SENATE BILL 506 (LRB -4184)

An Act to renumber and amend 779.415 (1) and 779.415 (1m); to amend 779.415 (title) and 779.415 (2); and to create 779.415 (1c) and 779.415 (1g) (c) of the statutes; relating to: vehicle towing and storage liens.

2010

02-02.	S.	Introduced by Senator **Plale**; cosponsored by Representative **Smith**.	
02-02.	S.	Read first time and referred to committee on Transportation, Tourism, Forestry, and Natural Resources	534
02-04.	S.	Public hearing held.	
02-11.	S.	Executive action taken.	
02-12.	S.	Report passage recommended by committee on Transportation, Tourism, Forestry, and Natural Resources, Ayes 6, Noes 1	558
02-12.	S.	Available for scheduling.	
02-18.	S.	Placed on calendar 2-23-2010 pursuant to Senate Rule 18(1)	572
02-23.	S.	Read a second time	582
02-23.	S.	Ordered to a third reading	582
02-23.	S.	Rules suspended	582
02-23.	S.	Read a third time and **passed**	582
02-23.	S.	Ordered immediately messaged	584
02-24.	A.	Received from Senate	693
02-24.	A.	Read first time and referred to committee on Rules	694
04-07.	A.	Placed on calendar 4-13-2010 by committee on Rules.	
04-13.	A.	Rules suspended to withdraw from calendar and take up	814
04-13.	A.	Read a second time	814
04-13.	A.	Ordered to a third reading	814
04-13.	A.	Rules suspended	814
04-13.	A.	Read a third time and **concurred in**	814
04-13.	A.	Ordered immediately messaged	814
04-14.	S.	Received from Assembly concurred in.	

gmB

2009
ENROLLED BILL

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ADOPTED DOCUMENTS:

☒ Orig ☐ Engr ___ SubAmdt ___ 09 - 4184 / 1

Amendments to above (if none, write "NONE"): None

Corrections - show date (if none, write "NONE"): None

Topic Rel

4-14-10
Date

Enrolling Drafter

State of Wisconsin
2009 – 2010 LEGISLATURE

LRB–4184/1
ARG:jld:rs

2009 SENATE BILL 506

February 2, 2010 – Introduced by Senator PLALE, cosponsored by Representative SMITH. Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

1 AN ACT ***to renumber and amend*** 779.415 (1) and 779.415 (1m); ***to amend***
2 779.415 (title) and 779.415 (2); and ***to create*** 779.415 (1c) and 779.415 (1g) (c)
3 of the statutes; **relating to:** vehicle towing and storage liens.

Analysis by the Legislative Reference Bureau

Under current law, a person authorized to tow or store a motor vehicle who does so at the direction of a traffic officer or the vehicle's owner (towing service provider) has a lien on the motor vehicle for reasonable towing and storage charges and may retain possession of the vehicle until these charges are paid. A towing service provider must, within 30 days after taking possession of a motor vehicle, make a reasonable effort to provide written notice to the vehicle owner and any secured party whose security interest is noted on the vehicle's certificate of title (secured party) that they must take steps to obtain the release of the motor vehicle. Current law specifies that a towing and storage lien has priority over the prior security interest of a secured party only up to a specified dollar amount (the priority amount). Current law also specifies that, to reclaim the towed vehicle, the owner or secured party must pay all towing and storage charges up to the priority amount and all reasonable storage charges accruing more than 60 days after the vehicle was towed. If a towing service provider fails to make a reasonable effort to notify the owner and secured party as required, the towing service provider's lien is void.

Under current law, the procedure for enforcing a towing and storage lien depends upon the value of the vehicle. Under the procedure applicable to motor vehicles with a value of $500 or less, a towing service provider must provide at least

20 days notice by registered mail to the owner and any secured party before selling or junking the vehicle.

This bill makes various changes relating to towing and storage liens, including all of the following:

1. Under the bill, these liens apply to the towing and storing of any vehicle, not just motor vehicles. The bill defines a vehicle as any device for moving persons or property or pulling implements from one place to another on land or rails or in the air.

2. The bill clarifies the towing service provider's lien rights and the vehicle owner's payment obligation, a secured party's obligation in repossessing the vehicle, and the towing service provider's obligation to provide notice of vehicle possession and lien rights. The bill also requires the towing service provider's notice before selling or junking the vehicle to be by certified mail, rather than registered mail.

3. The bill increases the priority amount and provides for the priority amount to be annually adjusted for inflation.

4. The bill increases the trigger amount for determining which lien enforcement procedure is used and specifies that the lien enforcement procedure described for lesser value vehicles is the exclusive enforcement procedure.

