

CHAPTER 342

VEHICLE TITLE AND ANTI-THEFT LAW

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SUBCHAPTER I

CERTIFICATE OF TITLE

342.01 Words and phrases defined. (1) Words and phrases defined in s. 340.01 are used in the same sense in this chapter unless a different definition is specifically provided.

(2) In this chapter:

(ag) "Deliver" includes electronic transmission.

(am) "Leasing company" means any lessor who, within the preceding 12 months, has leased 5 or more vehicles for a period of at least 4 months.

(b) "Mileage" means the actual distance that a vehicle has traveled in miles.

(c) "Transfer" means to change ownership by purchase, gift or any other means.

History: 1993 a. 159; 1997 a. 27.

342.02 Excepted liens and security interests. This chapter does not apply to or affect:

(1) A lien given by statute or rule of law to a supplier of services or materials for the vehicle.

(2) A lien given by statute to the United States, this state or any political subdivision of this state.

(3) A security interest in a vehicle created by a manufacturer or dealer who holds the vehicle for sale, which shall be governed by the applicable provisions of ch. 409.

342.03 Motor vehicle, trailer or semitrailer leases. Notwithstanding s. 401.201 (37) or ch. 409, a transaction involving a motor vehicle, trailer or semitrailer does not create a conditional sale or a security interest merely because it includes a provision that permits or requires the rental price to be adjusted under the agreement by reference to the amount realized upon the sale or other disposition of the motor vehicle, trailer or semitrailer.

History: 1991 a. 148.

342.05 When certificate of title required. (1) The owner of a vehicle subject to registration in this state, whether or not such vehicle is operated on any highway of this state, shall make application for certificate of title for the vehicle under the following circumstances:

(a) If the owner has newly acquired the vehicle, he or she shall make application under s. 342.15.

(b) If the owner applies for registration of a vehicle without holding a valid certificate of title previously issued to that owner by the department for the vehicle, he or she shall at the same time apply for a certificate of title.

(2) Except as provided in sub. (3), an applicant's eligibility for a certificate of title is a prerequisite to registration of the vehicle. If the applicant for registration holds a valid certificate of title previously issued to the applicant by the department for the vehicle, that is prima facie evidence of ownership of the vehicle and the applicant need not apply for a new certificate of title on application for registration.

(3) This section does not apply in a situation where the law expressly authorizes registration of a vehicle in the name of a person other than the owner or where the law expressly authorizes registration without a certificate of title.

(4) Any owner who operates or consents to the operation of a vehicle for which a certificate of title is required without such certificate having been issued or applied for or any other person who operates a vehicle for which a certificate of title is required, knowing that the certificate of title has not been issued or applied for, may be required to forfeit not more than \$200. A certificate is considered to have been applied for when the application accompanied by the required fee has been delivered to the department or deposited in the mail properly addressed and with postage prepaid.

(5) Unless otherwise authorized by rule of the department, a nonresident owner of a vehicle that is not subject to registration in this state may not apply for a certificate of title under this chapter unless the vehicle is subject to a security interest or except as provided in s. 342.16 (1) (a). Notwithstanding any other provision of this section, a nonresident may purchase temporary operation plates under s. 341.09 (4). Any temporary operation permit or plate issued under s. 341.09 shall not be considered registration of the vehicle for purposes of this subsection.

History: 1971 c. 278; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1981 c. 150; 1987 a. 100 s. 3; 1993 a. 159.

342.06 Application for certificate of title. (1) An application for a certificate of title shall be made to the department upon a form or in an automated format prescribed by it and shall be

accompanied by the required fee. Each application for certificate of title shall include the following information:

- (a) The name and address of the owner.
- (b) A description of the vehicle, including make, identification number and any other information or documentation that the department may reasonably require for proper identification of the vehicle or for determination of the mileage of the vehicle as disclosed by prior transferors.
- (c) The date of purchase by the applicant, the name and address of the person from whom the vehicle was acquired and the names and addresses of any secured parties in the order of their priority.
- (d) If the vehicle is a new vehicle being registered for the first time, the signature of a dealer authorized to sell that new vehicle, the total of the number of tires normally used on the vehicle during its operation on the highways plus the number of any spare tires with which the vehicle is normally equipped and the manufacturer's document of origin. The document of origin shall contain the information specified by the department.
- (e) Any further evidence of ownership which may reasonably be required by the department to enable it to determine whether the owner is entitled to a certificate of title and the existence or nonexistence of security interests in the vehicle.
- (eg) Except as provided in par. (eh), if the applicant is an individual, the social security number of the applicant. The department of transportation may not disclose a social security number obtained under this paragraph to any person except to the department of workforce development for the sole purpose of administering s. 49.22.
- (eh) If the applicant does not have a social security number, a statement made or subscribed under oath or affirmation that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of workforce development. A certificate of title that is issued in reliance on a statement submitted under this paragraph is invalid if the statement is false.
- (em) Any further evidence which may reasonably be required by the department to enable it to determine whether any of the information specified in s. 342.10 (3) (c) to (g) may be applicable to the vehicle.
- (f) If the identification number of the vehicle has been removed, obliterated or altered, or if the original casting has been replaced, or if the vehicle has not been numbered by the manufacturer, the application for certificate of title shall so state. If the identification number of the vehicle was originally based on an engine number and the engine number is no longer pertinent to the vehicle because of subsequent engine changes and no other manufacturer's identification number, chassis number or serial number exists, the department shall assign a new identification number for the vehicle under s. 342.30 (1m).
- (g) If the vehicle is a used motor vehicle which was last previously registered in another jurisdiction, the applicant shall furnish any certificate of ownership issued by the other jurisdiction and a statement pertaining to the title history and ownership of such motor vehicle, such statement to be in the form the department prescribes.
- (h) If the applicant for certificate of title for a motor vehicle intends to utilize that vehicle as a taxicab or for public transportation, the applicant shall state that fact in the application. If the applicant knows that the vehicle has previously been used as a taxicab or for public transportation and that fact is not noted on the old certificate of title, the applicant shall state in the application that the vehicle has previously been so used.
- (hm) If the applicant for certificate of title for a motor vehicle intends to utilize that vehicle as a police vehicle by a law enforcement agency, the applicant shall state that fact in the application. If the applicant knows that the vehicle has previously been used as a police vehicle by a law enforcement agency and that fact is

not noted on the old certificate of title, the applicant shall state in the application that the vehicle has previously been so used.

(hr) If the vehicle is less than 7 years old, is damaged by collision or other occurrence to the extent that the estimated or actual cost, whichever is greater, of repairing the vehicle exceeds 30% of its fair market value and was transferred to an insurer upon payment of an insurance claim, the insurer shall state that fact in the application. If the applicant knows that the vehicle had been transferred to an insurer upon payment of an insurance claim and that fact is not noted on the old certificate of title, the applicant shall state in the application that the vehicle has previously been so transferred. This paragraph does not apply to salvage vehicles.

(i) The information required under s. 85.103 (2).

(j) For a motor vehicle of a model year less than 10 years old, the certificate of title of the person transferring the title to the applicant or, if applicable, the manufacturer's document of origin; the mileage disclosure statement required under s. 342.155 (1); and, if applicable, the power of attorney required under 15 USC 1988 or rules of the department.

(k) If the vehicle is an automobile, station wagon or motor truck having a registered weight of 8,000 pounds or less and a temporary operation plate has been issued for the vehicle under s. 341.09 (2m) (a) 1. b. or 2., the registration number of the temporary operation plate.

(1m) On the form or in the automated format for application for a certificate of title, the department may show the fee under s. 342.14 (3m) separately from the fee under s. 342.14 (1) or (3).

(2) Any person who knowingly makes a false statement in an application for a certificate of title is guilty of a Class H felony.

NOTE: Sub. (2) is shown as amended eff. 2–1–03 by 2001 Wis. Act 109. Prior to 2–1–03 it reads:

(2) Any person who knowingly makes a false statement in an application for a certificate of title may be fined not more than \$5,000 or imprisoned not more than 7 years and 6 months or both.

