

# State of Wisconsin



2007 Senate Bill 519

Date of enactment: April 7, 2008  
Date of publication\*: April 21, 2008

## 2007 WISCONSIN ACT 207

AN ACT *to amend* 344.578 (1), 344.578 (2), 345.28 (4) (e) 1., 345.28 (4) (e) 2., 345.28 (4) (h), 345.28 (5m) (c) and 345.28 (5r) (c); and *to create* 345.28 (5w) and (5x) of the statutes; **relating to:** nonmoving traffic violations involving rented or leased vehicles, providing an exemption from emergency rule procedures, and requiring the exercise of rule-making authority.

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

**SECTION 1.** 344.578 (1) of the statutes is amended to read:

344.578 (1) PROHIBITED DEPOSITS; COLLECTION OF DAMAGES. Except as provided in this subsection ~~or~~ in sub. (2), or in s. 345.28 (5w), a rental company may not ~~use credit available pursuant to charge~~ a credit card belonging to a renter as a deposit for damages for which the renter may be held liable under the rental agreement or under s. 344.574 (2) (a) or for any other charges. If a rented private passenger vehicle is damaged or if the renter owes any other charges provided for in the rental agreement, the rental company may ~~use credit available pursuant to charge~~ a credit card belonging to the renter as payment for the damages for which the renter is liable under s. 344.574 (2) (a) or for any other charges provided for in the rental agreement only if the rental company obtains the renter's authorization to use that credit card for payment and the authorization is obtained after the total amount of the renter's liability or other charges is determined and before the rental company processes the credit card charge.

**SECTION 2.** 344.578 (2) of the statutes is amended to read:

344.578 (2) DEPOSIT FOR RENTAL FEES. If authorized by the renter, a rental company may ~~use credit available pursuant to charge~~ a credit card belonging to the renter as a deposit for the estimated cost of the rental, as determined under this subsection. The estimated cost of the rental may not exceed an amount equal to the daily rental rate specified in the rental agreement, which may include the daily charge for a damage waiver if purchased by the renter, multiplied by the number of days specified in the agreement for which the private passenger vehicle is being rented.

**SECTION 3.** 345.28 (4) (e) 1. of the statutes is amended to read:

345.28 (4) (e) 1. If the person subsequently pays the amount of the forfeiture and the costs, if any, under par. (d) or appears in court in response to the citation or a notice by the authority who issued the citation or the department, the department shall be immediately notified in the form and manner prescribed by the department. If the vehicle involved in the nonmoving traffic violation is owned by a person engaged in the business of renting or leasing motor vehicles and the owner pays the costs, if any, under par. (d) and ~~50% of the forfeiture or, if applicable, the amount required under sub. (5w) (b)~~, the authority shall immediately notify the department in the form and manner prescribed by the department.

\* Section 991.11, WISCONSIN STATUTES 2005-06 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

**SECTION 4.** 345.28 (4) (e) 2. of the statutes is amended to read:

345.28 (4) (e) 2. If the person subsequently pays the amount of the outstanding towing and storage charges specified in the notice to the department under par. (a) 1m. and the costs, if any, under par. (d), the department shall be immediately notified in the form and manner prescribed by the department. If the vehicle to which the towing and storage charges apply is owned by a person engaged in the business of renting or leasing motor vehicles and the owner pays the costs, if any, under par. (d) and ~~50%~~ of the amount of the outstanding towing and storage charges specified in the notice to the department under par. (a) 1m. or, if applicable, the amount required under sub. (5w) (b), the authority shall immediately notify the department in the form and manner prescribed by the department.

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

345.28 (4) (h) 1. If an authority receives payment of ~~50%~~ of a forfeiture or, if applicable, the amount required under sub. (5w) (b), from the owner of a leased or rented vehicle involved in a nonmoving traffic violation and receives payment of the forfeiture from the lessee or renter of the vehicle charged with the violation, the authority shall refund to the owner the ~~50%~~ payment received from the owner.

2. If an authority receives payment of ~~50%~~ of the amount of the outstanding towing and storage charges specified in the notice to the department under par. (a) 1m. or, if applicable, the amount required under sub. (5w) (b), from the owner of a leased or rented vehicle to which the towing and storage charges apply and receives payment of the amount of the outstanding towing and storage charges specified in the notice to the department under par. (a) 1m. from the lessee or renter of the vehicle to which the towing and storage charges apply, the authority shall refund to the owner the ~~50%~~ payment received from the owner.

**SECTION 6.** 345.28 (5m) (c) of the statutes is amended to read:

345.28 (5m) (c) 1. If Except as otherwise provided in sub. (5w) (b), if the renter or lessee does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation within 30 days after the 2nd notice from the authority is mailed to the renter or lessee, the owner shall pay the authority ~~50%~~ of the forfeiture applicable to the nonmoving traffic violation. The authority shall notify the owner in writing of its responsibility for this payment.

