

2015 DRAFTING REQUEST

Senate Amendment (SA-SB153)

Received: **6/1/2015** Received By: **chanaman**
For: **Sheila Harsdorf (608) 266-7745** Same as LRB:
May Contact: By/Representing: **Matt**
Subject: **Criminal Law - procedure** Drafter: **chanaman**
Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Sen.Harsdorf@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Remove reference to seized vehicles

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	chanaman 6/3/2015	wjackson 6/3/2015	_____	mbarman 6/1/2015		
/1			_____	sbasford 6/3/2015	sbasford 6/3/2015	

FE Sent For:

<END>

Hanaman, Cathlene

From: Wuebke, Matt
Sent: Monday, June 01, 2015 1:04 PM
To: Hanaman, Cathlene
Subject: FW: Abandoned Vehicles

Hi Cathlene,

We received the concerns below regarding Senate Bill 153 from the Department of Justice. I was hoping you could take a look at this concern with the application of the bill to forfeited vehicles and provide your thoughts. Also, if you could draft an amendment for us to look at that would address this concern (removing Section 7?), we would appreciate it.

Thanks,

Matt Wuebke
Office of Sen. Sheila Harsdorf
800-862-1092 or 608-266-7745
matt.wuebke@legis.wi.gov
www.harsdorfsenate.com

Under the proposal, abandoned vehicles and vehicles seized under s. 973.075 (state forfeiture laws)

According to the sponsorship memo, it focuses on abandoned vehicles. But then the statutory proposal also references vehicles that are seized.

Section 7 of the bill states:

SECTION 7. 973.075 (4) of the statutes is amended to read:

973.075 (4) When property is forfeited under ss. 973.075 to 973.077, the agency seizing the property may sell the property that is not required by law to be destroyed or transferred to another agency. The agency may retain any vehicle for official use or, sell the vehicle, or donate the vehicle to a nonprofit organization. The agency seizing the property may deduct 50% of the sale amount received for administrative expenses of seizure, maintenance of custody, advertising and court costs and the costs of investigation and prosecution reasonably incurred. The remainder shall be deposited in the school fund as the proceeds of the forfeiture. If the property forfeited under ss. 973.075 to 973.077 is money, all the money shall be deposited in the school fund.

I believe that section 7 of this proposal may violate constitutional provisions related to the state school fund. Article X, Sec 2 provides in relevant part:

School fund created; income applied. SECTION 2. [As amended Nov. 1982] The proceeds of all lands that have been or hereafter may be granted by the United States to this state for educational purposes (except the lands heretofore granted for the purposes of a university) and all moneys and the clear proceeds of all property that may accrue to the state by forfeiture or escheat; . . . shall be set apart as a separate fund to be called "the school fund," the interest of which and all other revenues derived from the school lands shall be exclusively applied to the following objects, to wit:

Based on this language, once a judge makes a finding that property is subject to forfeiture, then its title arguably vests in the school fund. Turning over such property to a charity is inconsistent with this.



State of Wisconsin
2015 - 2016 LEGISLATURE

LRBa0560/P1

CMH: *sf*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT ,
TO SENATE BILL 153

*today
if possible
or
Tuesday
please*

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 1, line 3: delete "or seized". ✓
- 3 **2.** Page 2, line 2: delete "**or seized**". ✓
- 4 **3.** Page 2, line 4: delete ", 968.20, or 973.075". ✓
- 5 **4.** Page 4, line 23: delete the material beginning with that line and ending with
- 6 page 7, line 8.

7

(END)

