



2009 SENATE BILL 297

September 16, 2009 – Introduced by Senators CARPENTER and DARLING, cosponsored by Representatives KRUSICK, GOTTLIEB, RICHARDS, STASKUNAS, ZEPNICK, MURSAU, A. OTT, STONE, TOWNSEND, VOS and KNODL. Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

1 **AN ACT to create** 349.132 of the statutes; **relating to:** the immobilization or
2 removal, impoundment, and disposal of motor vehicles for multiple nonmoving
3 traffic violations.

Analysis by the Legislative Reference Bureau

Under current law, an authority that issues citations (tickets) for nonmoving traffic (parking) violations may enforce parking violations in several ways. A person issued a parking ticket may pay the ticket by mail as the parking ticket provides and, if the person does so, the parking ticket is not filed with or transmitted to court. The person may also appear in court to contest the parking ticket. If the person does not pay the parking ticket or make a timely appearance in court, the authority that issued the ticket may issue a summons to the person and follow a procedure to request that the Department of Transportation (DOT) suspend the person's vehicle registration or, in lieu of this procedure, follow a procedure for the issuance of a warrant for the person and for the person's arrest or deposit of money or a driver's license to secure the person's appearance in court.

Also under current law, any city, village, or town (municipality) or any county may enact an ordinance prohibiting unregistered motor vehicles on highways and providing for the immobilization, removal (towing), impoundment, and disposal of these vehicles.

This bill creates an alternative method for the enforcement of multiple parking violations. The bill allows a municipality or county to enact an ordinance providing for the immobilization with an immobilization device (typically a "car boot") or

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towing, impoundment, and disposal of vehicles owned by habitual parking violators. The ordinance must be limited to those vehicles for which all of the following apply:

1. The municipality or county has issued tickets to the owner of the motor vehicle for three or more parking violations that, at the time of the vehicle's immobilization or towing, occurred more than 28 days previously and for which the owner has neither paid each ticket nor scheduled an appearance in court in response to each unpaid ticket.

2. The municipality or county has mailed to the last-known address of the owner at least one notice that provides, for each parking ticket, certain information, including the manner in which each parking ticket may be paid or contested. The notice must also inform the owner that the owner's vehicles may be immobilized or towed and impounded if, within 28 days after the owner has received three or more citations and at the time the vehicle is immobilized or towed, the owner has not either paid the ticket for each violation that occurred more than 28 days previously or scheduled an appearance in court in response to each unpaid ticket issued more than 28 days previously. The notice may be combined with any other notice provided by the municipality or county to the vehicle owner.

The ordinance authorizes any parking enforcer to have a vehicle to which the ordinance applies immobilized on, or towed and impounded from, or both, any portion of a street, highway, or publicly owned or leased parking facility, regardless of whether the vehicle is legally or illegally parked. Upon immobilization or towing of the vehicle, the parking enforcer must follow certain procedures for notification of law enforcement and the vehicle owner, which are the same procedures applicable to immobilization or towing of an unregistered vehicle. The ordinance must require that, if the vehicle is immobilized, the parking enforcer, or a third-party contractor performing immobilization services, place in a highly visible location on the vehicle a written notice that warns the driver that the immobilization device has been placed on the vehicle, that either provides specified information related to the applicable unpaid parking tickets or provides a telephone number through which this information is available 24 hours a day, and that states the amount of any fee for removal of the immobilization device. The bill includes restrictions on the issuance of parking tickets for the vehicle after it is immobilized if it is immobilized in a time-limited, legal parking space.

Under the bill, the owner of a motor vehicle that is immobilized or towed and impounded may secure release of the motor vehicle by paying any fee for the removal of the immobilization device or any charges associated with the towing and impounding of the vehicle, respectively, and paying all forfeitures for the unpaid parking tickets outstanding more than 28 days or scheduling an appearance in court in response to these unpaid parking tickets, or a combination of making the payments or scheduling the appearances. The bill also provides a procedure guiding the impoundment and, if the requirements for release of the vehicle are not timely satisfied, disposal of vehicles that are towed and impounded, which procedures are the same as those applicable to the towing and impoundment of unregistered vehicles. Any motor vehicle immobilized or impounded must remain immobilized or impounded until lawfully claimed or disposed of. The owner of any motor vehicle

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immobilized or towed and impounded is responsible for all charges associated with immobilizing, removing, impounding, and disposing of the motor vehicle. Charges not recovered from the sale of the motor vehicle may be recovered in a civil action by the municipality or county against the owner.