2. If Except as otherwise provided in sub. (5w) (b), if the owner does not pay ~~50%~~ of the forfeiture applicable to the citation within 30 days after notice under subd. 1. has been mailed to the owner, the authority may send a notice to the department under sub. (4) (a) 1. The action which the authority shall specify that the department take

under sub. (4) (a) 2. is limited to suspension of the registration of the vehicle involved in the nonmoving traffic violation.

**SECTION 7.** 345.28 (5r) (c) of the statutes is amended to read:

345.28 (5r) (c) 1. If Except as otherwise provided in sub. (5w) (b), if the renter or lessee does not pay the amount of the outstanding towing and storage charges within 30 days after the 2nd notice from the authority is mailed to the renter or lessee, the owner shall pay the authority ~~50%~~ of the amount of the outstanding towing and storage charges. The authority shall notify the owner in writing of its responsibility for this payment.

2. If Except as otherwise provided in sub. (5w) (b), if the owner does not pay ~~50%~~ of the amount of the outstanding towing and storage charges within 30 days after notice under subd. 1. has been mailed to the owner, the authority may send a notice to the department under sub. (4) (a) 1m. The action which the authority shall specify that the department take under sub. (4) (a) 2. is limited to suspension of the registration of the vehicle to which the towing and storage charges apply.

**SECTION 8.** 345.28 (5w) and (5x) of the statutes are created to read:

345.28 (5w) (a) If the owner of a rental or leased vehicle has received written notice under sub. (5m) (c) 1. or (5r) (c) 1. and pays any forfeiture, costs, or towing and storage charges for nonmoving traffic violations under this section that occurred while the renter or lessee was in possession of the vehicle, the rental or leased vehicle owner may, within 30 days after receiving the notice, charge a credit card belonging to the renter or lessee as payment for the forfeiture, costs, and charges for which the renter or lessee is liable as well as charge the renter an administrative fee of not more than \$30 for making those payments under this section, if the owner:

1. Provided a written notice to the renter or lessee, prior to entering into the rental or lease agreement, that if the renter or lessee fails to pay any forfeitures, costs, or towing and storage charges for nonmoving traffic violations incurred while the renter or lessee is in possession of the rental or leased vehicle, the owner may pay those sums and charge the amount paid for such forfeitures, costs, or charges plus an administrative fee of not more than \$30 to a credit card belonging to the renter or lessee.

2. Provides the renter or lessee with a detailed itemization of all amounts charged to the renter's or lessee's credit card, within 30 days after charging that credit card, that includes the date that the charge was made and, for each nonmoving traffic violation forfeiture incurred by the renter or lessee that the owner paid, the name of the authority issuing the citation, the citation number, and the date of the citation.

(b) If the owner of a rental or leased vehicle has received written notice under sub. (5m) (c) 1. or (5r) (c) 1. and is required to pay any forfeiture or towing and stor-

age charges for nonmoving traffic violations under this section that occurred while the renter or lessee was in possession of the vehicle and the renter or lessee did not pay the rental or lease fee with a credit card, or paid with a credit card for which payment of the forfeitures and charges under this section is being declined by the issuer of the credit card, the rental or leased vehicle owner shall pay the authority 50 percent of the amount of the forfeiture under sub. (2) (a) or towing and storage charges, provided that the owner advises the authority that the payment is made under this paragraph.

(5x) The department of agriculture, trade and consumer protection shall promulgate rules specifying the form of the notice required under sub. (5w) (a) 1., including the type size and any highlighting of the information described in that paragraph and, if the notice is on a separate form, the size of the paper. The rules must require the notice to be in substantially the same form as the notice under s. 344.576 (3) (a) and may specify additional information to be included in the notice and the precise language that must be used.

**SECTION 9. Nonstatutory provisions.**

(1) The department of agriculture, trade and consumer protection shall submit in proposed form the rules required under section 345.28 (5x) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 4th month beginning after the effective date of this subsection.

(2) Using the procedure under section 227.24 of the statutes, the department of agriculture, trade and consumer protection may promulgate as emergency rules the rules required under section 345.28 (5x) of the statutes, as created by this act, for the period before the effective date of the rules submitted under subsection (1). Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until the date on which the rules submitted under subsection (1) take effect or until July 1, 2009, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of agriculture, trade and consumer protection is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

**SECTION 10. Initial applicability.**

(1) This act first applies to nonmoving traffic violations with vehicles whose vehicle rental or leasing contracts were entered into on the effective date of this act.

**SECTION 11. Effective dates.** This act takes effect on the first day of the 4th month beginning after publication, except as follows:

(1) SECTION 9 (1) and (2) of this act takes effect on the day after publication.