(3) Any person intending to use a vehicle as a taxicab or for public transportation who fails to state such intent in the application for certificate of title or any person who fails to furnish any other information required by sub. (1) (h) may be required to forfeit not more than \$1,000.

History: 1973 c. 218; 1975 c. 121, 286; 1977 c. 29 s. 1654 (7) (a); 1987 a. 110, 349; 1991 a. 39, 269, 309, 316; 1993 a. 63, 159, 165, 490; 1997 a. 27, 191, 283; 1999 a. 9, 80, 88; 2001 a. 109.

Cross Reference: See also chs. Trans 156 and 157, Wis. adm. code.

A violation of sub. (2) does not require that the person who makes the false statement must submit the application and is not limited to false statements made by an applicant. *State v. Williams*, 156 Wis. 2d 296, 456 N.W.2d 864 (Ct. App. 1990).

342.065 Title for salvage vehicle. (1) (a) A purchaser of a salvage vehicle that is not currently titled as a salvage vehicle shall, promptly after delivery to him or her of the salvage vehicle, apply for a salvage vehicle certificate of title by submitting to the department the properly assigned certificate of title under s. 342.15 (1) (c) or other evidence of ownership, the applicant's statement that the vehicle is a salvage vehicle, an application for a salvage certificate of title and the required fee.

(b) The owner of a salvage vehicle that is not currently titled as a salvage vehicle shall promptly apply for a salvage vehicle certificate of title by submitting to the department the certificate of title for the vehicle or other evidence of ownership, the applicant's statement that the vehicle is a salvage vehicle, an application for a salvage certificate of title and the required fee. This paragraph does not apply to a salvage vehicle that is purchased by a salvage vehicle purchaser subject to the requirements of par. (a).

(c) If the interest of an owner in a vehicle that is titled in this state is not transferred upon payment of an insurance claim that, including any deductible amounts, exceeds 70% of the fair market value of the vehicle, any insurer of the vehicle shall, within 30 days of payment of the insurance claim, notify the department in writing of the claim payment and that the vehicle meets the statu-

tory definition of a salvage vehicle, in the manner and form prescribed by the department.

(2) Upon notification from an insurer under sub. (1) (c), the department shall promptly notify the owner of the salvage vehicle that he or she is required to apply for a salvage vehicle certificate of title under sub. (1) (b).

(3) Upon compliance with the requirements of sub. (1), the department shall issue a salvage vehicle certificate of title for the vehicle. The certificate shall include the words “This is a salvage vehicle”.

(4) (a) Except as provided in par. (b), any person who violates sub. (1) may be required to forfeit not more than \$1,000.

(b) Any person who violates sub. (1) with intent to defraud is guilty of a Class H felony.

NOTE: Par. (b) is shown as amended eff. 2–1–03 by 2001 Wis. Act 109. Prior to 2–1–03 it reads:

(b) Any person who violates sub. (1) with intent to defraud may be fined not more than \$5,000 or imprisoned for not more than 7 years and 6 months or both.

History: 1993 a. 63 s. 5, 6, 11; 1997 a. 283; 2001 a. 109.

342.07 Title for repaired salvage vehicle. (1) Application for registration of and a new certificate of title for a repaired salvage vehicle must be accompanied by all of the following:

(a) The required fees.

(b) A properly assigned salvage certificate of title or a properly assigned certificate of title by a dealer under s. 342.16 (1) (a) for the vehicle.

(c) Any other transfer document required by law.

(d) The certificate of inspection under sub. (4).

(2) A repaired salvage vehicle may not be registered or be issued a new certificate of title until an inspector authorized by the department examines it for the following, as specified in rules promulgated by the department:

(a) To determine whether the vehicle is the same vehicle for which the title submitted under sub. (1) was issued;

(b) To verify the source and ownership of the major parts and components used to recondition the vehicle; and

(c) To determine whether the vehicle is in compliance with safety equipment requirements.

(3) (a) The applicant shall pay a fee of \$80 to the department for the examination in sub. (2).

(b) If the examination is conducted by an inspector employed by a city, village, town or county, 75% of the fee paid under par. (a) shall be credited to the appropriation under s. 20.395 (5) (ch) and the city, village, town or county employing the inspector shall be reimbursed this amount from that appropriation.

(4) If the vehicle passes the examination in sub. (2), the inspector shall provide the applicant with an inspection certificate showing that the vehicle satisfies the inspection standards.

History: 1975 c. 385, 421; 1977 c. 29 s. 1654 (7) (a); 1987 a. 349; 1993 a. 16, 437; 1999 a. 9.

Cross Reference: See also ch. Trans 149, Wis. adm. code.

342.08 Department to examine records. The department shall check the application for a certificate of title against the records of stolen vehicles in the department of justice:

(1) Before issuing a certificate of title for a vehicle last previously registered in another jurisdiction.

(2) Upon receipt of an application for a certificate of title showing a transfer of ownership of a vehicle.

History: 1973 c. 169; 1977 c. 29 s. 1654 (7) (a); 1987 a. 349.

Cross Reference: See also ch. Trans 196, Wis. adm. code.

342.09 When department to issue certificate and to whom; maintenance of records. (1) The department shall maintain a record of each application for certificate of title received by it and, when satisfied as to its genuineness and regularity and that the applicant is entitled to the issuance of a certificate of title, shall issue and deliver a certificate to the owner of the vehicle.

(2) The department shall maintain a record of all applications and all certificates of title issued by it:

(a) According to title number.

(b) According to engine or identification number.

(c) Alphabetically, according to name of owner.

(d) In any other manner which the department determines to be desirable.

(3) The department shall charge a fee of not less than \$2 for conducting a file search of vehicle title records.

History: 1977 c. 29 s. 1654 (7) (a); 1979 c. 221; 1989 a. 31.

Cross Reference: See also chs. Trans 157 and 195, Wis. adm. code.

342.10 Contents of certificate of title. (1) Each certificate of title issued by the department shall contain:

(a) The name and address of the owner.

(b) The names of any secured parties in the order of priority as shown on the application or, if the application is based on another certificate of title, as shown on such certificate.

(bm) Notwithstanding s. 342.02 (2), if the applicant is named in a statewide support lien docket provided under s. 49.854 (2) (b), a notation stating “Per section 49.854 (2) of the Wisconsin Statutes, the state of Wisconsin has a lien on this vehicle for unpaid support.”

(c) The title number assigned to the vehicle.

(d) A description of the vehicle, including make and identification number, except that if the vehicle was last registered in another jurisdiction the make and model contained in the certificate shall be the make and model contained in the last certificate of title issued by the other jurisdiction.

(dm) The mileage disclosure statement required under s. 342.155, and any notations or qualifying statements explaining the odometer reading specified by the department by rule.

(e) Any other data which the department deems pertinent and desirable.

(2) (a) The certificate of title shall contain spaces for all of the following:

1. Assignment and warranty of title by the owner.

2. The mileage disclosure statement required by s. 342.155.

3. Reassignment and warranty of title by a dealer or wholesaler.

4. Any information required by the department when a motor vehicle is sold at a motor vehicle auction or motor vehicle salvage pool.

(b) The certificate of title may contain spaces for application for a certificate of title by a transferee and for the naming of a secured party and the assignment or release of a security interest.

(3) Before issuing a new or duplicate certificate of title for a motor vehicle, the department shall permanently record any of the following information, if applicable, on such certificate:

(a) That the vehicle was previously licensed and used as a taxicab or for public transportation.

(b) That the vehicle was previously licensed and used as a police vehicle by a law enforcement agency.

(c) That the vehicle was not manufactured in compliance with all federal emission and safety standards applicable at the time of manufacture, whether or not the vehicle was subsequently modified to meet such standards, and that the vehicle is “non–USA standard”.

(d) That the vehicle was a flood damaged vehicle.

