

EmR1425

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STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

The State of Wisconsin Department of
Transportation Proposes an Order to Create **ORDER ADOPTING**
Emergency Rule Wis. Admin. Code. ch. Trans **EMERGENCY RULE**
319 Relating to Towing of Vehicles

The Statement of Scope for this Emergency Rule, SS 064-14, was approved by the Governor on July 1, 2014, published in Register No. 703 on July 14, 2014, and approved by Secretary of the State of Wisconsin Department of Transportation Mark Gottlieb, P.E., as required by s. 227.135(2), Stats, on July 28, 2014.

This Emergency Rule was approved by the Governor on September 26, 2014.

The State of Wisconsin Department of Transportation Proposes an Order to Create Emergency Rule Wis. Admin. Code. ch. Trans 319 Relating to Towing of Vehicles. The analysis below was prepared by the State of Wisconsin Department of Transportation.

ANALYSIS

Statutes Interpreted: s. 349.13(3m), Stats.

Statutory Authority: s. 349.13(3m)(e), Stats. and 2013 Wisconsin Act 76 s. 59(2).

Explanation of Agency Authority:

2013 Wisconsin Act 76 and s. 349.13(3m)(e), Stats., in relevant part, provide that if a vehicle is illegally parked in a “properly posted” area, it is unnecessary for law enforcement to issue a citation prior to removal of the vehicle. 2013 Wisconsin Act 76 and s. 349.13(3m)(e), Stats., provide that the State of Wisconsin Department of Transportation shall promulgate rules establishing all of the following:

1. Reasonable charges for removal and storage of vehicles under this subsection.
2. The form and manner of display of notice necessary to qualify as “properly posted” under par. (a) 2.

3. Guidelines for towing services to notify law enforcement under par. (d) upon removal of a vehicle.

2013 Wisconsin Act 76 provides that, using the emergency rules procedure established under s. 227.24, Stats., the State of Wisconsin Department of Transportation shall promulgate the rules required under s. 349.13(3m)(e), Stats.

Related Statute or Rule: s. 349.13(3m), Stats.

Brief Summary of the Rule:

2013 Wisconsin Act 76 and s. 349.13(3m)(e), Stats., create an exception to a provision under prior law relating to the towing of vehicles parked on private property without permission. Under prior law, vehicles generally could not be removed without the permission of the vehicle owner unless a traffic or police officer issued a citation for illegal parking. The exception created in 2013 Wisconsin Act 76 applies when notice has been “properly posted” stating that unauthorized vehicles may be removed from the property. When the exception applies, an unauthorized vehicle may be towed immediately, regardless of whether a parking citation has been issued, at the request of the property owner or certain other parties specified in 2013 Wisconsin Act 76, subject to certain procedural requirements in 2013 Wisconsin Act 76. 2013 Wisconsin Act 76 requires the State of Wisconsin Department of Transportation to promulgate rules establishing reasonable charges for removal and storage of vehicles; the form, manner of display, of the notice necessary to qualify as “properly posted” under the provisions described above; and guidelines for towing services to notify law enforcement of the removal of a vehicle.

Through this rulemaking, the State of Wisconsin Department of Transportation proposes to execute its obligation in the following manner. First, this rulemaking announces that its purpose is to establish reasonable charges for removal and storage of vehicles parked on private property that are not authorized to be parked there, to establish the form and manner of notice of display necessary to qualify as “properly posted” under s. 349.13(3m)(a)2., Stats., and guidelines for towing services to notify law enforcement under s. 349.13(3m)(d), Stats., upon removal of a vehicle. Second, this rulemaking establishes various definitions that apply in Wis. Admin. Code ch. Trans 319, including, among others, those contained within ss. 340.01 and 349.13(3m)(a), Stats. Third, this rulemaking establishes a schedule of charges for removal and storage of vehicles. Fourth, this rulemaking establishes that in order to qualify as “properly posted” under s. 349.13(3m)(a)(2), Stats., a conspicuous notice must be displayed and must contain the words “private property” and “tow-away zone.” Fifth, this rulemaking establishes that prior to removal of a vehicle, a towing service must contact the law enforcement agency with primary jurisdiction over the area where the vehicle is parked and provide descriptive information about the vehicle, as well as location and contact information for the location to which the car will be towed.

Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:

There is no existing or proposed federal regulation addressing towing vehicles parked on private property that are not authorized to be parked there.

Comparison with Rules in Adjacent States:

Illinois:

Generally, in Illinois, the owner or lessor of privately owned real property or any person authorized by such owner may cause any motor vehicle abandoned or left unattended upon such property without permission to be removed by a towing service without liability for the costs of removal, transportation, or storage or damage caused by such removal, transportation, or storage. The towing or removal of any vehicle from private property without the consent of the registered owner or other legally authorized person in control of the vehicle is subject to compliance with the following conditions and restrictions:

- Any towed or removed vehicle must be stored at the site of the towing service's place of business. This site must be open during business hours, and for the purpose of redeeming vehicles, during the time that the person or firm towing such vehicle is open for towing purposes.
- The towing service must, within 30 minutes of completion of such towing or removal, notify the law enforcement agency having jurisdiction of such towing or removal, and the make, model, color and license plate number of the vehicle, and shall obtain and record the name of the person at the law enforcement agency to whom such information was reported.
- If the registered owner or legally authorized person entitled to possession of the vehicle arrives at the scene prior to actual removal or towing of the vehicle, the vehicle must be disconnected from the tow truck and that person shall be allowed to remove the vehicle without interference, upon the payment of a reasonable service fee of not more than one half the posted rate of the towing service, as provided in the law, for which receipt must be given.
- The rebate of payment or payment of money or any other valuable consideration from the towing service or its owners, manager, or employees to the owners or operators of the premises from which the vehicles are towed or removed, for the privilege of removing or towing those vehicles, is prohibited. Any person who violates this requirement is guilty of a Class A misdemeanor.
- Except for property appurtenant to and obviously a part of a single family residence, and except for instances where notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which the vehicle is parked is reserved or otherwise unavailable to unauthorized vehicles and they are subject to being removed at the owner or operator's expense, any property owner or lessor, prior to towing or removing any vehicle from the private property without the consent of the owner or other legally authorized person in control of that vehicle, must post a notice meeting the following requirements:
 - Generally, the notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the sign must be posted not less than one sign each 100 feet of lot frontage. Alternatively, in a municipality with a population of less than 250,000, the notice for a parking lot

contained within property used solely for a 2-family, 3-family, 4-family residence may be prominently placed at the perimeter of the parking lot, in a position where the notice is visible to the occupants of the vehicles entering the lot.

- The notice must indicate clearly, in not less than 2 inch high light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense.

- The notice must also provide the name and current telephone number of the towing service towing or removing the vehicle.

- The sign structure containing the required notices must be permanently installed with the bottom of the sign not less than 4 feet above ground level, and must be continuously maintained on the property for not less than 24 hours prior to the towing or removing of any vehicle.

- Any towing service that tows or removes vehicles and proposes to require the owner, operator, or person in control of the vehicle to pay the costs of towing and storage prior to redemption of the vehicle must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services, and post at the storage site an identical rate schedule and any written contracts with property owners, lessor, or persons in control of property which authorize them to remove vehicles as provided in this section. There is a cap, however, set by the Illinois Commerce Commission.

- No person shall engage in the removal of vehicles from private property without filing a notice of intent in each community where he intends to do such removal, and such notice shall be filed at least 7 days before commencing such towing.

- No removal of a vehicle from private property shall be done except upon express written instructions of the owners or persons in charge of the private property upon which the vehicle is said to be trespassing.

