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AN ACT to amend 165.755 (1) (b), 302.46 (1) (a), 341.08 (4m), 341.10 (7m), 345.20 (1) (b), 345.20 (2) (d), 345.26 (1) (a), 345.28 (title), 345.28 (2) (a) and (b), 345.28 (3), 345.28 (4) (a) 1., 345.28 (4) (e) 1., 345.28 (4) (i), 345.28 (5) (a), 345.28 (5) (b) 2. (intro.) and a., 345.28 (5) (c) 1. and 2., 345.28 (7), 345.30, 345.31, 345.315 (1), 345.36 (3), 345.37 (1) (b), 345.47 (1) (b), 752.31 (2) (c), 757.05 (1) (a), 778.103, 785.05, 800.09 (1) (c), 800.095 (4) (b) 4. and 938.17 (1) (intro.); and **to create** 345.28 (1) (d) and 349.107 of the statutes; **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.

Analysis by the Legislative Reference Bureau

Under current law, the governing body of a city, village, or town (municipality) may not enact a traffic ordinance unless the ordinance strictly conforms to current state traffic law or the ordinance is expressly authorized by law. State law imposes liability on the owner of a vehicle that is observed violating certain laws or local ordinances, including laws or local ordinances that prohibit fleeing a traffic officer, failing to yield the right-of-way to an emergency vehicle or funeral procession,

passing a fire truck or school bus, and parking in a parking space designated for vehicles with special registration plates.

This bill authorizes the governing body of a county or municipality to enact an ordinance that permits the use of a traffic control photographic system (TCPS) on highways under the jurisdiction of the county or municipality to detect and identify motor vehicles that fail to stop at red traffic signals at intersections and to wait for a green signal (red light violations). A TCPS is defined as an electronic system that consists of a photographic, video, or electronic camera and a vehicle sensor that work in conjunction with a traffic control signal to automatically produce photographs, stamped with the time and date, of motor vehicles traveling through an intersection. With exceptions, the vehicle owner is subject to a forfeiture for the red light violation detected by a TCPS, but if the vehicle owner successfully asserts certain defenses, the lessee or operator of the vehicle is subject to a forfeiture for the violation. The bill requires the ordinance to include a provision that allows a traffic officer employed by the county or municipality to issue a citation to the owner of a vehicle for a red light violation that is detected by a TCPS or, in limited circumstances, to the operator of such a vehicle. The ordinance must require the local authority to provide to the owner, or in limited circumstances the lessee or operator, of the vehicle, by personal service or certified mail, the traffic citation and a duplicate of the photograph, video, or digital image of the vehicle failing to stop at a red traffic signal. The ordinance also must require that any photograph or other image produced by the TCPS be focused on the rear license plate of the vehicles moving through an intersection. The governing body of a county or municipality that uses a TCPS is required to place signs near the limits of the county or municipality on all county trunk highways and connecting highways under its jurisdiction informing motorists that intersections in the county or municipality may be monitored by traffic control photographic systems.

If an owner is issued a traffic citation for a violation of the local ordinance, it is not a defense that the owner was not in control of the vehicle at the time of the violation, except that the owner may assert the following defenses:

1. The vehicle was reported stolen before the violation occurred or within five business days after the violation occurred.
2. If the vehicle is owned by, and registered in the name of, a lessor, a lessee who is identified by the lessor had possession of the vehicle at the time of the traffic signal violation. The lessee may be issued a citation for the red light violation.
3. If the vehicle is owned by a motor vehicle dealer, the vehicle was being operated by another person on a trial run and the dealer provided a traffic officer with the person's name, address, and operator's license number. The vehicle operator may be issued a citation for the red light violation.
4. Any other defense established by the county or municipality that is specified in the ordinance.