(e) That the vehicle was a manufacturers buyback vehicle.

(f) That the vehicle was previously a salvage vehicle.

(g) That the vehicle was transferred to an insurer upon payment of an insurance claim. This paragraph does not apply to salvage vehicles.

(h) That the vehicle was a hail–damaged vehicle. This paragraph does not apply to a hail–damaged vehicle that was repaired with any replacement part, as defined in s. 632.38 (1) (e).

(4) Unless the applicant fulfills the requirements of s. 342.12 (3), a distinctive certificate of title shall be issued for a vehicle last previously registered in another jurisdiction the laws of which do not require that secured parties be named on a certificate of title to perfect their security interests. The certificate shall contain the legend “This vehicle may be subject to an undisclosed security interest” and may contain any other information the department prescribes. If no notice of a security interest in the vehicle is received by the department within 4 months from the issuance of the distinctive certificate of title, it shall, upon application and surrender of the distinctive certificate, issue a certificate of title in ordinary form.

(5) A certificate of title issued by the department is prima facie evidence of the facts appearing on it.

(6) A certificate of title may be issued by the department in an automated format.

History: 1977 c. 29 s. 1654 (7) (a); 1977 c. 79; 1987 a. 349; 1993 a. 63, 159, 491; 1997 a. 27, 191; 1999 a. 9, 80, 186; 2001 a. 109.

A certificate of title is not conclusive evidence of ownership. The purpose of sub. (5) is to furnish convenient evidence of vehicle ownership. *National Exchange Bank of Fond du Lac v. Mann*, 81 Wis. 2d 352, 260 N.W.2d 716 (1977).

342.11 Grounds for refusing issuance of certificate of title. The department shall refuse issuance of a certificate of title if any required fee has not been paid or for any of the following reasons:

(1) The department has reasonable grounds to believe that:

(a) The person alleged to be the owner of the vehicle is not the owner.

(b) The application contains a false or fraudulent statement.

(2) The applicant has failed to furnish any of the following:

(a) If applicable, the power of attorney required under 15 USC 1988 or rules of the department.

(b) Unless exempted by rule of the department, the mileage disclosure from the most recent titled owner and of all subsequent nontitled owners of the vehicle.

(c) Any other information or documents required by law or by the department pursuant to authority of law.

(3) The applicant is a motor vehicle dealer and is prohibited from applying for a certificate of title under s. 342.16 (1) (a) or (c).

(4) Except as provided in ss. 342.05 (5) and 342.16 (1) (a) for a certificate of title and registration for a vehicle owned by a nonresident, the applicant is a nonresident and the issuance of a certificate of title has not otherwise been authorized by rule of the department. Any temporary operation permit or plate issued under s. 341.09 shall not be considered registration of the vehicle for purposes of this subsection.

History: 1977 c. 29 s. 1654 (7) (a); 1993 a. 159.

342.12 Withholding certificate of title; bond. (1) No certificate of title shall be issued by the department until the outstanding evidence of ownership is surrendered to the department.

(2) If the department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the department, subject to sub. (3), shall either:

(a) Withhold issuance of a certificate of title until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant’s ownership of the vehicle and that there are no undisclosed security interests in it; or

(b) Issue a distinctive certificate of title pursuant to s. 342.10 (4).

(3) Notwithstanding sub. (2), the department may issue a non-distinctive certificate of title if the applicant fulfills either of the following requirements:

(a) The applicant is a dealer licensed under ss. 218.0101 to 218.0163 or 218.11 and is financially responsible as substantiated by the last financial statement on file with the licensor, a finance company licensed under ss. 138.09 or 218.0101 to 218.0163, a bank organized under the laws of this state, or a national bank located in this state; or

(b) The applicant has filed with the department a bond in the form prescribed by the department and executed by the applicant, and either accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to one and one-half times the value of the vehicle as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney fees, by reason of the issuance of the certificate of title for the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of 5 years or prior thereto if, apart from this section, a nondistinctive certificate of title could then be issued for the vehicle, or if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

(4) (a) The district attorney shall notify the department when he or she files a criminal complaint against a person who has been arrested for violating s. 346.63 (1) or (2), 940.09 (1) or 940.25 and who has 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1). Except as provided under par. (c), the department may not issue a certificate of title transferring ownership of the motor vehicle owned by the person and involved in the violation upon receipt of a notice under this subsection until the court assigned to hear the criminal complaint issues an order permitting the department to issue a certificate of title.

(b) Except as provided under par. (c), the department may not issue a certificate of title transferring ownership of the motor vehicle owned by a person and involved in the violation upon receipt of a notice of intent to revoke the person’s operating privilege under s. 343.305 (9) (a), if the person has 3 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), until the court assigned to the hearing under s. 343.305 (9) issues an order permitting the department to issue a certificate of title.

(c) 1. The department shall issue a certificate of title transferring ownership of a motor vehicle that was subject to the restrictions under par. (a) or (b) if all of the following conditions are met:

a. The person requesting the issuance of the certificate of title purchased the motor vehicle in good faith and without knowledge of the criminal complaint described in par. (a) or of the notice of intent to revoke a person’s operating privilege under par. (b).

b. The certificate of title to the motor vehicle does not contain the notation stamped on the certificate of title by the clerk of circuit court under s. 346.65 (6) (a) 2m.

c. The person requesting the issuance of the certificate of title files an affidavit with the department attesting that the conditions under subd. 1. a. and b. are met.

d. The department has no valid reason for not issuing a certificate of title other than the prohibitions under par. (a) or (b).

2. Any person providing a false affidavit under subd. 1. c. shall forfeit not more than \$1,000.

History: 1973 c. 116 s. 6; 1977 c. 29 s. 1654 (7) (a); 1991 a. 39, 277; 1993 a. 317, 490; 1997 a. 199, 237; 1999 a. 31, 109, 179, 185.

342.13 Lost, stolen or mutilated certificates. (1) If a certificate of title is lost, stolen, mutilated or destroyed or becomes illegible, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly make application for and may obtain a replacement upon furnishing information satisfactory to the department. The replacement certificate of title shall contain the legend “This is a replacement certificate and may be subject to the rights of a person under the original certificate”. If applicable under s. 346.65 (6),

the replacement certificate of title shall include the notation “Per section 346.65 (6) of the Wisconsin statutes, ownership of this motor vehicle may not be transferred without prior court approval”.

(3) A person recovering an original certificate of title for which a replacement has been issued shall promptly surrender the original certificate to the department.

History: 1975 c. 297; 1977 c. 29 s. 1654 (7) (a); 1991 a. 239; 1993 a. 475.

342.14 Fees. The department shall be paid the following fees:

(1) For filing an application for the first certificate of title, \$8.50, by the owner of the vehicle.

(1r) Upon filing an application under sub. (1) or (3), an environmental impact fee of \$9, by the person filing the application. All moneys collected under this subsection shall be credited to the environmental fund for environmental management. This subsection does not apply after December 31, 2003.

(2) For the original notation and subsequent release of each security interest noted upon a certificate of title, a single fee of \$4 by the owner of the vehicle.

(3) For a certificate of title after a transfer, \$8.50, by the owner of the vehicle.

(3m) Upon filing an application under sub. (1) or (3), a supplemental title fee of \$7.50 by the owner of the vehicle, except that this fee shall be waived with respect to an application under sub. (3) for transfer of a decedent’s interest in a vehicle to his or her surviving spouse. The fee specified under this subsection is in addition to any other fee specified in this section.

(4) For each assignment of a security interest noted upon a certificate of title, \$1 by the assignee.

(5) For a replacement certificate of title, \$8, by the owner of the vehicle.

(7) For processing applications for certificates of title which have a special handling request for fast service, a fee to be established by rule which shall approximate the cost to the department for providing this special handling service to persons so requesting.