- Vehicle entry for the purpose of removal shall be allowed with reasonable care on the part of the person or firm towing the vehicle. Such person or firm shall be liable for any damages occasioned to the vehicle if such entry is not in accordance with the standards of reasonable care.

- A vehicle towed must be released to its owners or custodian within one half hour after requested, if such request is made within business hours. Any vehicle owner or custodian or agent shall have the right to inspect the vehicle before accepting its return, and no release or waiver of any kind which would release the towing service from liability for damages incurred during the towing and storage may be required from any vehicle owner or other legally authorized person as a condition of release of that vehicle. A detailed, signed receipt showing the legal name of the towing service must be given to the person paying towing or storage charges at the time of payment, whether requested or not. Payment may be made using any major credit card, in addition to cash.

- Any person who fails to comply with these conditions and restrictions is guilty of a Class C misdemeanor and shall be fined not less than \$100 nor more than \$500.

Iowa:

In Iowa, the definition of “abandoned vehicle” includes a vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours. A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, may take into custody an abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity who is a garagekeeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority’s initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

A police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties’ last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model, and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of notice required pursuant to this subsection. The notice shall also state that the failure of the owner, lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders, and claimants of all right, title, claim, and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction.

If the abandoned vehicle was taken into custody by a private entity without a police authority’s initiative, the notice shall state that the private entity may claim a garagekeeper’s lien and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders, or claimants after the expiration of the ten-day reclaiming period.

If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice.

If an abandoned vehicle has not been reclaimed as provided for, the police authority or private entity shall make a determination as to whether or not the vehicle shall be sold for use upon the highways. If the vehicle is not sold for use upon the highways, it shall be sold for junk, or demolished and sold as scrap. The police authority or private entity shall sell the vehicle at public auction. A police authority or private entity may dispose of the vehicle to a demolisher for junk without public auction after complying with the notification procedures. The purchaser of the vehicle takes title free and clear of all liens and claims of ownership, shall receive a sales receipt from the police authority or private entity, and is entitled to register the vehicle and receive a certificate of title if sold for use upon the highways. If the vehicle is sold or disposed of to a demolisher for junk, the demolisher shall make application for a junking certificate to the county treasurer within thirty days of purchase and shall surrender the sales receipt in lieu of the certificate of title.

From the proceeds of the sale of an abandoned vehicle the police authority, if the police authority did not hire a private entity, shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing which resulted from placing the abandoned vehicle in custody, all notice and publication costs incurred, the cost of inspection, and any other costs incurred except costs of bookkeeping and other administrative costs. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for ninety days, and shall then be deposited in the road use tax fund. The costs to police authorities of auction, towing, preserving, storage, and all notice and publication costs, and all other costs which result from placing abandoned vehicles in custody, whenever the proceeds from a sale of the abandoned vehicles are insufficient to meet these expenses and costs, shall be paid from the road use tax fund and are the obligation of the last owner or owners, jointly and severally.

If a private entity has been hired by a police authority, the police authority shall file a claim with the State of Iowa Department of Transportation for reimbursement of towing fees which shall be paid from the road use tax fund. Reimbursement shall be limited to \$50 per vehicle for towing services, actual postage or publication costs for notice services, \$5 per day per vehicle, not to exceed 45 days, for storage services, 10% of the vehicle's sale price or \$10, whichever is less, for auction fees.

Michigan:

In Michigan, like in Iowa, the definition of "abandoned vehicle" includes a vehicle that has remained on private property without the consent of the owner. If a vehicle has remained on private property without the consent of the property owner, the owner of the private property may have the vehicle taken into custody as an abandoned vehicle by contacting a local towing

agency. A local towing agency is considered a towing agency whose storage lot is located within 15 miles from the border of the local unit of government having jurisdiction over the abandoned vehicle. Before removing the vehicle from private property, the towing agency must provide reasonable notice by telephone, or otherwise, to a police agency having jurisdiction over the vehicle that the vehicle is being removed. The police agency shall determine if the vehicle has been reported stolen and enter the vehicle into the law enforcement information network as an abandoned vehicle.

