessor's personal representative, successors, or assigns, growing out of the operation of the rented motor vehicle in this state, which appointment is binding upon the lessor's personal representative, successors, or assigns. The operation of the rented motor vehicle in this state is a signification of the lessor's agreement that legal process or notice may be served upon the lessor or the lessor's personal representative, successors, or assigns and that process or notice so served has the same legal force as if personally served upon them in this state.

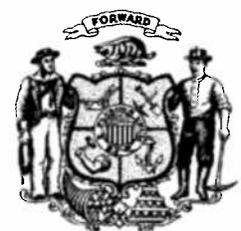
(b) Service of process or notice under par. (a) shall be made as provided in s. 345.09. This section does not affect the right to serve process or notice on the nonresident operator of the rented motor vehicle as provided in s. 345.09.

**History:** 1977 c. 29; 2001 a. 102; 2005 a. 149.

**344.55 Insurance for human service vehicles.** (1) No motor vehicle may be used as a human service vehicle unless a policy of bodily injury and property damage liability insurance, issued by an insurer authorized to transact business in this state,



# WISCONSIN STATE LEGISLATURE



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- ▶ Lobbyists



as of Monday, March 03, 2008

**2007-2008 legislative session**  
**Legislative bills and resolutions**

(search for another legislative bill or resolution at the bottom of this page)

**Senate Bill 530**

the use of traffic control photographic systems to monitor intersections, imposing liability on the owners of vehicles involved in traffic control signal violations, and providing a penalty. (FE)

<p><b>TEXT</b> sponsors LBR analysis</p>	<p><b>STATUS</b> committee actions and votes text of amendments</p>	<p><b>COST &amp; HOURS</b> of lobbying efforts directed at this proposal</p>
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Organization	These organizations have reported lobbying on this proposal:	<small>Place pointer on icon to display comments, click icon to display prior comments</small>	Date Notified	Position	Comments
●	●	●	2/28/2008	↑	

Select a legislative proposal and click "go"

<b>House</b>	Assembly Senate
<b>Proposal Type</b>	Bill Joint Resolution Resolution
<b>Proposal Number</b>	530 (enter proposal number)
<b>Legislative Session</b>	2007 Regular Session ▼
<input type="button" value="Go"/>	

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SB 530 folder



as of Monday, March 03, 2008

2007-2008 legislative session  
**Legislative bills and resolutions**  
 (search for another legislative bill or resolution at the bottom of this page)

**Assembly Bill 528**

the use of traffic control photographic systems to monitor intersections, imposing liability on the owners of vehicles involved in traffic control signal violations, and providing a penalty. (FE)

<b>TEXT</b> sponsors LBR analysis	<b>STATUS</b> committee actions and votes text of amendments	<b>COST &amp; HOURS</b> of lobbying efforts directed at this proposal
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Organization		These organizations have reported lobbying on this proposal:	Place pointer on icon to display comments, click icon to display prior comments		
Profile	Interests		Date Notified	Position	Comments
●	●	City of Milwaukee	10/9/2007	↑	
●	●	League of Wisconsin Municipalities	1/4/2008	↑	
●	●	Milwaukee Police Association	1/7/2008	↑	
●	●	Wisconsin Car Rental Alliance	1/10/2008	↔	
●	●	Wisconsin Motor Carriers Association	1/8/2008	↔	

Select a legislative proposal and click "go"

<b>House</b>	Assembly	Senate
<b>Proposal Type</b>	Bill	Joint Resolution Resolution
<b>Proposal Number</b>	528	(enter proposal number)
<b>Legislative Session</b>	2007 Regular Session ▼	
	<u>Go</u>	