(8) For the reinstatement of a certificate of title previously suspended or revoked, \$25, except that if the certificate of title and registration of a vehicle are suspended or revoked as a result of the same occurrence, payment of the fee under s. 341.36 (1) shall apply to the reinstatement of both the registration and certificate of title. The fee under this subsection is in addition to any other fee specified in this section.

History: 1975 c. 39, 297, 422; 1977 c. 29 ss. 1452, 1654 (7) (a); 1977 c. 418; 1979 c. 221; 1981 c. 20; 1983 a. 27; 1987 a. 110; 1989 a. 31, 137, 359; 1991 a. 309; 1993 a. 159; 1995 a. 27; 1997 a. 27; 1999 a. 9, 80; 2001 a. 16.

Cross Reference: See also ch. *Trans 196*, Wis. adm. code.

SUBCHAPTER II

TRANSFER OF TITLE

342.15 Transfer of interest in a vehicle. (1) (a) If an owner transfers an interest in a vehicle, other than by the creation of a security interest, the owner shall comply with the requirements of s. 342.155 and, at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate, and cause the certificate to be mailed or delivered to the transferee, except that if the vehicle being transferred is a junk vehicle or has been junked, the owner shall return the certificate to the department in accordance with s. 342.34.

(bm) No person may transfer a motor vehicle without disclosing in writing to the transferee whether any of the information specified in s. 342.10 (3) is applicable to the vehicle. No transferor shall knowingly give a false statement to a transferee in making the disclosure. The department shall prescribe the manner in which the written disclosure shall be made and retained.

(c) If an owner transfers his or her interest in a salvage vehicle, the owner shall at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate, and cause the certificate to be mailed or delivered to the transferee.

(d) Notwithstanding s. 340.01 (42), any person who holds legal title to a vehicle with one or more other persons may, after June 1, 1997, transfer ownership of the vehicle under this subsection if legal title to the vehicle is held in the names of such persons in the alternative, including a vehicle held in a form designating the holder by the words “(name of one person) or (name of other person)”.

(2) Except as provided in s. 342.16, the transferee shall, promptly after delivery to him or her of the vehicle, execute the application for a new certificate of title in the space provided on the certificate or as the department prescribes, and deliver or mail the certificate and application to the department. A salvage vehicle purchaser shall comply with s. 342.065 (1) (a).

(3) Except as provided in s. 342.16 and as between the parties, a transfer by an owner is not effective until the provisions of this section have been complied with. An owner who has delivered possession of the vehicle to the transferee and has complied with the provisions of this section is not liable as owner for any damages thereafter resulting from operation of the vehicle.

(4) (a) If the vehicle being transferred is a motorcycle or an automobile registered under s. 341.27 or a motor home or a motor truck, dual purpose motor home or dual purpose farm truck which has a gross weight of not more than 8,000 pounds or a farm truck which has a gross weight of not more than 12,000 pounds, the owner shall remove the registration plates and retain and preserve them for use on any other vehicle of the same type and gross weight which may subsequently be registered in his or her name.

(b) If the vehicle being transferred is a vehicle registered under s. 341.26 at a special fee and the new owner will not be entitled to register the vehicle at such fee, the transferor shall remove and destroy the plates.

(c) In all other cases the transferor shall permit the plates to remain attached to the vehicle being transferred, except that if the vehicle has been junked the transferor shall remove and destroy the plates.

(5) Any owner of a vehicle for which a certificate of title has been issued, who upon transfer of the vehicle fails to execute and deliver the assignment and warranty of title required by sub. (1), may be required to forfeit not more than \$500.

(5m) (a) Except as provided in par. (b), any person who violates sub. (1) (bm) may be required to forfeit not more than \$1,000.

(b) Any person who violates sub. (1) (bm) with intent to defraud may be fined not more than \$5,000.

(6) (a) Except as provided in s. 342.16, any transferee of a vehicle who fails to make application for a new certificate of title immediately upon transfer to him or her of a vehicle may be required to forfeit not more than \$200. A certificate is considered to have been applied for when the application accompanied by the required fee has been delivered to the department or deposited in the mail properly addressed with postage prepaid.

(b) Except as provided in s. 342.16, any transferee of a vehicle who with intent to defraud fails to make application for a new certificate of title immediately upon transfer to him or her of a vehicle may be fined not more than \$1,000 or imprisoned for not more than 30 days or both. A certificate is considered to have been applied for when the application accompanied by the required fee has been delivered to the department or deposited in the mail properly addressed with postage prepaid.

(7) Any owner of a vehicle currently registered in this state who fails to comply with the requirements of sub. (4) may be required to forfeit not more than \$200.

History: 1971 c. 278; 1975 c. 121, 199; 1977 c. 29 ss. 1453, 1654 (7) (a); 1977 c. 79, 129, 203, 418, 447; 1983 a. 126, 227, 270, 538; 1985 a. 29, 202, 332; 1987 a. 349; 1993 a. 63, 159; 1995 a. 421; 1997 a. 27; 1999 a. 9, 80.

342.155 Mileage disclosure requirements of transferors and transferees. (1) (a) Unless exempted by rule of the department, no transferor may transfer ownership of a motor vehicle without disclosing the vehicle's mileage in writing to the transferee by specifying the odometer reading. The disclosure shall state either that the reading is known to be actual mileage, or that the reading is not the actual mileage and should not be relied upon, or that the reading reflects the mileage in excess of the designed mechanical limit.

(b) The mileage disclosure statement required under par. (a) shall be made in the spaces provided on the certificate of title or on a form or in an automated format authorized by the department. The transferee shall print his or her name on the mileage disclosure statement, sign the statement and return a copy of the statement to the transferor. Except as authorized by rule of the department, no person may sign a mileage disclosure statement as both the transferor and transferee in the same transaction.

(c) The department shall promulgate rules that do all of the following:

1. Establish the form and manner of the mileage disclosure.
2. Identify which vehicles are exempt from the mileage disclosure requirements under this subsection.
3. Prescribe the mileage disclosure requirements applicable to leasing companies and their lessees.
4. Establish requirements relating to the creation, retention and inspection of mileage disclosure records of persons who acquire or consign motor vehicles for resale or lease, including motor vehicle salvage pools and auction dealers.
5. Establish the form content and format and procedures for any power of attorney disclosing a vehicle's mileage for purposes of this section.
6. Identify and define terms relating to the mileage disclosure requirement.

(2) No transferor may knowingly make a false statement, including providing an odometer reading that is different from the actual reading on the odometer, in disclosing the vehicle's mileage to a transferee under this section.

(3) No transferee, nor any other person, may alter, erase or obliterate any information, including the mileage disclosure, contained on any mileage disclosure statement.

(4) (a) Except as provided in par. (b), any person who violates this section may be required to forfeit not more than \$1,000.

(b) Any person who violates this section with intent to defraud may be fined not more than \$5,000 or imprisoned for not more than 7 years and 6 months or both is guilty of Class H felony.

NOTE: Par. (b) is shown as amended eff. 2-1-03 by 2001 Wis. Act 109. Prior to 2-1-03 it reads:

(b) Any person who violates this section with intent to defraud may be fined not more than \$5,000 or imprisoned for not more than 7 years and 6 months or both.

History: 1993 a. 159; 1997 a. 27, 283; 2001 a. 109.

Cross Reference: See also ch. Trans 154, Wis. adm. code.

342.156 Transfers of leased motor vehicles. (1) Prior to transferring ownership of any leased motor vehicle, the lessor shall notify in writing the lessee of the vehicle that the lessee is required to provide the lessor with a written disclosure specifying the leased vehicle's mileage. The written notification shall include the mileage disclosure requirements applicable to the lessee under 49 CFR 580.7 and rules of the department and the penalties for failure to comply with those requirements.

(2) Upon termination of the lease after written notification from the lessor under sub. (1), the lessee shall disclose the vehicle's mileage in writing to the lessor. The mileage disclosure record under this section shall be signed by the lessee and include the information required under sub. (1) and rules of the department.