Except for the service requirements described above, the procedure applicable to citations for red light violations detected by a TCPS is the same as that applicable to citations for nonmoving traffic violations (parking tickets), including potential vehicle registration suspension for unpaid citations. A person convicted of a red light

violation detected by a TCPS is subject to a forfeiture of not more than \$50 but is not subject to additional surcharges, costs, or fees. The person's operating privilege may not be suspended or revoked and the person may not be assessed any demerit points on his or her driving record.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 165.755 (1) (b) of the statutes is amended to read:

2 165.755 (1) (b) A court may not impose the crime laboratories and drug law
3 enforcement surcharge under par. (a) for a violation of s. 101.123 (2) (a), (am) 1., (ar),
4 (bm), (br), or (bv) or (5) (b), for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1.,
5 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood
6 alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation,
7 or for a violation of a state law or municipal or county ordinance involving a
8 nonmoving traffic violation, a violation of an ordinance enacted under s. 349.107, a
9 violation under s. 343.51 (1m) (b), or a safety belt use violation under s. 347.48 (2m).

10 SECTION 2. 302.46 (1) (a) of the statutes is amended to read:

11 302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law
12 or for a violation of a municipal or county ordinance except for a violation of s. 101.123
13 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), or for a first violation of s. 23.33 (4c) (a)
14 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the
15 violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the
16 time of the violation, or for a violation of state laws or municipal or county ordinances
17 involving nonmoving traffic violations, a violation of an ordinance enacted under s.
18 349.107, violations under s. 343.51 (1m) (b), or safety belt use violations under s.
19 347.48 (2m), the court, in addition, shall impose a jail surcharge under ch. 814 in an

1 amount of 1 percent of the fine or forfeiture imposed or \$10, whichever is greater.
2 If multiple offenses are involved, the court shall determine the jail surcharge on the
3 basis of each fine or forfeiture. If a fine or forfeiture is suspended in whole or in part,
4 the court shall reduce the jail surcharge in proportion to the suspension.

5 **SECTION 3.** 341.08 (4m) of the statutes is amended to read:

6 341.08 (4m) At least 30 days prior to the expiration of a vehicle's registration,
7 the department shall mail to the last-known address of the registrant a notice of the
8 date upon which the registration must be renewed and an application form for
9 renewal of registration. The application form or an accompanying document shall
10 include a list of any unpaid citations for nonmoving traffic violations or violations of
11 ordinances enacted under s. 349.107 or any judgments for violation of ch. 110, 194,
12 or 341 to 350, an administrative rule of the department, or an ordinance enacted in
13 accordance with s. 349.06, including parking violations and violations of ordinances
14 enacted under s. 349.107, and of any unpaid towing and storage charges associated
15 with nonmoving traffic violations entered against the registrant that remain unpaid.
16 The list of unpaid citations for nonmoving traffic violations and violations of
17 ordinances enacted under s. 349.107, and of unpaid towing and storage charges
18 associated with nonmoving traffic violations, shall be based on information obtained
19 under s. 345.28 (4). The list of unpaid judgments shall be based on information
20 obtained under s. 345.47 (1) (d). If there is a citation for any nonmoving traffic
21 violation or violation of an ordinance enacted under s. 349.107 entered against the
22 registrant that is unpaid, he or she shall be notified that the vehicle may not be
23 registered until the citation is paid or the registrant appears in court to respond to
24 the citation. If there are any towing and storage charges entered against the
25 registrant that are unpaid, he or she shall be notified that the vehicle may not be

1 registered until such towing and storage charges are paid. If there is a judgment
2 entered against the registrant which is unpaid, he or she shall be notified that the
3 vehicle may not be registered until the judgment is paid.

4 **SECTION 4.** 341.10 (7m) of the statutes is amended to read:

5 341.10 (7m) An authority has notified the department under s. 345.28 (4) that
6 a citation for a nonmoving traffic violation or violation of an ordinance enacted under
7 s. 349.107 has been issued against the applicant and the applicant has not paid the
8 citation or appeared in court to respond to the citation or that the applicant has not
9 paid towing and storage charges associated with a citation for a nonmoving traffic
10 violation issued against the applicant.

11 **SECTION 5.** 345.20 (1) (b) of the statutes is amended to read:

12 345.20 (1) (b) "Traffic regulation" means a provision of chs. 194 or 341 to 349
13 for which the penalty for violation is a forfeiture or an ordinance enacted in
14 accordance with s. 349.06. Except as otherwise specifically provided, "traffic
15 regulation" does not include a nonmoving traffic violation as defined in s. 345.28 (1)
16 or a violation of an ordinance enacted under s. 349.107.

