



State of Wisconsin
1997 - 1998 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 733**

March 12, 1998 - Offered by Representatives GRONEMUS, OTT, SYKORA and
HARSDORF.

1 **AN ACT to renumber** 895.57 (1) (a), 943.75 (1) (a) and 973.075 (1) (b) 3.; **to**
2 **renumber and amend** 973.075 (1) (b) (intro.), 973.075 (1) (b) 1. and 973.075
3 (1) (b) 2.; **to amend** 29.06 (1) (d), 895.57 (title), 895.57 (2), 943.75 (2) and
4 973.075 (5) (intro.); and **to create** 895.57 (1) (ag), 895.57 (4), 943.75 (1) (ad),
5 943.75 (2m) (b), 973.075 (1) (b) 1m. f. and 973.075 (1) (bm) of the statutes;
6 **relating to:** the unauthorized release of animals, immunity from liability and
7 providing a penalty.

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

8 **SECTION 1.** 29.06 (1) (d) of the statutes, as affected by 1997 Wisconsin Act 35,
9 is amended to read:

10 29.06 (1) (d) The provisions of s. 973.075 (1) (b) ~~1. to 3.~~ 2m. and (5) apply to
11 vehicles other than motor vehicles under this subsection.

12 **SECTION 2.** 895.57 (title) of the statutes is amended to read:

1 **895.57** (title) **Damages and immunity; unauthorized release of animals.**

2 **SECTION 3.** 895.57 (1) (a) of the statutes is renumbered 895.57 (1) (am).

3 **SECTION 4.** 895.57 (1) (ag) of the statutes is created to read:

4 895.57 (1) (ag) “Animal” means all vertebrate and invertebrate species,
5 including mammals, birds, fish and shellfish but excluding humans.

6 **SECTION 5.** 895.57 (2) of the statutes is amended to read:

7 895.57 (2) A person who intentionally releases an animal that is lawfully
8 confined for scientific, farming, companionship or protection of persons or property,
9 recreation, restocking, research, exhibition, commercial or educational purposes,
10 acting without the consent of the owner or custodian of the animal, is liable to the
11 owner or custodian of the animal for damages, which punitive damages, attorney fees
12 and interest on the amount of the damages incurred at the rate of 12% per year from
13 the date of the intentional release. The damages awarded shall include the costs of
14 restoring the animal to confinement.

15 **SECTION 6.** 895.57 (4) of the statutes is created to read:

16 895.57 (4) An owner or custodian of a confined animal is immune from civil
17 liability for any damages caused by any security mechanism that is installed to
18 protect the confined animal or the premises containing the animal.

19 **SECTION 7.** 943.75 (1) (a) of the statutes is renumbered 943.75 (1) (am).

20 **SECTION 8.** 943.75 (1) (ad) of the statutes is created to read:

21 943.75 (1) (ad) “Animal” means all vertebrate and invertebrate species,
22 including mammals, birds, fish and shellfish but excluding humans.

23 **SECTION 9.** 943.75 (2) of the statutes is amended to read:

24 943.75 (2) Whoever intentionally releases an animal that is lawfully confined
25 for scientific, farming, companionship or protection of persons or property,

1 recreation, restocking, research, exhibition, commercial or educational purposes,
2 acting without the consent of the owner or custodian of the animal, is may be
3 penalized as provided in sub. (2m).

4 (2m) (a) Any person who violates sub. (2) before the effective date of this
5 paragraph [revisor inserts date], is guilty of a Class C misdemeanor.—A, except
6 that if the violation is the person's 2nd violation of this section by a sub. (2) the person
7 is guilty of a Class A misdemeanor.—A and if the violation is the person's 3rd or
8 subsequent violation of this section by a sub. (2) the person is guilty of a Class E
9 felony.

10 **SECTION 10.** 943.75 (2m) (b) of the statutes is created to read:

11 943.75 **(2m)** (b) Any person who violates sub. (2) on or after the effective date
12 of this paragraph [revisor inserts date], is guilty of a Class BC felony and shall
13 be sentenced to a term of imprisonment. The court may not place the person on
14 probation.

15 **SECTION 11.** 973.075 (1) (b) (intro.) of the statutes is renumbered 973.075 (1)

16 (b) 1m. (intro.) and amended to read:

17 973.075 **(1)** (b) 1m. (intro.) All Except as provided in subd. 2m., all vehicles, as
18 defined in s. 939.22 (44), which are used to in any of the following ways:

19 a. To transport any property or weapon used or to be used or received in the
20 commission of any felony, which are used in.

21 b. In the commission of a crime under s. 946.70, which are used in.

22 c. In the commission of a crime in violation of s. 944.30, 944.31, 944.32, 944.33
23 or 944.34, which are used in.

24 d. In the commission of a crime relating to a submerged cultural resource in
25 violation of s. 44.47 or which are used to.

1 e. To cause more than \$1,000 worth of criminal damage to cemetery property
2 in violation of s. 943.01 (2) (d) or 943.012, ~~but~~.

3 **SECTION 12.** 973.075 (1) (b) 1. of the statutes is renumbered 973.075 (1) (b) 2m.
4 a. and amended to read:

5 973.075 (1) (b) 2m. a. No vehicle used by any person as a common carrier in the
6 transaction of business as a common carrier is subject to forfeiture under ss. 973.075
7 to 973.077 unless it appears that the owner or other person in charge of the vehicle
8 had knowledge of or consented to the commission of the crime;

9 **SECTION 13.** 973.075 (1) (b) 1m. f. of the statutes is created to read:

10 973.075 (1) (b) 1m. f. In the commission of a crime under s. 943.75 (2).

11 **SECTION 14.** 973.075 (1) (b) 2. of the statutes is renumbered 973.075 (1) (b) 2m.
12 b. and amended to read:

13 973.075 (1) (b) 2m. b. No vehicle is subject to forfeiture under ss. 973.075 to
14 973.077 by reason of any act or omission established by the owner of the vehicle to
15 have been committed or omitted without his or her knowledge or consent; and.

16 **SECTION 15.** 973.075 (1) (b) 3. of the statutes is renumbered 973.075 (1) (b) 2m.
17 c.

18 **SECTION 16.** 973.075 (1) (bm) of the statutes is created to read:

19 973.075 (1) (bm) Any property used or to be used in the commission of a crime
20 under s. 943.75 (2), but if the property is encumbered by a bonafide perfected security
21 interest that was perfected before the date of the commission of the current violation
22 and the holder of the security interest neither had knowledge of nor consented to the
23 commission of that violation, the holder of the security interest shall be paid from the
24 proceeds of the forfeiture.

25 **SECTION 17.** 973.075 (5) (intro.) of the statutes is amended to read:

1 973.075 **(5)** (intro.) All forfeitures under ss. 973.075 to 973.077 shall be made
2 with due provision for the rights of innocent persons under sub. (1) (b) ~~1. to 3.~~ 2m.,
3 (bm) and (d). Any property seized but not forfeited shall be returned to its rightful
4 owner. Any person claiming the right to possession of property seized may apply for
5 its return to the circuit court for the county in which the property was seized. The
6 court shall order such notice as it deems adequate to be given the district attorney
7 and all persons who have or may have an interest in the property and shall hold a
8 hearing to hear all claims to its true ownership. If the right to possession is proved
9 to the court's satisfaction, it shall order the property returned if:

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(END)