



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-1535/P1  
ZDW:klm

DOA:.....Aslesen, BB0508 - Penalties for unpaid parking tickets

**FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION**

**AN ACT ...; relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**TRANSPORTATION**

**DRIVERS AND MOTOR VEHICLES**

***Operator license suspension and arrest for nonmoving violations***

This bill eliminates the option to arrest a person and the suspend the person's motor vehicle operator license for failure to pay the required forfeiture for a nonmoving violation (commonly known as a parking ticket).

Under current law, if a person does not pay the forfeiture or appear in court in response to a citation for a nonmoving violation, the court may issue a summons for the person, order DOT to suspend the person's vehicle registration, or issue a warrant for the person's arrest.

Under current law, if a person fails to pay the forfeiture for a moving or nonmoving violation, the court may order the person to be imprisoned until the judgment is paid, but for a time period not to exceed 90 days. In lieu of imprisonment, the court may order that the person's operating privilege be suspended.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

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

**SECTION 1.** 345.26 (1) (a) of the statutes is amended to read:

345.26 (1) (a) A person arrested under s. 345.22 ~~or 345.28 (5)~~ for the violation of a traffic regulation who is allowed to make a deposit under s. 345.23 (2) (a) ~~or 345.28 (5)~~ shall deposit the money as the arresting officer directs by either mailing the deposit at a nearby mailbox to the office of the sheriff, headquarters of the county traffic patrol, district headquarters or station of the state traffic patrol, city, village or town police headquarters or a precinct station, the office of the municipal judge, the office of the clerk of court, or by going, in the custody of the arresting officer, to any of those places to make the deposit.

**SECTION 2.** 345.28 (3) (a) of the statutes is amended to read:

345.28 (3) (a) If the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation is issued, the authority that issued the citation may issue a summons under s. 968.04 (3) (b) to the person and, in lieu of or in addition to issuing the summons, may proceed under sub. (4) ~~or (5)~~ but, ~~except as provided in this section,~~ no warrant may be issued for the person. If the person does not pay towing and storage charges associated with a citation for a nonmoving traffic violation, the authority that issued the citation may proceed under sub. (4).

**SECTION 3.** 345.28 (5) of the statutes is repealed.

\*\*\*\*NOTE: This subsection details warrant and arrest procedures for nonmoving violations. I believe your intent is best accomplished by repealing this section entirely, but see my note below the treatment of ss. 345.36 (3) and 345.37 (1) (c).

**SECTION 4.** 345.28 (5m) (a) (intro.) of the statutes is amended to read:

345.28 (5m) (a) (intro.) No notice under sub. (4) (a) 1. may be sent to the department, or if the notice has already been sent the notice shall be canceled, and

no further action may be taken against the owner under sub. (4) ~~or (5)~~ or s. 341.10 (7m) or 341.63 (1) (c) if:

**SECTION 5.** 345.28 (5r) (a) (intro.) of the statutes is amended to read:

345.28 **(5r)** (a) (intro.) No notice under sub. (4) (a) 2. may be sent to the department, or if the notice has already been sent the notice shall be canceled, and no further action may be taken against the owner under sub. (4) ~~or (5)~~ or s. 341.10 (7m) or 341.63 (1) (c) if:

**SECTION 6.** 345.28 (7) of the statutes is repealed.

**SECTION 7.** 345.36 (3) of the statutes is amended to read:

345.36 **(3)** If the offense involved is a nonmoving traffic violation ~~and the defendant is subject to s. 345.28 (5) (e), a default judgment may be entered and opened as provided in s. 345.28 (5) (e) the person shall be deemed to have entered a plea of no contest. The court shall accept the plea of no contest, find the defendant guilty, and proceed under s. 345.47. The court shall give notice of the entry of judgment to the defendant by mailing a copy of the judgment to the defendant's last-known address. The court shall also mail to the defendant's last-known address a statement setting forth the actions the court may take under s. 345.47 if the judgment is not paid.~~

\*\*\*\*NOTE: This material is adapted from s. 345.28 (5) (c), which provides the procedure for a person who fails to appear in court for a nonmoving violation.

**SECTION 8.** 345.37 (1) (b) of the statutes is amended to read:

345.37 **(1)** (b) Deem the nonappearance a plea of no contest and enter judgment accordingly. If the defendant has posted bond for appearance at that date, the court may also order the bond forfeited. The court shall promptly mail a copy or notice of the judgment to the defendant. The judgment shall allow not less than 20 days from

the date thereof for payment of any forfeiture, plus costs, fees, and surcharges imposed under ch. 814. If the defendant moves to open the judgment within 6 months after the court appearance date fixed in the citation, and shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise, or excusable neglect, the court shall open the judgment, accept a not guilty plea, and set a trial date. The court may impose costs under s. 814.07. The court shall immediately notify the department to delete the record of conviction based upon the original judgment. ~~If the offense involved is a nonmoving traffic violation and the defendant is subject to s. 345.28 (5) (c), a default judgment may be entered and opened as provided in s. 345.28 (5) (c).~~

**SECTION 9.** 345.37 (1) (c) of the statutes is created to read:

345.37 (1) (c) If the offense involved is a nonmoving traffic violation, a default judgment may be entered and the person shall be deemed to have entered a plea of no contest. The court shall accept the plea of no contest, find the defendant guilty, and proceed under s. 345.47. The court shall give notice of the entry of judgment to the defendant by mailing a copy of the judgment to the defendant's last-known address. The court shall also mail to the defendant's last-known address a statement setting forth the actions the court may take under s. 345.47 if the judgment is not paid.

\*\*\*NOTE: This material is adapted from 345.28 (5) (c), which provides the procedure for a person who fails to appear in court for a nonmoving violation.

**SECTION 10.** 345.47 (1) (intro.) of the statutes is amended to read:

345.47 (1) (intro.) If the defendant is found guilty, the court may enter judgment against the defendant for a monetary amount not to exceed the maximum forfeiture provided for the violation, plus costs, fees, and surcharges imposed under

ch. 814, and, in. In addition, if the defendant is found guilty of a violation other than a nonmoving violation under s. 345.28, the court may suspend or revoke his or her operating privilege under s. 343.30. Upon entering judgment, the court shall notify the defendant personally, if the defendant is present, and in writing that the defendant should notify the court if he or she is unable to pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d). If the defendant is present and the court, using the criteria in s. 814.29 (1) (d), determines that the defendant is unable to pay the judgment because of poverty, the court shall provide the defendant with an opportunity to pay the judgment in installments, taking into account the defendant's income. If the judgment is not paid or if the defendant fails to make any ordered installment payment, the court shall order:

**SECTION 11.** 345.47 (1) (b) of the statutes is amended to read:

345.47 (1) (b) In lieu of imprisonment and in addition to any other suspension or revocation, that the defendant's operating privilege be suspended. The operating privilege shall be suspended for 30 days or until the person pays the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, but not to exceed one year. If the defendant has notified the court that he or she is unable to pay the judgment because of poverty, and if the court, using the criteria in s. 814.29 (1) (d), determines that the defendant is unable to pay the judgment because of poverty, the court may not suspend the defendant's operating privilege without first providing the defendant with an opportunity to pay the judgment in installments, taking into account the defendant's income. Suspension under this paragraph shall not affect the power of the court to suspend or revoke under s. 343.30 or the power of the secretary to suspend or revoke the operating privilege. This paragraph does not apply if the

judgment was entered solely for violation of an ordinance unrelated to the violator's operation of a motor vehicle or for a nonmoving violation under s. 345.28.

(END)