17 **SECTION 6.** 345.20 (2) (d) of the statutes is amended to read:

18 345.20 (2) (d) ~~A nonmoving~~ Nonmoving traffic violation is violations and
19 violations of ordinances enacted under s. 349.107 are governed by s. 345.28. The trial
20 of forfeiture actions for nonmoving traffic violations and violations of ordinances
21 enacted under s. 349.107 is governed by ss. 345.28 and 345.34 to 345.47. Where no
22 specific procedure is provided in ss. 345.28 or 345.34 to 345.47, ch. 799 applies to
23 actions in circuit court and ch. 800 applies to actions in municipal court.

24 **SECTION 7.** 345.26 (1) (a) of the statutes is amended to read:

1 345.26 (1) (a) A person arrested under s. 345.22 ~~or 345.28 (5)~~ for the violation
2 of a traffic regulation, or under s. 345.28 (5) for a nonmoving traffic violation or
3 violation of an ordinance enacted under s. 349.107, who is allowed to make a deposit
4 under s. 345.23 (2) (a) or 345.28 (5) shall deposit the money as the arresting officer
5 directs by either mailing the deposit at a nearby mailbox to the office of the sheriff,
6 headquarters of the county traffic patrol, district headquarters or station of the state
7 traffic patrol, city, village or town police headquarters or a precinct station, the office
8 of the municipal judge, the office of the clerk of court, or by going, in the custody of
9 the arresting officer, to any of those places to make the deposit.

10 **SECTION 8.** 345.28 (title) of the statutes[✓] is amended to read:

11 **345.28 (title) Nonmoving violations and certain red light violations.**

12 **SECTION 9.** 345.28 (1) (d) of the statutes[✓] is created to read:

13 345.28 (1) (d) "Red light violation" means a violation of an ordinance enacted
14 under s. 349.107.

15 **SECTION 10.** 345.28 (2) (a) and (b) of the statutes[✓] are amended to read:

16 345.28 (2) (a) A person charged with a nonmoving traffic violation or red light
17 violation may mail the amount of the forfeiture to any of the places specified in s.
18 345.26 (1) or to a violations bureau, or to the city, town or county clerk or treasurer
19 if the traffic citation so provides. In that case, the citation shall not be filed with or
20 transmitted to court.

21 (b) If the person appears in response to a citation for a nonmoving traffic
22 violation or red light violation, the procedures under ss. 345.34 to 345.47 apply,
23 except as provided in par. (c).

24 **SECTION 11.** 345.28 (3) of the statutes[✓] is amended to read:

1 345.28 (3) (a) If the person does not pay the forfeiture or appear in court in
2 response to the citation for a nonmoving traffic violation or red light violation on the
3 date specified in the citation or, if no date is specified in the citation, within 28 days
4 after the citation is issued, the authority that issued the citation may issue a
5 summons under s. 968.04 (3) (b) to the person and, in lieu of or in addition to issuing
6 the summons, may proceed under sub. (4) or (5) but, except as provided in this
7 section, no warrant may be issued for the person. If the person does not pay towing
8 and storage charges associated with a citation for a nonmoving traffic violation, the
9 authority that issued the citation may proceed under sub. (4).

10 (b) If the person appears in response to a summons for a nonmoving traffic
11 violation or red light violation, the procedures under ss. 345.34 to 345.47 apply.

12 **SECTION 12.** 345.28 (4) (a) 1. of the statutes is amended to read:

13 345.28 (4) (a) 1. If the person does not pay the forfeiture or appear in court in
14 response to the citation for a nonmoving traffic violation or red light violation on the
15 date specified in the citation or, if no date is specified in the citation, within 28 days
16 after the citation is issued, the authority may notify the department in the form and
17 manner prescribed by the department that a citation has been issued to the person
18 and the citation remains unpaid.