Within 24 hours after taking the abandoned vehicle into custody, the police agency shall notify the secretary of state through the law enforcement information network that the vehicle has been taken into custody as abandoned. Each notification shall contain the following information:

- The year, make, and vehicle identification number of the vehicle if available.
- The address or approximate location from which the vehicle was taken into custody.
- The date on which the vehicle was taken into custody.
- The name and address of the police agency that had the vehicle taken into custody.
- The name and business address of the custodian of the vehicle.
- The name of the court that has jurisdiction over the case.

Within 7 days after being notified, the secretary of state must do both of the following:

- Send to the owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle is considered abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form must contain the following information:
 - The year, make, and vehicle identification number of the vehicle if available.
 - The location from which the vehicle was taken into custody.
 - The date on which the vehicle was taken into custody.
 - The name of the towing agency that had the vehicle taken into custody.
 - The business address of the custodian of the vehicle.
 - The procedure to redeem the vehicle.
 - The procedure to contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees.
 - A form petition that the owner may file in person or by mail with the specified court that requests a hearing on the custodian's action.
 - A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

- Enter this information described on a website maintained by the department for public use in locating vehicles that are removed under this section as abandoned.

The owner may contest the fact that the vehicle is abandoned or, unless the towing fees and daily storage fees are established by contract with the local governmental unit or local law enforcement agency, the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing must be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing. An owner who requests a hearing may obtain release of the vehicle by posting with the court a towing and storage bond in an amount equal to \$40.00 plus the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying a fee of \$40.00 to the court plus the towing and storage fees instead of posting the towing and storage bond. An owner requesting a hearing but not taking possession of the vehicle shall post with the court a towing and storage bond in an amount equal to \$40.00 plus the accrued towing and storage fees.

If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying a fee of \$40.00 plus the accrued charges to the custodian of the vehicle. The custodian must forward \$25.00 of the fee collected to the secretary of state within 30 days after receipt in a manner prescribed by the secretary of state, who must deposit the fee into the abandoned vehicle fund. If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying a fee of \$40.00 and the accrued towing and storage fees to the custodian of the vehicle. The custodian must forward \$25.00 of the fee collected under this subsection to the secretary of state within 30 days after receipt in a manner prescribed by the secretary of state, who shall deposit the fee into the abandoned vehicle fund.

Not less than 20 days after the disposition of the hearing or, if a hearing is not requested, not less than 20 days after the date of the notice, the custodian of the vehicle must offer the vehicle for sale at a public sale. If the ownership of a vehicle that is considered abandoned cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale not less than 30 days after public notice of the sale has been published. The secretary of state must release a vehicle for disposition within 45 days after the vehicle is entered into the law enforcement information network as an abandoned vehicle.

Minnesota:

In Minnesota, the definition of “abandoned vehicle” includes a motor vehicle that has remained illegally on private property for a period of time without the consent of the person in control of the property; and lacks vital component parts or is in an inoperable condition such that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building. Further, an “unauthorized vehicle” subject to impoundment by units of government and peace officers is a vehicle that, while not an abandoned vehicle, has been on private property: (i) that is single-family or duplex residential

property, immediately; (ii) that is private, nonresidential property, properly posted, immediately; (iii) that is private, nonresidential property, not posted, 24 hours; (iv) that is private, nonresidential property of an operator of an establishment for the servicing, repair, or maintenance of motor vehicles, five business days after notifying the vehicle owner by certified mail, return receipt requested, of the property owner's intention to have the vehicle removed from the property; or (v) that is any residential property, properly posted, immediately. Such an unauthorized vehicle may also be towed. These provisions applicable to units of government and peace officers do not restrict the authority of the owner of private property to authorize the towing of a motor vehicle unlawfully parked on the private property. Indeed, private property owners seeking to have unauthorized vehicles removed from their property must make their own arrangements with a private towing service.