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

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

1 **SECTION 1.** 349.132 of the statutes is created to read:

2 **349.132 Authority to immobilize, remove, impound, and dispose of**
3 **motor vehicles for nonmoving traffic violations. (1)** In this section:

4 (a) “Habitual parking violator” means a person who has received, more than
5 28 days previously, 3 or more citations for nonmoving traffic violations that remain
6 unpaid and for which the person has not scheduled an appearance in court in
7 response to the citations.

8 (b) “Immobilization device” has the meaning given in s. 341.65 (1) (a).

9 (c) “Nonmoving traffic violation” has the meaning given in s. 345.28 (1) (c).

10 (d) “Owner” has the meaning given in s. 341.65 (1) (am).

11 (e) “Parking enforcer” means a traffic officer or any other person who enforces
12 nonmoving traffic violations and who is employed by a municipality or county.

13 **(2)** The governing body of any municipality or county may by ordinance provide
14 for the immobilization or removal, impoundment, and disposal of vehicles owned by
15 habitual parking violators as provided in this section. Any ordinance under this
16 section shall do all of the following:

17 (a) Limit application of the ordinance to those motor vehicles for which all of
18 the following apply:

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1 1. The municipality or county has cited the owner of the motor vehicle for 3 or
2 more nonmoving traffic violations that, at the time of the vehicle's immobilization or
3 removal, occurred more than 28 days previously and for which the owner has neither
4 paid the forfeiture for each of these violations nor scheduled an appearance in court
5 in response to each of these citations.

6 2. a. The municipality or county has mailed to the last-known address of the
7 owner at least one notice that specifies, for each citation counted under subd. 1., the
8 date on which the citation was issued, the license number of the vehicle involved, the
9 place where the citation may be paid, the amount of the forfeiture, and the means
10 by which the citation may be contested.

11 b. The notice under subd. 2. a. shall also inform the owner that any motor
12 vehicle owned by him or her may be immobilized with an immobilization device or
13 removed and impounded if, within 28 days after the owner has received 3 or more
14 citations and at the time the vehicle is immobilized or removed and impounded, the
15 owner has not either paid the forfeiture for each violation that occurred more than
16 28 days previously or scheduled an appearance in court in response to each citation
17 issued more than 28 days previously for which the forfeiture has not been paid.

18 c. The notice under this subdivision may be combined with any other notice
19 provided by the municipality or county to the owner.

20 (b) Authorize any parking enforcer who discovers any motor vehicle to which
21 par. (a) applies that is legally or illegally parked on any portion of the street, highway,
22 or publicly owned or leased parking facility within the corporate limits of the
23 municipality or county to cause the motor vehicle to be immobilized with an
24 immobilization device or removed to a suitable place of impoundment or both. Upon

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1 immobilization or removal of the motor vehicle, the parking enforcer shall follow the
2 notification procedure specified in s. 341.65 (2) (b).

3 (c) Specify whether the municipality or county may contract with a 3rd party
4 for the performance of services related to immobilization or removal of motor
5 vehicles, which services shall be rendered only at the request of a parking enforcer.

6 (d) Provide for a reasonable removal fee, if any, that will be charged to remove
7 an immobilization device placed on a vehicle under this section.

8 (e) Provide for the recovery of reasonable towing or storage charges associated
9 with the removal or impoundment of a vehicle, and of reasonable charges associated
10 with disposal of a vehicle, under this section.

11 (f) Require that, if the motor vehicle is immobilized, the parking enforcer or a
12 3rd-party contractor place in a highly visible location and a reasonably secure
13 manner on the vehicle, at the time of immobilization, a written notice that does all
14 of the following:

15 1. Warns any driver of the vehicle that the immobilization device has been
16 placed on the vehicle.

17 2. Specifies, for each citation counted under par. (a) 1., the license number of
18 the vehicle involved, the place where the citation may be paid, and the means by
19 which the citation may be contested, or provides a telephone number at which an
20 individual is available to provide this information 24 hours a day.

21 3. States the amount of the removal fee under par. (d), if any, that is in addition
22 to any amount required to be paid as specified in the notice under par. (a) 2. a.

23 (g) If the motor vehicle is immobilized in a time-limited, legal parking space,
24 prohibit the municipality or county from issuing, after the vehicle's immobilization,
25 any citation for a nonmoving traffic violation for the vehicle within the first 4 hours

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1 after the vehicle is immobilized and during any hours in which the municipal court
2 or clerk's office of the circuit court that would be contacted to arrange an appearance
3 for purposes of sub. (3) (b) is not open for regular business.