(3) The lessor shall retain and make available for inspection any mileage disclosure record required to be made by a lessee with respect to a leased motor vehicle.

(4) If a lessor transfers ownership of a leased motor vehicle without obtaining possession of the vehicle from the lessee, the lessor may, in making the mileage disclosure statement required under s. 342.155, indicate on the certificate of title or on a supplemental mileage disclosure statement approved by the department, the mileage disclosed by the lessee under this section unless the lessor has reason to believe that the lessee's mileage disclosure does not reflect the actual mileage of the vehicle.

(5) The department shall promulgate rules to do all of the following:

(a) Specify the information to be included in the lessee's mileage disclosure to the lessor.

(b) Establish the manner in which and the period of time for which mileage disclosure records under this section shall be retained and made available for inspection.

(6) (a) Except as provided in par. (b), any person who violates this section may be required to forfeit not more than \$1,000.

(b) Any person who violates this section with intent to defraud is guilty of a Class H felony.

NOTE: Par. (b) is shown as amended eff. 2-1-03 by 2001 Wis. Act 109. Prior to 2-1-03 it reads:

(b) Any person who violates this section with intent to defraud may be fined not more than \$5,000 or imprisoned for not more than 7 years and 6 months or both.

History: 1993 a. 159; 1997 a. 283; 2001 a. 109.

342.157 Motor vehicle salvage pools and auction companies to maintain records. For each motor vehicle sold by a motor vehicle salvage pool or auction company, the motor vehicle salvage pool or auction company shall establish and maintain a record of each sale, including the mileage disclosure of the transferor under s. 342.155. The department shall specify by rule the information that shall be included in such records and the manner in which and the period of time for which the records shall be maintained.

History: 1993 a. 159.

342.16 Transfer to or from dealer. (1) (a) Except as provided in par. (c), if a dealer acquires a new or used vehicle that is not a salvage vehicle and holds it for resale, or acquires a salvage vehicle that is currently titled as a salvage vehicle and holds it for resale or accepts a vehicle for sale on consignment, the dealer may not submit to the department the certificate of title or application for certificate of title naming the dealer as owner of the vehicle. Upon transferring the vehicle to another person, the dealer shall immediately give the transferee on a form prescribed by the department a receipt for all title, registration, security interest and sales tax moneys paid to the dealer for transmittal to the department when required. The dealer shall promptly execute the assignment and warranty of title, showing the name and address of the transferee and of any secured party holding a security interest created or reserved at the time of the resale or sale on consignment, in the spaces provided therefor on the certificate or as the department prescribes. Within 7 business days following the sale or transfer, the dealer shall mail or deliver the certificate or application for certificate to the department with the transferee's application for a new certificate. A nonresident who purchases a motor vehicle from a dealer in this state may not, unless otherwise authorized by rule of the department, apply for a certificate of title issued for the vehicle in this state unless the dealer determines that a title is necessary to protect the interests of a secured party. The dealer is responsible for determining whether a title and perfection of security interest is required. The dealer is liable for any damages incurred by the department or any secured party for the dealer's failure to perfect a security interest which the dealer had knowledge of at the time of sale.

(b) A dealer who assists a transferee in the registration of a vehicle as provided in par. (a) and s. 341.25 (3) shall not be liable for damages caused by operation of the vehicle at a weight in excess of the manufacturer's maximum gross weight rating.

(c) Except when all available spaces for a dealer's or wholesaler's reassignment on a certificate of title have been completed or as otherwise authorized by rules of the department, a dealer or wholesaler who acquires a new or used vehicle that is not a salvage vehicle and holds it for resale, or acquires a salvage vehicle that is currently titled as a salvage vehicle and holds it for resale or accepts a vehicle for sale on consignment may not apply for a certificate of title naming the dealer or wholesaler as owner of the vehicle. The rules may regulate the frequency of application by a dealer or wholesaler for transfer of registration or credits for registration from a previously registered vehicle to another vehicle that the dealer or wholesaler intends to register in his or her own name.

(d) Unless exempted by rule of the department, a dealer or wholesaler who acquires a new or used vehicle that is not a salvage vehicle and holds it for resale or acquires a salvage vehicle currently titled as a salvage vehicle and holds it for resale shall make application for a certificate of title naming the dealer or wholesaler as owner of the vehicle when all of the available spaces for a dealer's or wholesaler's reassignment on the certificate of title for such vehicle have been completed.

(1g) No transferee who, for the purpose of resale, accepts a motor vehicle on consignment or acquires ownership of a motor vehicle may accept any mileage disclosure required under s. 342.155 or rules of the department if the mileage disclosure has been altered or is incomplete.

(1r) No motor vehicle dealer or motor vehicle salesperson may transfer a motor vehicle without disclosing in writing to the transferee whether any of the information specified in s. 342.10 (3) is applicable to the vehicle. No motor vehicle dealer or motor vehicle salesperson may knowingly give a false statement to a transferee in making the disclosure. The department shall prescribe the manner in which the written disclosure shall be made and retained.

(2) Every dealer shall maintain for 5 years a record in the form the department prescribes of every vehicle bought, sold or exchanged, or received for sale or exchange, which shall be open to inspection by a representative of the department or a peace officer during reasonable business hours.

(3) Except as provided in sub. (4), any dealer who fails to comply with this section may be required to forfeit not more than \$200.

(4) (a) Except as provided in par. (b), any dealer who violates sub. (1r) may be required to forfeit not more than \$1,000.

(b) Any dealer who violates sub. (1r) with intent to defraud may be fined not more than \$5,000.

History: 1973 c. 218; 1975 c. 121, 286, 351, 421; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273, 418; 1981 c. 150, 151, 391; 1985 a. 29, 202, 332; 1987 a. 100, 349; 1989 a. 31; 1991 a. 239; 1993 a. 63, 159; 1999 a. 9.

342.17 Involuntary transfers. **(1)** If the interest of an owner in a vehicle passes to another other than by voluntary transfer, the transferee shall, except as provided in sub. (2), promptly mail or deliver to the department the last certificate of title, if available, and the documents required by the department to legally effect such transfer, and an application for a new certificate in the form the department prescribes.

(2) If the interest of the owner is terminated or the vehicle is sold under a security agreement by a secured party named in the certificate of title, the transferee shall promptly mail or deliver to the department the last certificate of title, an application for a new certificate in the form the department prescribes, and a statement made by or on behalf of the secured party that the vehicle was repossessed and that the interest of the owner was lawfully terminated or sold pursuant to the terms of the security agreement.

(3) A person holding a certificate of title whose interest in the vehicle has been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the department

upon request of the department. The delivery of the certificate pursuant to the request of the department does not affect the rights of the person surrendering the certificate, and the action of the department in issuing a new certificate of title as provided herein is not conclusive upon the rights of an owner or secured party named in the old certificate.

(4) (a) In all cases of the transfer of a vehicle owned by a decedent, except under par. (b), ward, trustee or bankrupt, the department shall accept as sufficient evidence of the transfer of ownership the following:

1. Evidence satisfactory to the department of the issuance of the letters testamentary or other letters authorizing the administration of an estate, letters of guardianship, or letters of trust, or of the appointment of the trustee in bankruptcy;

2. The title executed by the personal representative, guardian, or trustee; and

3. The evidence concerning payment of sales or use taxes required by s. 77.61 (1) or evidence that the transfer is exempt from such taxes.

(b) 1. The department shall transfer the decedent's interest in any vehicle to his or her surviving spouse upon receipt of the title executed by the surviving spouse and a statement by the spouse which shall state:

a. The date of death of the decedent;

b. The approximate value and description of the vehicle; and

c. That the spouse is personally liable for the decedent's debts and charges to the extent of the value of the vehicle, subject to s. 859.25.

2. The transfer shall not affect any liens upon the vehicle.

3. Except as provided in subd. 4., this paragraph is limited to no more than 5 vehicles titled in this state that are less than 20 years old at the time of the transfer under this paragraph. There is no limit on transfer under this paragraph of vehicles titled in this state that are 20 or more years old at the time of transfer under this paragraph.