19 **SECTION 13.** 345.28 (4) (e) 1. of the statutes is amended to read:

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

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

4 **SECTION 14.** 345.28 (4) (i) of the statutes is amended to read:

5 345.28 (4) (i) Notwithstanding any other provision of this subsection or ss.
6 341.10 (7m) and 341.63 (1) (c), the department may permit an authority to send a
7 single notice to the department under par. (a) 1. with respect to 2 or more nonmoving
8 traffic violation citations, or 2 or more red light violation citations, that have been
9 issued to a person and remain unpaid and, if an authority sends a notice specified
10 in this paragraph to the department, the authority and department shall treat any
11 such notice for purposes of any other provision of this section or ss. 341.10 (7m) and
12 341.63 (1) (c) in the same manner as a notice to the department under par. (a) 1. with
13 respect to a single citation.

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

15 345.28 (5) (a) In lieu of the procedure under sub. (4), if the person does not pay
16 the forfeiture or appear in court in response to the citation for a nonmoving traffic
17 violation or red light violation on the date specified in the citation or, if no date is
18 specified in the citation, within 28 days after the citation was issued, the authority,
19 after sending 2 notices which meet the requirements under sub. (4) (c) 1., may issue
20 a warrant under par. (b) for the person.

21 **SECTION 16.** 345.28 (5) (b) 2. (intro.) and a. of the statutes are amended to read:

22 345.28 (5) (b) 2. (intro.) If an officer contacts a person for whom a warrant for
23 a nonmoving traffic violation or red light violation has been issued under subd. 1.:

24 a. The officer shall accept a deposit of money or a deposit of the person's valid
25 Wisconsin operator's license in lieu of serving the warrant and arresting the person.

1 If the license is deposited with the officer, the officer shall issue to the licensee a
2 receipt, on a form provided by the department, which is valid as an operator's license
3 through a date specified on the receipt, not to exceed 30 days from the date of contact,
4 which shall be the same as the court appearance date and the officer shall at the
5 earliest possible time prior to the court appearance date deposit the license with the
6 court. If a deposit of money is made, s. 345.26 (1) (a) and (2) to (5) applies. The officer
7 shall notify the person who deposits money or his or her license, in writing, of the
8 specific actions which the authority and the courts are authorized to take under this
9 section if the person fails to appear in court at the time specified by the officer, not
10 to exceed 30 days from the date of contact, or at any subsequent court appearance
11 for the nonmoving traffic violation citation or red light violation. If the person makes
12 a deposit of money or deposits his or her valid Wisconsin operator's license, the officer
13 shall return the warrant to the court or judge who issued the warrant and the court
14 or judge shall vacate the warrant.

15 **SECTION 17.** 345.28 (5) (c) 1. and 2. of the statutes are amended to read: ✓

16 345.28 (5) (c) 1. If the person who was contacted under par. (b) 2. and who has
17 made a deposit of money fails to appear in court at the date specified by the officer
18 under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court
19 appearance for the nonmoving traffic violation or red light violation, the person shall
20 be deemed to have entered a plea of no contest. The court shall accept the plea of no
21 contest, find the defendant guilty and proceed under s. 345.47, except that the
22 deposit shall be forfeited and serve as payment of the judgment. The court shall give
23 notice of the entry of judgment to the defendant by mailing a copy of the judgment
24 to the defendant's last-known address.

1 2. If the person who was contacted under par. (b) 2. and who has deposited his
2 or her operator's license fails to appear in court at the date specified by the officer
3 under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court
4 appearance for the nonmoving traffic violation or red light violation, the person may
5 be deemed to have entered a plea of no contest. The court may accept the plea of no
6 contest, find the defendant guilty and, except as limited by sub. (6), proceed under
7 s. 345.47. If the court enters judgment under s. 345.47 (1), the court shall give notice
8 of the entry of judgment to the defendant by mailing a copy of the judgment to the
9 defendant's last-known address. The court shall also mail to the defendant's
10 last-known address a statement setting forth the actions the court may take under
11 s. 345.47 if the judgment is not paid. In lieu of accepting the plea of no contest, the
12 court may issue a warrant commanding that the person be arrested and brought
13 before the court. Unless the case is tried immediately with the person's consent, any
14 person who is arrested on a warrant issued under this subdivision may be released
15 on his or her own recognizance or on posting bond or may be released without bail
16 and shall be released if the person posts cash bail for his or her appearance. The court
17 may retain the person's license, but the person's operating privilege may not be
18 suspended until after judgment is entered under s. 345.47 and the judgment is not
19 paid.

