



2013 ASSEMBLY BILL 653

January 22, 2014 - Introduced by Representatives BIES, BERCEAU, HINTZ, HULSEY and T. LARSON, cosponsored by Senator LEHMAN. Referred to Committee on Criminal Justice.

1 **AN ACT** *to renumber and amend* 425.2065 (1); *to amend* 425.2065 (title) and
2 425.2065 (3); and *to create* 425.206 (2) (c), 425.2065 (1) (b), 425.2065 (4) and
3 425.401 (3) of the statutes; **relating to:** personal property within repossessed
4 motor vehicles and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law adopts the Uniform Commercial Code (UCC) Article 9 — Secured Transactions, which governs transactions that involve the granting of credit secured by personal property of a debtor. The creditor’s interest is called a “security interest.” UCC Article 9 regulates the creation and enforcement of security interests in movable property but not in real property. Under UCC Article 9, if a debtor defaults, the creditor may take possession of (repossess) the property (collateral) if the creditor proceeds through judicial process or without breach of the peace. The creditor may then sell the repossessed collateral to satisfy the debt.

Under current law, a consumer credit transaction that is entered into for personal, family, or household purposes is generally subject to the Wisconsin Consumer Act (WCA). A consumer credit transaction, which includes consumer loans and consumer credit sales, means in part a transaction between a merchant and a customer in which money or personal property is acquired on credit. A merchant is defined to include a creditor or a seller of personal property on credit. Like the UCC, the WCA includes provisions relating to enforcement of a merchant’s security interest in collateral resulting from a consumer credit transaction, including provisions specifically applicable when the collateral is a motor vehicle.

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Under the WCA, a merchant may repossess collateral that is a motor vehicle if certain requirements are met, including giving notice to the debtor and law enforcement, the elapse of at least 15 days since both the debtor's default and the merchant's notice to the debtor, and repossession without breach of the peace.

This bill creates additional requirements under the WCA related to repossession of a motor vehicle. Under the bill, at the time a motor vehicle is repossessed, the person who repossesses the motor vehicle must make a written inventory of all personal property within the motor vehicle. No later than 48 hours after the repossession, the merchant or a person acting on behalf of the merchant (merchant) must deliver to the debtor from whom the motor vehicle was repossessed all personal property identified in this written inventory. The merchant may not impose a fee on the debtor for delivery of this personal property. The merchant is also responsible for safeguarding this personal property from the time of repossession to the time it is delivered to the debtor and must deliver the personal property in as good of a condition as it was in at the time the motor vehicle was repossessed. If a merchant intentionally fails to deliver the debtor's personal property within 48 hours after the motor vehicle was repossessed, the merchant is subject to the penalty for a Class A misdemeanor, which is a fine not exceeding \$10,000 or imprisonment not exceeding nine months or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

1 **SECTION 1.** 425.206 (2) (c) of the statutes is created to read:

2 425.206 (2) (c) For motor vehicle collateral or goods subject to a motor vehicle
3 consumer lease, fail to comply with s. 425.2065 (4).

4 **SECTION 2.** 425.2065 (title) of the statutes is amended to read:

5 **425.2065 (title) Notice to law enforcement; personal property in**
6 **vehicle.**

7 **SECTION 3.** 425.2065 (1) of the statutes is renumbered 425.2065 (1) (intro.) and
8 amended to read:

9 425.2065 (1) (intro.) In this section, "~~law;~~

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1 (a) “Law enforcement agency” means the police department, combined
2 protective services department under s. 60.553, 61.66, or 62.13 (2e), or sheriff, that
3 has primary responsibility for providing police protection services in the city, village,
4 or town in which a repossession is expected to occur.

5 **SECTION 4.** 425.2065 (1) (b) of the statutes is created to read:

6 425.2065 (1) (b) “Personal property” means all property within a vehicle which
7 is not mounted, attached, or affixed to the vehicle.

8 **SECTION 5.** 425.2065 (3) of the statutes is amended to read:

9 425.2065 (3) Failure to comply with ~~this subsection~~ sub. (2) does not constitute
10 a failure to comply with s. 425.206 (1) (d).

11 **SECTION 6.** 425.2065 (4) of the statutes is created to read:

12 425.2065 (4) (a) At the time a motor vehicle is repossessed under sub. (2), the
13 person who repossesses the motor vehicle shall make a written inventory of all
14 personal property within the motor vehicle.

15 (b) 1. No later than 48 hours after a motor vehicle is repossessed under sub. (2),
16 the merchant, or a person acting on behalf of the merchant, shall deliver to the
17 customer from whom the motor vehicle was repossessed all personal property
18 identified in the written inventory under par. (a).

19 2. No fee may be imposed on the customer for delivery of this personal property.

20 (c) From the time a motor vehicle is repossessed under sub. (2) until personal
21 property within the repossessed motor vehicle is delivered to the customer under par.

22 (b) 1., the merchant is responsible for safeguarding the personal property. The
23 merchant, or a person acting on behalf of the merchant, shall deliver the personal
24 property to the customer, as provided in par. (b) 1., in as good of a condition as it was
25 in at the time the motor vehicle was repossessed.

