2015 SENATE BILL 153

May 14, 2015 – Introduced by Senators HARS DORF, OLSEN, MARK LEIN, MILLER and VINEHOUT, cosponsored by Representatives MURTHA, A. OTT, E. BROOKS, HORLACHER, JACQUE, JARCHOW, KITCHENS, KNO DL, T. LARSON, MURPHY, MURSAU, PETERSEN, PETRYK, RIPP, TITTL, KAHL, BERCEAU and SUBECK. Referred to Committee on Judiciary and Public Safety.

AN ACT to amend 342.40 (2), 342.40 (3) (b), 342.40 (3) (c), 342.40 (3) (e), 968.20 (3) and 973.075 (4); and to create 45.095 of the statutes; relating to: donation of abandoned or seized vehicles.

Analysis by the Legislative Reference Bureau

Under current law, if a vehicle is left unattended for a certain period of time, the vehicle is generally considered abandoned. Current law requires an abandoned vehicle to be impounded until claimed or disposed of. If an authorized municipal or county representative determines that the cost of towing and storage in impoundment exceeds the abandoned vehicle’s value, the municipality or county may junk or sell that abandoned vehicle under certain conditions. This bill allows the municipality or county to donate that abandoned vehicle as well as junk or sell it. If an abandoned vehicle is impounded, current law allows the municipality or county to dispose of an unclaimed impounded vehicle by sealed bid or auction sale as provided by ordinance. If no acceptable bid is received, the municipality or county may readvertise the sale, adjourn the sale, sell the impounded vehicle at a private sale, or junk the impounded vehicle. This bill allows the municipality or county to donate to a nonprofit organization an unclaimed impounded vehicle, either in lieu of the sale or if no acceptable bid is received.

Also, under current law, if a vehicle is seized and forfeited due to the commission of a crime, the law enforcement agency that seizes the vehicle may retain it for official
use or sell it. This bill allows the law enforcement agency to also donate the vehicle to a nonprofit organization.

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

SECTION 1. 45.095 of the statutes is created to read:

45.095 Donation of abandoned or seized vehicles. A nonprofit organization that provides financial assistance or other services to veterans and their dependents that receives a vehicle donated under s. 342.40, 968.20, or 973.075 shall use at least 50 percent of the proceeds obtained through the donation to serve the needs of active duty service members, veterans, or the families of veterans.

SECTION 2. 342.40 (2) of the statutes is amended to read:

342.40 (2) Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under sub. (3) except that if it is deemed by a duly an authorized municipal or county representative determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked, donated to a nonprofit organization, or sold by the municipality or county prior to expiration of the impoundment period upon determination by the chief of police or sheriff having jurisdiction that the vehicle is not stolen or otherwise wanted for evidence or other reason. All substantially complete vehicles in excess of 19 model years of age shall be disposed of in accordance with sub. (3) (c).

SECTION 3. 342.40 (3) (b) of the statutes is amended to read:

342.40 (3) (b) The owner of any abandoned vehicle except a stolen vehicle is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs If the vehicle is sold, costs not recovered from the sale of the vehicle...
may be recovered in a civil action by the municipality against the owner. Whether or not the municipality recovers the cost of towing and enforcement, the municipality shall be responsible to the towing service for requisitional towing service and reasonable charges for impoundment.

**SECTION 4.** 342.40 (3) (c) of the statutes is amended to read:

342.40 (3) (c) Any vehicle which is deemed abandoned by a duly authorized municipal or county representative and not disposed of under sub. (2) shall be retained in storage for a minimum period of 10 days after certified mail notice has been sent to the owner and lienholders of record to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model, and serial number of the abandoned motor vehicle, the place where the vehicle is being held, and shall inform the owner and any lienholders of their right to reclaim the vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the vehicle under this section shall be deemed is a waiver of all right, title, and interest in the vehicle and a consent to the sale or donation of the vehicle. Each retained vehicle not reclaimed by its owner or lienholder may be sold. The or donated to a nonprofit organization. If the vehicle is sold, the municipality or county may dispose of the vehicle by sealed bid or auction sale as provided by ordinance. At such sale the highest bid for any such motor vehicle shall be accepted unless the same is deemed an authorized municipal or county representative finds the bid inadequate by a duly authorized municipal or county representative, in which event all bids may be rejected. If all bids are rejected or no bid is received, the municipality or county may either readvertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale or, junk the vehicle, or donate the vehicle to a nonprofit organization. Any interested person may offer
bids on each abandoned vehicle to be sold. If municipal or county ordinances do not state the procedure to be followed in advertising or providing public notice of the sale, a public notice shall be posted at the office of the municipal police department or the office of the county sheriff. The posting of the notice at the police or sheriff’s department shall be in the same form as the certified mail notice sent to the owner or lienholders of record. Upon sale of an abandoned vehicle, the municipality or county shall supply the purchaser with a completed form designed by the department enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have 10 days to remove the vehicle from the storage area, but shall pay a reasonable storage fee established by the municipality or county for each day the vehicle remains in storage after the 2nd business day subsequent to the sale date. Ten days after the sale, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again or donated to a nonprofit organization. Any listing of vehicles to be sold by any municipality or county shall be made available to any interested person or organization which makes a written request for such list. The municipality or county may charge a fee for the list.