20 **SECTION 18.** 345.28 (7) of the statutes is amended to read: ✓

21 345.28 (7) Nothing in this section prevents a court from issuing a warrant
22 under s. 345.36 or 345.37 if the person appears in court in response to a citation for
23 a nonmoving traffic violation or red light violation or after notice by the authority
24 who issued the citation or the department under sub. (4) with respect to the citation
25 or on the date specified by the officer or the court under sub. (5) and then fails to

1 appear in court at any time fixed by subsequent postponement. Unless the case is
2 tried immediately with the person's consent, any person who is arrested on a warrant
3 issued under this subsection may be released on his or her own recognizance or on
4 posting bond or may be released without bail and shall be released if the person posts
5 cash bail for his or her appearance.

6 **SECTION 19.** 345.30 of the statutes is amended to read: ✓

7 **345.30 Jurisdiction.** Jurisdiction over actions for violation of traffic
8 regulations ~~and~~, nonmoving traffic violations, and violations of ordinances enacted
9 under s. 349.107 is conferred upon circuit courts. Municipal courts shall have
10 jurisdiction over traffic regulations enacted in accordance with s. 349.06 ~~and~~, over
11 actions for violations of nonmoving traffic ordinances enacted in accordance with s.
12 349.06 or 349.13, and over actions for violations of ordinances enacted under s.
13 349.107.

14 **SECTION 20.** 345.31 of the statutes is amended to read: ✓

15 **345.31 Venue in traffic regulation actions.** Section 971.19 on place of trial
16 in criminal actions applies to actions for the violation of traffic regulations ~~and~~,
17 nonmoving traffic violations, and violations of ordinances enacted under s. 349.107
18 except that, in the case of a violation of an ordinance of a municipality which is
19 located in more than one county, the action may be brought in any court sitting in that
20 municipality even though in another county. As an alternative, the plaintiff may
21 bring the action in the county where the defendant resides.

22 **SECTION 21.** 345.315 (1) of the statutes is amended to read: ✓

23 345.315 (1) In traffic regulation and nonmoving traffic violation cases, and in
24 cases involving violations of ordinances enacted under s. 349.107, a person charged
25 with a violation may file a written request for a substitution of a different judge for

1 the judge originally assigned to the trial of that case. The written request shall be
2 filed not later than 7 days after the initial appearance in person or by an attorney.
3 If a new judge is assigned to the trial of a case and the defendant has not exercised
4 the right to substitute an assigned judge, a written request for the substitution of the
5 new judge may be filed within 10 days of the giving of actual notice or sending of the
6 notice of assignment to the defendant or the defendant's attorney. If the notification
7 occurs within 10 days of the date set for trial, the request shall be filed within 48
8 hours of the giving of actual notice or sending of the notice of assignment to the
9 defendant or the defendant's attorney. If the notification occurs within 48 hours of
10 the trial or if there has been no notification, the defendant may make an oral or
11 written request for substitution prior to the commencement of the proceedings. The
12 judge against whom a request has been filed may set initial bail and accept a plea.

13 **SECTION 22.** 345.36 (3) of the statutes[✓] is amended to read:

14 345.36 (3) If the offense involved is a nonmoving traffic violation or violation
15 of an ordinance enacted under s. 349.107 and the defendant is subject to s. 345.28
16 (5) (c), a default judgment may be entered and opened as provided in s. 345.28 (5) (c).

17 **SECTION 23.** 345.37 (1) (b) of the statutes[✓] is amended to read:

18 345.37 (1) (b) Deem the nonappearance a plea of no contest and enter judgment
19 accordingly. If the defendant has posted bond for appearance at that date, the court
20 may also order the bond forfeited. The court shall promptly mail a copy or notice of
21 the judgment to the defendant. The judgment shall allow not less than 20 days from
22 the date thereof for payment of any forfeiture, plus costs, fees, and surcharges
23 imposed under ch. 814. If the defendant moves to open the judgment within 6 months
24 after the court appearance date fixed in the citation, and shows to the satisfaction
25 of the court that the failure to appear was due to mistake, inadvertence, surprise, or

1 excusable neglect, the court shall open the judgment, accept a not guilty plea, and
2 set a trial date. The court may impose costs under s. 814.07. The court shall
3 immediately notify the department to delete the record of conviction based upon the
4 original judgment. If the offense involved is a nonmoving traffic violation or violation
5 of an ordinance enacted under s. 349.107 and the defendant is subject to s. 345.28
6 (5) (c), a default judgment may be entered and opened as provided in s. 345.28 (5) (c).