A person who tows and stores a motor vehicle at the request of a law enforcement officer shall have a lien on the motor vehicle for the value of the storage and towing and the right to retain possession of the motor vehicle until the lien is lawfully discharged. An impounded vehicle is eligible for disposal or sale 15 days after notice to the owner, if the vehicle is determined to be an abandoned vehicle. An unauthorized vehicle impounded by the city of Minneapolis or by the city of St. Paul is eligible for disposal or sale 15 days after notice is sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record. If, before the expiration of the 15-day period following notice of taking, the registered owner or lienholder of record delivers to the impound lot operator a written statement of intent to reclaim the vehicle, the vehicle is not eligible for disposal or sale until 45 days after the notice of taking, if the owner or lienholder has not reclaimed. If an unauthorized vehicle is impounded, other than by the city of Minneapolis or the city of St. Paul, the impounded vehicle is eligible for disposal or sale the earlier of 45 days after notice to the owner; or the date of a voluntary written title transfer by the registered owner to the impound lot operator. A voluntary written title transfer constitutes a waiver by the registered owner of any right, title, and interest in the vehicle.

For vehicles impounded by units of government and peace officers, the entity taking the vehicle into custody must give written notice of the taking within five days, excluding Saturdays, Sundays, and legal holidays, to the registered vehicle owner and any lienholders. The notice must:

- Set forth the date and place of the taking;
- Provide the year, make, model, and serial number of the impounded motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held;
- Inform the owner and any lienholders of their right to reclaim the vehicle
- State that failure of the owner or lienholders to:
 - Exercise their right to reclaim the vehicle within the appropriate time allowed under and under the appropriate conditions constitutes a waiver by them of all right, title, and interest in the vehicle and a consent to the transfer of title to and disposal or sale of the vehicle
 - Exercise their right to reclaim the contents of the vehicle within the appropriate time allowed and under the appropriate conditions, constitutes a waiver by

them of all right, title, and interest in the contents and consent to sell or dispose of the;
and

- State that a vehicle owner who provides to the impound lot operator documentation from a government or nonprofit agency or legal aid office that the owner is homeless, receives relief based on need, or is eligible for legal aid services, has the unencumbered right to retrieve any and all contents without charge.

The notice shall be sent by mail to the registered owner, if any, of an impounded vehicle and to all readily identifiable lienholders of record. This information must be made available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy. If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent, a second notice must be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record.

The owner or any lienholder of an impounded vehicle shall have a right to reclaim such vehicle from the unit of government or impound lot operator taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, after the date of the notice. Nothing impairs any lien of a garagekeeper, or the right of a lienholder to foreclose.

Summary of the Factual Data and Analytical Methodologies that the Agency Used in Support of the Proposed Rule and How Any Related Findings Support the Regulatory Approach Chosen for the Rule:

The proposed rule was drafted with input from towing services, governmental entities, and the Wisconsin Housing Alliance. The schedule of charges was based on a recommendation from the City of Milwaukee's tow lot management. The schedule was the result of a survey of municipalities throughout the state and nation. The average total charge for tow and storage among the surveyed municipalities was \$125 and the goal was to establish a schedule that would be in keeping with that average. The design and display of the required notice was largely based on existing design standards for other signage (e.g. handicapped parking signs as defined in Wis. Admin. Code ch. Trans 200), as well as standards in other states. The guidelines for tow services to provide notice to law enforcement were based on input from law enforcement.

Analysis Regarding Rule's Effect on Small Businesses:

There are many towing services throughout the state and it seems likely that some would qualify as a small business under s. 227.114, Stats. It is unknown what the impact to those businesses would be. While, this rulemaking seeks to establish a schedule of reasonable charges for removal and storage of vehicles, as detailed in the previous section, it is possible that the established charges will be more or less than the charges some small businesses currently assess.