4. The limit in subd. 3. does not apply if the surviving spouse is proceeding under s. 867.03 (1g) and the total value of the decedent's solely owned property in the state, including the vehicles transferred under this paragraph, does not exceed \$20,000.

(c) Upon compliance with this subsection neither the secretary nor the department shall bear any liability or responsibility for the transfer of such vehicles in accordance with this section.

(d) This subsection does not apply to transfer of interest in a vehicle under s. 342.15 (1) (d).

History: 1971 c. 164 s. 82; 1973 c. 40, 243; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1985 a. 141; 1991 a. 125, 239; 1995 a. 338, 421; 1997 a. 27; 1999 a. 94; 2001 a. 102.

342.18 When department to issue a new certificate.

(1) The department, upon receipt of a properly assigned certificate of title, with an application for a new certificate of title, the required fee and any other transfer documents required by law, to support the transfer, shall issue a new certificate of title in the name of the transferee as owner.

(2) The department, upon receipt of an application for a new certificate of title by a transferee other than by voluntary transfer, with proof of the transfer, the required fee and any other documents required by law, shall issue a new certificate of title in the name of the transferee as owner. If the transfer constituted a termination of the owner's interest or a sale under a security agreement by a secured party named in the certificate, under s. 342.17 (2), the new certificate shall be issued free of the names and addresses of the secured party who terminated the owner's interest and of all secured parties subordinate under s. 342.19 to such secured party. If the outstanding certificate of title is not delivered to it, the department shall make demand therefor from the holder of such certificate.

(3) The department shall retain for 5 years a record of every surrendered certificate of title, the record to be maintained so as to permit the tracing of title of the vehicle designated therein.

(4) Under each of the following circumstances only, the department shall issue a certificate of title for a transferred vehicle without requiring registration of the vehicle:

(a) Whenever application therefor accompanied by the required fee is made by a finance company licensed under ss. 138.09 or 218.0101 to 218.0163, a bank organized under the laws of this state, or a national bank located in this state, and the vehicle in question is a used vehicle for which the department had issued a certificate of title to the previous owner or a vehicle previously registered in another jurisdiction or is a recreational vehicle.

(b) Whenever application therefor accompanied by the required fee is made by any other person and the vehicle in question is a vehicle for which the department had issued a certificate of title to the previous owner or is a vehicle previously registered in another jurisdiction or is a recreational vehicle and the department is satisfied that the present owner has not operated or consented to the operation of the vehicle since it was transferred to that owner and that he or she understands that the certificate of title merely is evidence of ownership of the vehicle and does not authorize operation of the vehicle on the highways of this state.

(c) Whenever application therefor accompanied by the required fee is made by a dealer or wholesaler to comply with the requirements of s. 342.16 (1) (d).

History: 1973 c. 116 s. 6; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1989 a. 31; 1993 a. 159; 1999 a. 9, 31, 186.

342.19 Perfection of security interests. (1) Unless excepted by s. 342.02, a security interest in a vehicle of a type for which a certificate of title is required is not valid against creditors of the owner or subsequent transferees or secured parties of the vehicle unless perfected as provided in this chapter.

(2) Except as provided in sub. (2m), a security interest is perfected by the delivery to the department of the existing certificate of title, if any, an application for a certificate of title containing the name and address of the secured party, and the required fee. It is perfected as of the later of the time of its delivery or the time of the attachment of the security interest.

(2m) If a secured party whose name and address is contained on the certificate of title for a vehicle acquires a new or additional security interest in the vehicle, such security interest is perfected at the time of its attachment under s. 409.203.

(3) An unperfected security interest is subordinate to the rights of persons described in ss. 409.317 and 409.323.

(4) The rules of priority stated in s. 409.322, the other sections therein referred to, and subch. III of ch. 409 shall, to the extent appropriate, apply to conflicting security interests in a vehicle of a type for which a certificate of title is required. A security interest perfected under this section is a security interest perfected otherwise than by filing for purposes of subch. III of ch. 409.

(5) The rules stated in subch. VI of ch. 409 governing the rights and duties of secured parties and debtors and the requirements for, and effect of, disposition of a vehicle by a secured party, upon default shall, to the extent appropriate, govern the rights of secured parties and owners with respect to security interests in vehicles perfected under this chapter.

(6) If a vehicle is subject to a security interest when brought into this state, s. 409.316 states the rules which apply to determine the validity and perfection of the security interest in this state.

History: 1973 c. 336 s. 79; 1975 c. 286, 422; 1977 c. 29 s. 1654 (7) (a); 1999 a. 179; 2001 a. 10.

Ch. 342, not ch. 409, governs the perfection of security interests in motor vehicles, but the creation of security interests is governed by ch. 409. *Milwaukee Mack Sales v. First Wisconsin National Bank*, 93 Wis. 2d 589, 287 N.W.2d 708 (1980).

Registration of goods under commercial law is conceptually distinct from registration of vehicles under vehicle registration laws. For a security interest perfected in another state to become unperfected, the requirement of "registration" in s. 409.103 (2) (b) requires both registration and issuance of a certificate of title. *Dubis v. General Motors Acceptance Corp.* 2000 WI App 209, 238 Wis. 2d 608, 618 N.W.2d 266.

342.195 Notification of person who has perfected security interest. Upon request of a person who has perfected a security interest under s. 342.19, as shown by the records of the department, in a vehicle titled in this state, whenever the department receives information from another state that the vehicle is being titled in the other state and the information does not show that the security interest has been satisfied, the department shall notify the person. The person shall pay the department a \$2 fee for each notification.

History: 1983 a. 155; 1985 a. 202.

342.20 Duties on creation of security interest. If an owner creates a security interest in a vehicle, unless the name and address of the secured party already is contained on the certificate of title for the vehicle:

(1) The owner shall immediately execute, in the space provided therefor on the certificate of title or on a separate form or in an automated format prescribed by the department, an application to name the secured party on the certificate, showing the name and address of the secured party, and cause the certificate, application and the required fee to be delivered to the secured party.

(2) The secured party shall immediately cause the certificate, application and the required fee to be mailed or delivered to the department.

(3) Upon receipt of the certificate of title, application and the required fee, the department shall issue to the owner a new certificate containing the name and address of the new secured party. The department shall deliver to such new secured party and to the register of deeds of the county of the owner's residence, memoranda, in such form as the department prescribes, evidencing the notation of the security interest upon the certificate; and thereafter, upon any assignment, termination or release of the security interest, additional memoranda evidencing such action.

(4) The registers of deeds may record, and maintain a file of, all memoranda received from the department under sub. (3). Such recording, however, is not required for perfection, release or assignment of security interests, which shall be effective upon compliance with ss. 342.19 (2), 342.21 and 342.22 (1) and (2).

History: 1975 c. 286; 1977 c. 29 s. 1654 (7) (a); 1981 c. 20; 1985 a. 202 s. 37; 1993 a. 301; 1995 a. 338; 1997 a. 27.

342.21 Assignment of security interest. (1) Except as otherwise provided in s. 409.308 (5), a secured party may assign, absolutely or otherwise, the party's security interest in the vehicle to a person other than the owner without affecting the interest of the owner or the validity of the security interest, but any person without notice of the assignment is protected in dealing with the secured party as the holder of the security interest and the secured party remains liable for any obligations as a secured party until the assignee is named as secured party on the certificate.

(2) Subject to s. 409.308 (5), the assignee may but need not, to perfect the assignment, have the certificate of title endorsed or issued with the assignee named as secured party, upon delivering to the department the certificate and an assignment by the secured party named in the certificate in the form the department prescribes.

History: 1977 c. 29 s. 1654 (7) (a); 1991 a. 316; 2001 a. 10.