7 **SECTION 24.** 345.47 (1) (b) of the statutes, as affected by 2009 Wisconsin Act 17,
8 is amended to read:

9 345.47 (1) (b) In lieu of imprisonment and in addition to any other suspension
10 or revocation, that the defendant's operating privilege be suspended. The operating
11 privilege shall be suspended for 30 days or until the person pays the forfeiture, plus
12 costs, fees, and surcharges imposed under ch. 814, but not to exceed 2 years. If the
13 defendant has notified the court that he or she is unable to pay the judgment because
14 of poverty, and if the court, using the criteria in s. 814.29 (1) (d), determines that the
15 defendant is unable to pay the judgment because of poverty, the court may not
16 suspend the defendant's operating privilege without first providing the defendant
17 with an opportunity to pay the judgment in installments, taking into account the
18 defendant's income. Suspension under this paragraph shall not affect the power of
19 the court to suspend or revoke under s. 343.30 or the power of the secretary to
20 suspend or revoke the operating privilege. This paragraph does not apply if the
21 judgment was entered solely for violation of an ordinance unrelated to the violator's
22 operation of a motor vehicle or of an ordinance enacted under s. 349.107.

23 **SECTION 25.** 349.107 of the statutes is created to read:

24 **349.107 Authority to use traffic control photographic systems. (1)** In
25 this section:

1 (a) In addition to the meaning given in s. 340.01 (42), “owner” means, with
2 respect to a vehicle that is registered, or that is required to be registered, by a lessee
3 of the vehicle under ch. 341, the lessee of the vehicle.

4 (b) “Traffic control photographic system” means an electronic system consisting
5 of a photographic, video, or electronic camera and a vehicle sensor installed for use
6 with an official traffic control signal to automatically produce photographs or video
7 or digital images, stamped with the time and date, of vehicles moving through an
8 intersection.

9 (2) Subject to sub. (3), the governing body of any county or municipality may
10 enact an ordinance that does all of the following:

11 (a) Except as provided in sub. (3) (c), subjects a person to a forfeiture for being
12 the owner of a motor vehicle that, when facing a traffic control signal at an
13 intersection that exhibits a red light other than a flashing red light, does any of the
14 following:

15 1. Proceeds through the intersection without stopping.

16 2. After stopping at the intersection, proceeds through the intersection before
17 the traffic control signal exhibits a green light if the vehicle is not making a right
18 turn.

19 (b) Allows the use of a traffic control photographic system on highways under
20 the jurisdiction of the county or municipality, including connecting highways, for the
21 purpose of detecting violations described in par. (a).

22 (c) Subjects a person to a forfeiture for being the lessee or operator of a motor
23 vehicle the owner of which would be subject to a forfeiture under this section but for
24 the owner’s successful assertion of a defense under sub. (3) (d) 2. or 3.

25 (3) An ordinance enacted under sub. (2) shall include all of the following:

1 (a) A requirement that official traffic signs be placed at or reasonably near the
2 corporate limits of the county or municipality on all county trunk highways and
3 connecting highways under the jurisdiction of the county or municipality informing
4 motorists that intersections in the county or municipality may be monitored by
5 traffic control photographic systems.

6 (b) A requirement that, if a traffic officer employed by the governing body of the
7 county or municipality prepares a citation for a violation of an ordinance enacted
8 under this section, the traffic officer shall serve the owner of the vehicle with the
9 citation, within 5 business days after the violation, by personal service or by mailing
10 the citation by certified mail addressed to the owner's last-known address. If the
11 citation may be issued under par. (d) to the lessee or operator of the vehicle, the traffic
12 officer shall serve the lessee or operator with the citation, in the same manner
13 required for service on the vehicle owner, within 5 business days of determining that
14 the vehicle owner is likely to successfully assert a defense under par. (d). A traffic
15 officer shall send with the citation a duplicate of the photograph, video, or digital
16 image, taken by the traffic control photographic system, of the vehicle involved in the
17 violation.