**SECTION 5.** 342.40 (3) (e) of the statutes is amended to read:

342.40 (3) (e) Within 5 days after the sale, donation, or disposal of a vehicle as provided in this subsection or sub. (2), the municipality or county shall advise the department of the sale, donation, or disposition on a form supplied by the department.

**SECTION 6.** 968.20 (3) of the statutes is amended to read:

968.20 (3) (a) First class cities shall dispose of dangerous weapons or ammunition seized 12 months after taking possession of them if the owner,
authorized under sub. (1m), has not requested their return and if the dangerous
weapon or ammunition is not required for evidence or use in further investigation
and has not been disposed of pursuant to a court order at the completion of a criminal
action or proceeding. Disposition procedures shall be established by ordinance or
resolution and may include provisions authorizing an attempt to return to the
rightful owner any dangerous weapons or ammunition which appear to be stolen or
are reported stolen. If enacted, any such provision shall include a presumption that
if the dangerous weapons or ammunition appear to be or are reported stolen an
attempt will be made to return the dangerous weapons or ammunition to the
authorized rightful owner. If the return of a seized dangerous weapon other than a
firearm is not requested by its rightful owner under sub. (1) and is not returned by
the officer under sub. (2), the city shall safely dispose of the dangerous weapon or,
if the dangerous weapon is a motor vehicle, as defined in s. 340.01 (35), sell or donate
the motor vehicle following the procedure under s. 973.075 (4) or authorize a law
enforcement agency to retain and use the motor vehicle. If the return of a seized
firearm or ammunition is not requested by its authorized rightful owner under sub.
(1) and is not returned by the officer under sub. (2), the seized firearm or ammunition
shall be shipped to and become property of the state crime laboratories. A person
designated by the department of justice may destroy any material for which the
laboratory has no use or arrange for the exchange of material with other public
agencies. In lieu of destruction, shoulder weapons for which the laboratories have
no use shall be turned over to the department of natural resources for sale and
distribution of proceeds under s. 29.934 or for use under s. 29.938.

(b) Except as provided in par. (a) or sub. (1m) or (4), a city, village, town or
county or other custodian of a seized dangerous weapon or ammunition, if the
dangerous weapon or ammunition is not required for evidence or use in further
investigation and has not been disposed of pursuant to a court order at the
completion of a criminal action or proceeding, shall make reasonable efforts to notify
all persons who have or may have an authorized rightful interest in the dangerous
weapon or ammunition of the application requirements under sub. (1). If, within 30
days after the notice, an application under sub. (1) is not made and the seized
dangerous weapon or ammunition is not returned by the officer under sub. (2), the
city, village, town or county or other custodian may retain the dangerous weapon or
ammunition and authorize its use by a law enforcement agency, except that a
dangerous weapon used in the commission of a homicide or a handgun, as defined
in s. 175.35 (1) (b), may not be retained. If a dangerous weapon other than a firearm
is not so retained, the city, village, town or county or other custodian shall safely
dispose of the dangerous weapon or, if the dangerous weapon is a motor vehicle, as
defined in s. 340.01 (35), sell or donate the motor vehicle following the procedure
under s. 973.075 (4). If a firearm or ammunition is not so retained, the city, village,
town or county or other custodian shall ship it to the state crime laboratories and it
is then the property of the laboratories. A person designated by the department of
justice may destroy any material for which the laboratories have no use or arrange
for the exchange of material with other public agencies. In lieu of destruction,
shoulder weapons for which the laboratory has no use shall be turned over to the
department of natural resources for sale and distribution of proceeds under s. 29.934
or for use under s. 29.938.

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.