342.22 Release of security interest. (1) Within one month or within 10 days following written demand by the debtor after there is no outstanding obligation and no commitment to make advances, incur obligations or otherwise give value, secured by the security interest in a vehicle under any security agreement between the owner and the secured party, the secured party shall execute and deliver to the owner, as the department prescribes, a release of the security interest in the form and manner prescribed by the department and a notice to the owner stating in no less than 10–point boldface type the owner's obligation under sub. (2). If the secured party fails to execute and deliver the release and notice of the owner's obligation as required by this subsection, the

secured party is liable to the owner for \$25 and for any loss caused to the owner by the failure.

(2) The owner, other than a dealer holding the vehicle for resale, upon receipt of the release and notice of obligation shall promptly cause the certificate and release to be mailed or delivered to the department, which shall release the secured party's rights on the certificate and issue a new certificate.

(3) The department may remove information pertaining to a security interest perfected under s. 342.19 from its computerized records when the following applicable period of time after the original perfection has elapsed unless the security interest is renewed in the same manner as provided in s. 342.19 (2) for perfection of a security interest:

- (a) For a recreational vehicle, 20 years.
- (b) For a truck tractor, 8 years.
- (c) For any other vehicle, 10 years.

(4) Removal of information pertaining to a security interest from the records of the department under sub. (3) does not affect any security agreement between the owner of a vehicle and the holder of security interest in the vehicle.

History: 1977 c. 29 s. 1654 (7) (a); 1977 c. 217, 447; 1985 a. 202; 1997 a. 27; 1999 a. 9.

342.23 Secured party's and owner's duties. (1) A secured party named in a certificate of title shall, upon written request of the owner or of another secured party named on the certificate, disclose any pertinent information as to the party's security agreement and the indebtedness secured by it.

(2) (a) An owner shall promptly deliver the owner's certificate of title to any secured party who is named on it or who has a security interest in the vehicle described in it under any other applicable prior law of this state, upon receipt of a notice from such secured party that the security interest is to be assigned, extended or perfected.

(b) No secured party may take possession of any certificate of title except as provided in par. (a). Any person who violates this paragraph may be required to forfeit not more than \$1,000.

(3) Any secured party who fails to disclose information pursuant to sub. (1) shall be liable for any loss caused to owner thereby.

(4) Any owner who fails to deliver the certificate of title to a secured party requesting it pursuant to sub. (2) (a) shall be liable to such secured party for any loss caused to the secured party thereby and may be required to forfeit not more than \$200.

History: 1971 c. 278; 1991 a. 316; 1993 a. 159.

342.24 Method of perfecting exclusive. Subject to s. 409.311 (4), the method provided in this chapter of perfecting and giving notice of security interests subject to this chapter is exclusive. Security interests subject to this chapter are hereby exempted from the provisions of law which otherwise require or relate to the filing of instruments creating or evidencing security interests.

History: 2001 a. 10.

Motor vehicle law provisions relating to security do not apply to a mobile home that has become a fixture. *George v. Commercial Credit Corp.* 440 F.2d 551 (1971).

342.25 Suspension or revocation of certificate.

(1) The department shall suspend or revoke a certificate of title if it finds any of the following:

- (a) The certificate of title was fraudulently procured, erroneously issued or prohibited by law.
- (b) The vehicle has been scrapped, dismantled or destroyed.
- (c) A transfer of title is set aside by a court of record by order or judgment.

(d) The vehicle's odometer has been subjected to tampering and return of the certificate of title to the department is considered necessary to make a notation of that information on the certificate.

(2) Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

(3) When the department suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the department.

(4) The department may seize and impound any certificate of title which has been suspended or revoked.

History: 1977 c. 29 s. 1654 (7) (a); 1993 a. 159.

342.255 Cancellation of title or registration. The department shall cancel a title or registration whenever:

(1) A transfer of title is set aside by the court by order or judgment; or

(2) Fraud on the department is discovered by the department; or

(3) It is subsequently discovered that the issuance or possession of a title or registration is prohibited by law or that the odometer of a vehicle for which a certificate of title has been issued by the department has been subjected to tampering and return of the certificate of title to the department is considered necessary to make a notation of that information on the certificate.

History: 1977 c. 29 s. 1654 (7) (a); 1993 a. 159.

342.26 Hearings and appeal. Any person aggrieved by an act or omission of the department under this chapter is entitled, upon request, to a hearing and judicial review thereof in accordance with ch. 227. Contested cases shall be heard and decided by the division of hearings and appeals.

History: 1977 c. 29 ss. 1454, 1654 (7) (a); 1981 c. 347 s. 80 (2); 1993 a. 16.

SUBCHAPTER III

ANTI-THEFT AND ANTI-FRAUD PROVISIONS

342.30 Identification numbers. (1c) In this section, "owner" includes the lessee of a vehicle if the vehicle is registered, or required to be registered, by the lessee under ch. 341.

(1g) No person may remove, alter or obliterate or intentionally make it impossible to read, as required under sub. (2), an identification number. This subsection does not apply to the obliteration of an identification number which occurs in the process of crushing a vehicle or vehicle part for scrap.

Cross Reference: See also ch. *Trans 155*, Wis. adm. code.

(1m) When the department is satisfied as to the ownership of a vehicle subject to registration which has not been numbered by the manufacturer or on which the original number has been removed, obliterated or altered or on which the original casting has been replaced or on which a new identification number is required under s. 342.06 (1) (f), the department shall assign a new identification number for each such vehicle.

(2) Except as provided in this subsection, an identification number assigned by the department to a vehicle shall be permanently affixed to a location on the vehicle that is readily visible when observed from outside the vehicle, as specified by the department by rule. Identification numbers assigned for cycles shall be stamped on the left side, near the top of the engine casting just below the cylinder barrel. Such stamping or affixing shall be done under the supervision of a dealer, distributor or manufacturer registered under s. 341.51 or under the supervision of a peace officer. The person supervising the stamping or affixing shall make a report thereof to the department.

(2m) (a) A traffic officer or person authorized to enforce non-moving traffic violations may use reasonable means to gain access to a vehicle if that vehicle's identification number cannot be read as required under sub. (2).

(b) Any person acting under par. (a) is immune from civil and criminal liability for good faith actions taken within the scope of that person's official duties.

(3) (a) Any person who violates sub. (1g) is guilty of a Class H felony.

NOTE: Par. (a) is shown as amended eff. 2–1–03 by 2001 Wis. Act 109. Prior to 2–1–03 it reads:

(a) Any person who violates sub. (1g) may be fined not more than \$5,000 or imprisoned for not more than 7 years and 6 months or both.

(b) 1. Any owner of a vehicle for which the department has issued a new identification number who fails to have such number attached or stamped as required by sub. (2) may be required to forfeit not more than \$200.

2. Any owner of a vehicle for which the department has issued a new identification number who with intent to defraud fails to have such number attached or stamped as required by sub. (2) may be required to forfeit not more than \$1,000.

(4) (a) If a law enforcement agency finds a vehicle or part of a vehicle on which the identification number has been removed, altered or obliterated or made impossible to read, the law enforcement agency may seize the vehicle or part of a vehicle. If the identification number cannot be identified, the seized vehicle or vehicle part is presumed to be contraband. Except as provided in par. (d), if the identification number can be identified, the agency may return the vehicle to the owner. Except as provided in par. (b), the district attorney shall institute forfeiture proceedings under s. 973.076 regarding any vehicle or vehicle part that is seized under this paragraph and not returned to the owner.

(b) If the district attorney brings a criminal action arising out of the seizure under par. (a), the district attorney shall not institute forfeiture proceedings under s. 973.076 before there is a final determination in the criminal action.

(c) Paragraph (a) does not apply to the obliteration of an identification number that occurs in the process of crushing a vehicle or vehicle part for scrap.