18 (c) A requirement that the procedure specified in s. 345.28 applies to any
19 citation for a violation of an ordinance enacted under this section.

20 (d) A provision that it is not a defense to a violation of the ordinance that the
21 owner was not in control of the vehicle at the time of the violation, except that all of
22 the following are defenses to a violation of an ordinance enacted under this section:

23 1. That a report that the vehicle was stolen was made by the owner to a law
24 enforcement agency before the violation occurred or within 5 business days after the
25 violation occurred.

1 2. That the vehicle is owned by a lessor of vehicles and is registered in the name
2 of the lessor, that at the time of the violation the vehicle was in the possession of a
3 lessee, and that the lessor provided a traffic officer with the information required
4 under s. 343.46 (3). In that case, the lessee may be issued a citation and charged with
5 a violation of the ordinance enacted under this section.

6 3. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
7 including the persons specified in s. 340.01 (11) (a) to (d), at the time of the violation
8 the vehicle was being operated by a person on a trial run, and the dealer provided
9 a traffic officer with the name, address, and operator's license number of the person
10 operating the vehicle. In that case, the person operating the vehicle may be issued
11 a citation and charged with a violation of the ordinance enacted under this section.

12 4. Any other defense specified in the ordinance.

13 (e) A provision that permits a court to impose a forfeiture of not more than \$50
14 for a violation of an ordinance enacted under this section.

15 (f) A requirement that any photograph or video or digital image produced by
16 the traffic control photographic system be taken from a direction to the rear of the
17 vehicles moving through an intersection and be focused on the rear registration plate
18 of such vehicles.

19 (4) Imposition of liability for a violation of an ordinance enacted under this
20 section shall not result in the suspension or revocation of a person's operating license
21 under s. 343.30, nor shall it result in demerit points being recorded on a person's
22 driving record under s. 343.32 (2) (a).

23 (5) Nothing in this section prohibits the issuance of a citation to the operator
24 of a motor vehicle for a violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in
25 conformity with s. 346.37 (1) (c) 1. or 3., but a person may not be subject to a forfeiture

1 for a violation of an ordinance enacted under this section and a violation of s. 346.37
2 (1) (c) 1. or 3. or a local ordinance in conformity with s. 346.37 (1) (c) 1. or 3. arising
3 from the same incident or occurrence.

4 **SECTION 26.** 752.31 (2) (c) of the statutes is amended to read:

5 752.31 (2) (c) Cases involving violations of traffic regulations, as defined in s.
6 345.20 (1) (b), ~~or~~ nonmoving traffic violations, as defined in s. 345.28 (1), or violations
7 of ordinances enacted under s. 349.107, and cases under s. 343.305 and ch. 351.

8 **SECTION 27.** 757.05 (1) (a) of the statutes is amended to read:

9 757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of
10 state law or for a violation of a municipal or county ordinance except for a violation
11 of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), or for a first violation of s.
12 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who
13 committed the violation had a blood alcohol concentration of 0.08 or more but less
14 than 0.1 at the time of the violation, or for a violation of state laws or municipal or
15 county ordinances involving nonmoving traffic violations, a violation of an ordinance
16 enacted under s. 349.107, violations under s. 343.51 (1m) (b), or safety belt use
17 violations under s. 347.48 (2m), there shall be imposed in addition a penalty
18 surcharge under ch. 814 in an amount of 26 percent of the fine or forfeiture imposed.
19 If multiple offenses are involved, the penalty surcharge shall be based upon the total
20 fine or forfeiture for all offenses. When a fine or forfeiture is suspended in whole or
21 in part, the penalty surcharge shall be reduced in proportion to the suspension.