Agency Contact Person:

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Division of State Patrol
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(608) 267-5136
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Place Where Comments Should Be Submitted and Deadline:

Comments may be submitted to the agency contact person listed above until the deadline given in the upcoming notice of public hearing. The deadline for submitting comments and the notice of public hearing will be posted on the Wisconsin Administrative Rules Website at <http://adminrules.wisconsin.gov> after the hearing is scheduled.

Exemption from Finding of Emergency:

The Legislature by 2013 Wisconsin Act. 76 s. 59(2) provides an exemption from a finding of emergency for the adoption of the rule.

TEXT OF EMERGENCY RULE

SECTION 1. Ch. Trans 319 is created to read:

CHAPTER TRANS 319

PROCEDURES AND FEES FOR TOWING ILLEGALLY PARKED VEHICLES

Trans 319.01 Scope.

This chapter applies to private property owners, traffic officers, parking enforcers, towing services, and law enforcement agencies involved in the removal of vehicles parked on private property which are not authorized to be parked there.

Trans 319.02 Definitions. The words and phrases defined in ss. 340.01 and 349.13(3m)(a), Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) “Law enforcement agency” means a governmental unit of one or more persons employed full time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

Trans 319.03 Charges for towing and storage.

(1) SCHEDULE. A towing service may charge the vehicle owner actual costs related to towing and storage, but not to exceed the following amounts:

- (a) \$105 for a regular tow.
- (b) \$120 for a flatbed tow.
- (c) \$20 per 24-hour period of outdoor storage.
- (d) \$25 per 24-hour period of indoor storage.
- (e) \$50 drop fee.
- (f) \$20 per tow dolly fee for indoor structures and blocked vehicles.
- (g) \$25 uninsured relocation fee.

(2) MUNICIPAL SERVICE FEE. If requested by the municipality in which the vehicle was parked, a towing service shall assess a fee not exceeding \$35 to the vehicle owner. This fee shall be in addition to any charges under subsection (1). The towing service shall remit the collected fee to the municipality.

(3) OTHER CHARGES. No person may assess a charge or fee not specified in this rule.

Trans 319.04 Properly posted notice requirements.

(1) SIGN DESCRIPTION.

- (a) The sign shall contain language indicating that parking of unauthorized vehicles is not allowed.

(b) The sign shall contain language indicating that unauthorized vehicles may be towed.

(c) The sign shall be conspicuously colored and legibly marked with contrasting letters not less than two inches in height.

(2) SIGN PLACEMENT. Each sign shall be erected on an adequate support. The vertical distance from the parking surface, or top of curb if any, to the bottom of a sign, shall be not less than 4 feet. Each sign shall be posted in a conspicuous location and shall be legible to any parking space subject to the notice.

Trans 319.05 Towing service notification requirements.

(1) LAW ENFORCEMENT AGENCIES. Each law enforcement agency shall provide a telephone number with message recording capabilities or an electronic mail address capable of receiving notice from towing services. Each law enforcement agency shall make such telephone number or electronic mail address publicly available.

(2) TOWING SERVICES. A towing service shall, prior to removing a vehicle, contact the law enforcement with primary jurisdiction over the area where the vehicle is parked.

(3) NOTICE. A towing service shall provide the following information to the law enforcement agency:

- (a) The make and model of the vehicle.
- (b) The license plate number of the vehicle.
- (c) The location from which the car will be removed.
- (d) The location to which the car will be towed.
- (e) A phone number of the location identified in par. (d).

SECTION 2. EFFECTIVE DATE. This emergency rule will take effect upon publication in the official state newspaper.

SECTION 3. INITIAL APPLICABILITY. This emergency rule first applies to vehicles parked on or after the effective date.

(END OF RULE TEXT)

Signed at Madison, Wisconsin, this ____ day of September

MARK GOTTLIEB, P.E.
Secretary
State of Wisconsin Department of Transportation