4 (h) If the motor vehicle is immobilized, require the municipality or county, or
5 a 3rd-party contractor, to remove, or provide sufficient information to allow the
6 vehicle owner to remove, the immobilization device without undue delay, not to
7 exceed 3 hours, after receiving notice that the person has satisfied the requirements
8 for release of the motor vehicle under sub. (3) (b). The ordinance shall also provide
9 a procedure for the municipality, county, or 3rd-party contractor to promptly receive
10 notice when a person has satisfied the requirements for release of a motor vehicle
11 under sub. (3) (b).

12 **(3)** (a) Any motor vehicle immobilized or impounded as provided in sub. (2)
13 shall remain immobilized or impounded until lawfully claimed or disposed of as
14 provided in this subsection and sub. (5).

15 (b) The owner of a motor vehicle that is immobilized under sub. (2) may secure
16 release of the motor vehicle by doing all of the following:

17 1. Paying any removal fee specified in sub. (2) (d).

18 2. Paying all forfeitures specified in each notice under sub. (2) (a) 2. a. for, or
19 scheduling an appearance in court in response to, or a combination of paying
20 forfeitures and scheduling appearances with respect to, all citations counted under
21 sub. (2) (a) 1.

22 (c) The owner of a motor vehicle that is removed and impounded under sub. (2)
23 may secure release of the motor vehicle by doing all of the following:

24 1. Paying any charges specified in sub. (2) (e).

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1 2. Paying all forfeitures specified in each notice under sub. (2) (a) 2. a. for, or
2 scheduling an appearance in court in response to, or a combination of paying
3 forfeitures and scheduling appearances with respect to, all citations counted under
4 sub. (2) (a) 1.

5 (d) If an owner secures release of a motor vehicle under par. (b) or (c) by
6 scheduling an appearance in court and thereafter fails to appear or fails to comply
7 with any court order with respect to any citation counted under sub. (2) (a) 1. for
8 which the forfeiture has not been fully paid, including failure to satisfy in full any
9 court-ordered payment plan or other agreement approved by the court, the court
10 may order a law enforcement officer, or an authorized employee or contractor of the
11 municipality or county, to immobilize the motor vehicle involved in the nonmoving
12 traffic violations or the municipality or county may cause the motor vehicle to be
13 immobilized or removed and impounded as provided under sub. (2). If the court
14 orders the motor vehicle immobilized, upon compliance with the court order, the
15 court shall order a law enforcement officer, or an authorized employee or contractor
16 of the municipality or county, to remove the immobilization device.

17 (e) Notwithstanding par. (a), if any motor vehicle immobilized or impounded
18 is an unregistered motor vehicle for purposes of s. 341.65 or an abandoned motor
19 vehicle for purposes of s. 342.40, the municipality or county may take any action
20 authorized under s. 341.65 or 342.40. Any vehicle immobilized under this section for
21 longer than the period specified in s. 342.40 (1m) shall be considered abandoned for
22 purposes of s. 342.40.

23 (4) The owner of any motor vehicle immobilized or removed and impounded as
24 provided under this section is responsible for all charges associated with
25 immobilizing, removing, impounding, and disposing of the motor vehicle, as provided

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1 under sub. (2) (d) and (e). Charges not recovered from the sale of the motor vehicle
2 may be recovered in a civil action by the municipality or county against the owner.

3 (5) The procedures and provisions of s. 341.65 (2) (f) to (h) shall apply with
4 respect to the impoundment and disposal of motor vehicles authorized to be removed,
5 impounded, and disposed of under this section to the same extent as these provisions
6 apply to the impoundment and disposal of unregistered motor vehicles that are
7 removed under authority of s. 341.65, except that reclamation of the motor vehicle
8 by the owner requires compliance with sub. (3) rather than s. 341.65 (2) (e). The
9 provisions of s. 349.13 (5) (b) shall apply with respect to vehicles removed or stored
10 under this section to the same extent as these provisions apply with respect to
11 vehicles removed or stored under authority of s. 349.13.

12 (6) Any ordinance enacted under this section permitting immobilization of a
13 motor vehicle may prohibit any person from removing, disconnecting, tampering
14 with, or otherwise circumventing the operation of an immobilization device installed
15 under this section except upon release of the motor vehicle to the owner or to make
16 necessary repairs to a malfunctioning immobilization device.

17 (7) Section 349.137 does not apply to the use of motor vehicle immobilization
18 devices under this section.

19 (END)