22 **SECTION 28.** 778.103 of the statutes is amended to read:

23 **778.103 Traffic regulation forfeitures; how recovered.** Where there is a
24 conflict with this chapter, the procedure in ch. 345 shall be followed in actions to
25 recover forfeitures for the violation of traffic regulations as defined in s. 345.20, and

1 the procedures in ss. 345.28 and 345.34 to 345.47 shall be followed in actions to
2 recover forfeitures for nonmoving traffic violations as defined in s. 345.28 (1) and
3 violations of ordinances enacted under s. 349.107.

4 **SECTION 29.** 785.05 of the statutes is amended[✓] to read:

5 **785.05 Limitation on imprisonment.** In any case in which the contempt of
6 court is based upon interference with visitation rights granted under s. 48.925 (1),
7 or upon failure to respond to a citation, summons or warrant under s. 345.28 or any
8 other failure to pay or to appear in court for a nonmoving traffic violation or violation
9 of an ordinance enacted under s. 349.107, the court may not impose imprisonment
10 as a sanction under this chapter.

11 **SECTION 30.** 800.09 (1) (c) of the statutes,[✓] as affected by 2009 Wisconsin Act 17,
12 is amended to read:

13 800.09 (1) (c) The court may suspend the defendant's operating privilege, as
14 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments
15 and costs are paid, if the defendant has not done so within 60 days after the date the
16 restitution or payments or both are to be made under par. (a), except that the
17 suspension period may not exceed 2 years. If the court, using the criteria in s. 814.29
18 (1) (d), determines that the defendant is unable to pay the judgment because of his
19 or her poverty, as that term is used in s. 814.29 (1) (d), the court may not order the
20 suspension of the defendant's operating privilege, except as provided in s. 800.095.
21 The court shall take possession of the suspended license and shall forward the
22 license, along with a notice of the suspension clearly stating that the suspension is
23 for failure to comply with a judgment of the court, to the department of
24 transportation. This paragraph does not apply if the forfeiture is assessed for

1 violation of an ordinance that is unrelated to the violator's operation of a motor
2 vehicle or of an ordinance enacted under s. 349.107.

3 **SECTION 31.** 800.095 (4) (b) 4. of the statutes, as affected by 2009 Wisconsin Act
4 17, is amended to read:

5 800.095 (4) (b) 4. Except as provided under s. 800.09 (3), that the defendant's
6 operating privilege, as defined in s. 340.01 (40), be suspended until the judgment is
7 complied with, except that the suspension period may not exceed 2 years. This
8 subdivision does not apply if the forfeiture is assessed for violation of an ordinance
9 that is unrelated to the violator's operation of a motor vehicle or of an ordinance
10 enacted under s. 349.107.

11 **SECTION 32.** 938.17 (1) (intro.) of the statutes is amended to read:

12 938.17 (1) TRAFFIC, BOATING, SNOWMOBILE AND ALL-TERRAIN VEHICLE VIOLATIONS.
13 (intro.) Except for violations of ss. 342.06 (2) and 344.48 (1), and violations of ss.
14 30.67 (1) and 346.67 (1) when death or injury occurs, courts of criminal and civil
15 jurisdiction have exclusive jurisdiction in proceedings against juveniles 16 years of
16 age or older for violations of s. 23.33, of ss. 30.50 to 30.80, of chs. 341 to 351, and of
17 traffic regulations, as defined in s. 345.20, and nonmoving traffic violations, as
18 defined in s. 345.28 (1), and violations of ordinances enacted under s. 349.107. A
19 juvenile charged with a traffic, boating, snowmobile, or all-terrain vehicle offense
20 in a court of criminal or civil jurisdiction shall be treated as an adult before the trial
21 of the proceeding except that the juvenile may be held in secure custody only in a
22 juvenile detention facility. A juvenile convicted of a traffic, boating, snowmobile, or
23 all-terrain vehicle offense in a court of criminal or civil jurisdiction shall be treated
24 as an adult for sentencing purposes except as follows:

25 (END)

Parisi, Lori

From: Gaston, Geoff
Sent: Wednesday, February 03, 2010 11:34 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-4109/1 Topic: Enforcement of red light violations by traffic control photographic system monitoring

Please Jacket LRB 09-4109/1 for the ASSEMBLY.