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

1 **SECTION 1.** 779.415 (title) of the statutes is amended to read:

2 **779.415** (title) **Liens on ~~motor~~ vehicles for towing and storage.**

3 **SECTION 2.** 779.415 (1) of the statutes is renumbered 779.415 (1g), and 779.415
4 (1g) (a), as renumbered, is amended to read:

5 779.415 **(1g)** (a) Every motor carrier holding a permit to perform vehicle towing
6 services, every licensed motor vehicle salvage dealer, and every licensed motor
7 vehicle dealer who performs vehicle towing services or stores a ~~motor~~ vehicle, when
8 such towing or storage is performed at the direction of a traffic officer or the owner
9 of the vehicle, shall, ~~if the vehicle is not claimed as provided herein~~ subject to sub.
10 (1m) (b), have a lien on the ~~motor~~ vehicle for reasonable towing and storage charges,
11 and may retain possession of the vehicle, until such charges are paid. If the vehicle
12 is subject to a lien perfected under ch. 342, a towing lien shall have priority only to

the extent of ~~$75~~ $100 for a ~~motor~~ vehicle having a manufacturer's gross weight rating of 20,000 pounds or less and ~~$250~~ $350 for a ~~motor~~ vehicle having a manufacturer's gross weight rating of more than 20,000 pounds and a storage lien shall have priority only to the extent of ~~$7~~ $10 per day but for a total amount of not more than ~~$420~~ $600 for a ~~motor~~ vehicle having a manufacturer's gross weight rating of 20,000 pounds or less and ~~$20~~ $25 per day but for a total amount of not more than ~~$1,200~~ $1,500 for a ~~motor~~ vehicle having a manufacturer's gross weight rating of more than 20,000 pounds. If the value of the vehicle exceeds ~~$500~~ $750, the lien may be enforced under s. 779.48 (2). If the value of the vehicle does not exceed ~~$500~~ $750, the lien may only be enforced by sale or junking ~~substantially~~ as provided in sub. (2).

SECTION 3. 779.415 (1c) of the statutes is created to read:

779.415 **(1c)** In this section, "vehicle" has the meaning given in s. 29.001 (87).

SECTION 4. 779.415 (1g) (c) of the statutes is created to read:

779.415 **(1g)** (c) Annually, on January 1, the department of agriculture, trade and consumer protection shall adjust the dollar amounts identified under par. (a) by the annual change in the consumer price index, as determined under s. 16.004 (8) (e) 1., and publish the adjusted figures.

SECTION 5. 779.415 (1m) of the statutes is renumbered 779.415 (1m) (a) and amended to read:

779.415 **(1m)** (a) Within 30 days after taking possession of a ~~motor~~ vehicle, every motor carrier, licensed motor vehicle salvage dealer, and licensed motor vehicle dealer under sub. ~~(1)~~ (1g) shall send written notice to the owner of the vehicle and the holder of the senior lien on the vehicle informing them that they must take steps to obtain the release of the ~~motor~~ vehicle.

(b) To ~~reclaim~~ repossess the vehicle, ~~the owner or~~ the senior lienholder must pay all towing and storage charges that have a priority under sub. ~~(1)~~ (1g) (a) and all reasonable storage charges that have accrued after 60 days from the date on which possession of the ~~motor~~ vehicle was taken. ~~A reasonable effort to so notify the owner and the holder of the senior lien satisfies the notice requirement of this subsection.~~ Failure to ~~make a reasonable effort to so~~ notify ~~the owner and~~ the senior lienholder as provided in par. (a) renders void, with respect to the senior lienholder, any lien to which the motor carrier, licensed motor vehicle salvage dealer, or licensed motor vehicle dealer would otherwise be entitled under sub. ~~(1)~~ (1g).

SECTION 6. 779.415 (2) of the statutes is amended to read:

779.415 **(2)** At least 20 days prior to sale or junking, notice thereof shall be given by ~~registered~~ certified mail to the person shown to be the owner of the vehicle in the records of the department of transportation and to any person who has a lien on such vehicle perfected under ch. 342, stating that unless the vehicle ~~is claimed by the~~ owner or the owner's agent pays all reasonable towing and storage charges for the vehicle within said 20 days the vehicle will be exposed for sale or junked, as the case may be. If the proceeds of the sale exceed the charges, the balance shall be paid to the holder of the senior lien perfected under ch. 342, and if none, then to the owner as shown in the records of the department of transportation.

SECTION 7. Initial applicability.

(1) This act first applies to vehicles towed or put into storage on the effective date of this subsection.

SECTION 8. Effective date.

1 (1) This act takes effect on the first day of the 3rd month beginning after
2 publication.

3 (END)