

State of Wisconsin



2011 Senate Bill 314

Date of enactment: April 2, 2012
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2011 WISCONSIN ACT 186

AN ACT *to amend* 895.446 (5); and *to create* 341.17 (9) (c) 5. and 895.449 of the statutes; **relating to:** collection of money owed for failure to pay for gasoline or diesel fuel and obtaining information with personal identifiers from the Department of Transportation.

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

SECTION 1. 341.17 (9) (c) 5. of the statutes is created to read:

341.17 (9) (c) 5. An association, as defined in s. 895.449 (1), obtaining registration information for use in providing information under s. 895.449, if the association uses the personal identifiers designated for nondisclosure under s. 85.103 (2) or (3) for this purpose. Notwithstanding par. (e), no person receiving a personal identifier under this subdivision may disclose the personal identifier to another person for marketing purposes.

SECTION 2. 895.446 (5) of the statutes is amended to read:

895.446 (5) No person may bring a cause of action under both this section and s. 95.195, ~~895.449~~, 943.212, 943.245 or 943.51 regarding the same incident or occurrence. If the plaintiff has a cause of action under both this section and s. ~~895.449~~, 943.212, 943.245 or 943.51 regarding the same incident or occurrence, the plaintiff may choose which action to bring. If the plaintiff has a cause of action under both this section and s. 95.195, the plaintiff must bring the action under s. 95.195.

SECTION 3. 895.449 of the statutes is created to read:

895.449 Action for loss caused by failure to pay for gasoline or diesel fuel. (1) In this section:

(a) "Association" means a membership organization whose membership is composed of retail businesses that sell gasoline or diesel fuel.

(b) "Fuel retailer" means a person who suffers a loss as the result of a violation of s. 943.21 (1m) (d).

(c) "Vehicle owner" means a person who holds the legal title of the vehicle that received gasoline or diesel fuel involved in a violation of s. 943.21 (1m) (d).

(2) Any fuel retailer has a cause of action against a vehicle owner whose vehicle was involved in a violation of s. 943.21 (1m) (d). The fuel retailer may provide an association with an affidavit specifying the time and date that the violation occurred, the registration plate number of the vehicle that received the gasoline or diesel fuel, and the retail value of gasoline or diesel fuel involved in the violation.

(3) Upon receipt by an association of an affidavit under sub. (2), that association may obtain from the department of transportation, based on the registration plate number of the motor vehicle that received the gasoline or diesel fuel in violation of s. 943.21 (1m) (d), identifying information regarding the owner of that motor vehicle and may forward the identifying information to the person who provided the affidavit under sub. (2).

(4) The fuel retailer may send a letter by 1st class mail to the vehicle owner at the address obtained under sub. (3), requesting payment of the amount owed for the

* Section 991.11, WISCONSIN STATUTES 2009-10: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

2011 Wisconsin Act 186

2011 Senate Bill 314

unpaid gasoline or diesel fuel, plus a service fee that does not exceed \$30. The letter shall include the time and date of the violation, the registration plate number of the vehicle that received the gasoline or diesel fuel, and a statement that if the vehicle owner fails to pay the amount demanded within 30 days of receipt of the letter, the fuel retailer may commence a court action to collect that amount. If a vehicle owner fails to make the payment

owed within 30 days of his or her receipt of the letter, the fuel retailer may commence an action in circuit court to collect the amount demanded.

(5) If the fuel retailer prevails in an action brought under this section, the fuel retailer shall be entitled to the amount of the loss incurred, the \$30 service fee, and court costs.