(d) If the identification number of a motorcycle or part of a motorcycle seized under par. (a) can be identified and if no forfeiture proceeding is commenced under s. 973.076 within 30 days after the seizure of the property, the custodian of the seized property shall immediately return the seized property to the owner named in the certificate of title or registration. If a motorcycle or part of a motorcycle is not returned to the owner named in the certificate of title or registration as required in this paragraph, and if the owner of the property commences a replevin action to recover possession of the property, and if the judge finds that the custodian of the property unreasonably retained the property after 30 days after the seizure, the court shall award the owner the costs and reasonable attorney fees incurred in the replevin action.

History: 1971 c. 278; 1975 c. 121; 1977 c. 29 s. 1654 (7) (a); 1985 a. 202; 1987 a. 349; 1991 a. 233; 1993 a. 92, 165; 1997 a. 27, 33, 252, 283; 1999 a. 9, 80, 186; 2001 a. 109.

The time limits in s. 973.076 are inapplicable to forfeitures of vehicles seized under this section. Sub. (4) (b) controls. *State v. Elliot*, 203 Wis. 2d 95, 551 N.W.2d 850 (Ct. App. 1996).

342.31 Report of stolen or abandoned motor vehicles.

(1) Each sheriff and police department in the state shall immediately report to the department of justice each motor vehicle reported stolen or recovered within its jurisdiction.

(2) An owner of a garage or trailer park or of any type of storage or parking lot for motor vehicles shall report to the local law enforcement agency the make, motor number and serial or identification number of any vehicle stored, parked or left in the owner's garage, park or lot for a period of more than 30 consecutive days unless arrangements have been made by the owner of the vehicle for its continuous storage or parking or unless the owner of the vehicle is personally known to the owner of the garage, park or lot. Any person who fails to submit such report may be required to forfeit not more than \$25.

History: 1971 c. 278; 1973 c. 169; 1991 a. 316.

342.32 Counterfeiting and unlawful possession of certificate of title. (1) No person may counterfeit, possess, sell, offer for sale or supply a forged, fictitious, counterfeit, stolen or

fraudulently or unlawfully obtained certificate of title or registration, manufacturer's document of origin, instrument or other document that is or may be used as evidence of ownership, the transfer of ownership or the mileage disclosure of a motor vehicle.

(2) Unless authorized by the department, no person may possess, sell, offer for sale or supply any blank certificates of title or registration, manufacturers' documents of origin, instruments or other documents that may be used as evidence of ownership or registration of a motor vehicle.

(3) Whoever violates sub. (1) or (2) is guilty of a Class H felony.

NOTE: Sub. (3) is shown as amended eff. 2–1–03 by 2001 Wis. Act 109. Prior to 2–1–03 it reads:

(3) Whoever violates sub. (1) or (2) may be fined not more than \$5,000 or imprisoned for not more than 7 years and 6 months, or both, for each violation.

History: 1993 a. 159; 1997 a. 283; 2001 a. 109.

342.33 Sale of vehicle used as taxicab. No person shall sell or exchange, authorize or direct the sale or exchange of, or offer for sale or exchange any motor vehicle which the person knows has been used as a taxicab or for public transportation unless the certificate of title for such vehicle has been stamped by the department with the words "This motor vehicle has previously been used as a taxicab or for public transportation" and unless such certificate of title is exhibited by the vendor to the vendee before the sale of such vehicle is consummated. Any person who violates this section may be required to forfeit not more than \$1,000.

History: 1973 c. 218; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273.

342.34 Department to be notified of destruction or junking of vehicle. (1) Any person owning or possessing a junk vehicle shall, within 10 days after determining that the vehicle is a junk vehicle do all of the following:

(a) Notify the department of the junk condition of the vehicle.

(b) Return the certificate of title to the department.

(c) If the vehicle is a motorcycle or an automobile registered under s. 341.27 or a motor home or a motor truck, dual purpose motor home or dual purpose farm truck which has a gross weight of not more than 8,000 pounds or a farm truck which has a gross weight of not more than 12,000 pounds, the owner shall remove the registration plates and retain and preserve them for use on any other vehicle of the same type which may subsequently be registered in his or her name. If the vehicle is not a motorcycle or an automobile registered under s. 341.27, or a motor home or a motor truck, dual purpose motor home or dual purpose farm truck which has a gross weight of not more than 8,000 pounds or a farm truck which has a gross weight of not more than 12,000 pounds, he or she shall remove and destroy the plates.

(2) Any person owning or possessing a vehicle which has been junked or destroyed shall, within 10 days after the destruction or junking occurred do all of the following:

(a) Notify the department of the destruction or junking.

(b) Return the certificate of title to the department.

(c) Remove and either retain or destroy the registration plates for the vehicle as provided in sub. (1) (c).

(3) No certificate of title may be issued for a junk vehicle or for a vehicle which has been junked or destroyed.

(3m) In determining whether a vehicle meets the definition of a junk vehicle for purposes of this section or s. 342.15 (1) (a), the department may promulgate rules specifying the conditions under which a vehicle shall be considered incapable of operation or use upon a highway.

(4) Any person violating sub. (1) or (2) may be required to forfeit not more than \$200.

(b) Any person who with intent to defraud violates sub. (1) or (2) may be required to forfeit not more than \$1,000.

History: 1971 c. 278; 1977 c. 29 ss. 1455, 1654 (7) (a); 1977 c. 129, 418; 1983 a. 126, 227, 270, 538; 1987 a. 349; 1993 a. 63; 1997 a. 27; 1999 a. 80.

342.40 Vehicle abandonment prohibited; removal; disposal. (1c) In this section, “owner” includes the lessee of a vehicle if the vehicle is registered, or required to be registered, by the lessee under ch. 341.

(1m) No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public highway or private or public property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Except as otherwise provided in this section, whenever any vehicle has been left unattended without the permission of the property owner for more than 48 hours in cities of the 1st class and, in other cities, villages and towns, a period set by the governing body thereof, the vehicle is deemed abandoned and constitutes a public nuisance. A motor vehicle shall not be considered an abandoned motor vehicle when it is out of ordinary public view, or when designated as not abandoned by a duly authorized municipal or county official pursuant to municipal or county ordinance.

(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 authorized municipal or county representative that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked 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).

(3) Any municipality or county may enact ordinances governing the removal and disposal of abandoned vehicles and, except for abandoned vehicles that have been stolen, provide a forfeiture in addition to providing for the recovery by the municipality or county of the cost of impounding and disposing of the vehicle.

(a) Any municipal or university police officer, police officer appointed under s. 16.84 (2), sheriff’s deputy, county traffic patrolman, state traffic officer or conservation warden who discovers any motor vehicle, trailer, semitrailer, or mobile home on any public highway or private or public property which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment. Upon removal of the vehicle the officer or warden shall notify the sheriff or chief of police of the abandonment and of the location of the impounded vehicle.

(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 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.

(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 a waiver of all right, title, and interest in the vehicle and a consent to the sale of the vehicle. Each retained vehicle not reclaimed by its owner or lienholder may be 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 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. 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. 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.

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

(4) (a) In this subsection, “state agency” has the meaning given for “agency” in s. 227.01 (1).

(b) Notwithstanding any other provision of this section, a state agency responsible for the land on which a vehicle is left unattended and a duly authorized representative of that agency may exercise all of the powers and duties under this section of a municipality and a duly authorized municipal representative, subject to the following conditions:

1. Whenever a vehicle has been left unattended without the permission of the state agency for more than 72 hours, the vehicle is deemed abandoned and constitutes a public nuisance.

2. The state agency may promulgate rules governing the removal and disposal of abandoned vehicles and, except for abandoned vehicles that have been stolen, provide a forfeiture in addition to providing for the recovery by the state agency of the cost of impounding and disposing of the vehicle.

(c) This subsection applies to any vehicle deemed abandoned before April 30, 1996, except that no forfeiture may be assessed against the owner of such a vehicle.

History: 1971 c. 131; 1973 c. 213; 1977 c. 29 s. 1654 (7) (a); 1977 c. 68, 203, 447; 1989 a. 134; 1995 a. 216; 1997 a. 27.