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**Sent:** Wednesday, October 22, 2025 4:51 PM  
**To:** Westmoreland, Lamont <[Lamont.Westmoreland@milwaukee.gov](mailto:Lamont.Westmoreland@milwaukee.gov)>  
**Subject:** File 251072

Good afternoon Alderman Westmoreland,

First, I apologize that I cannot attend the Public Safety and Health Committee hearing on 10/23/25. Myself and Deputy City Attorney Julie Wilson, as well as all of our Municipal Court prosecutors are attending a training on prosecuting OWI cases put on by the Wisconsin Department of Justice. I will happily make myself and the office available should there be any follow up questions from Council members.

On 10/14/25, the Wisconsin Legislature passed 2025 Assembly Bill 78/Senate Bill 65. The bill has passed both houses of the Legislature, but has not yet been signed by Governor Evers. Pending signing by the Governor, this Act will allow municipalities in Wisconsin to enact ordinances that authorize the towing/impoundment of vehicles used in reckless driving. The bill uses the existing definition of reckless driving, Wis. Stat. 346.62, and applies to individuals committing a first offense reckless driving (a municipal ordinance violation) or a second or subsequent reckless driving offense (which may be prosecuted criminal by the District Attorney). In MCO 101-1, the City of Milwaukee adopted the State's traffic code, including Wis Stat. 346.62, meaning the City's definition of reckless driving mirrors the State's.

Committee members may be interested in a more thorough discussion of reckless driving prosecutions that took place on 7/24/25 in the Public Safety and Health Committee. A link to that file is available here [City of Milwaukee - File #: 240888](#). During that hearing, our office presented information regarding our new policy of prosecuting reckless driving citations. During the presentation, we reviewed the elements of the offense and detailed the facts necessary to secure a conviction for reckless driving. To refresh the Committee's recollection, I've included the elements of the offense below. Importantly, reckless driving is a fact-specific inquiry. Unlike a simple speeding citation, reckless driving requires more than just excessive speed. The speed and manner of driving, as well as location, time, etc. are all important. The elements, which must be proven by clear and convincing evidence, are:

1. The defendant operated a vehicle on a highway.
2. The defendant operated a vehicle in a manner constituting criminal negligence.

"Criminal negligence" means:

- the defendant's operation of a vehicle created a risk of death or great bodily harm; and
- the risk of death or great bodily harm was unreasonable and substantial; and
- the defendant should have been aware that (his) (her) operation of a vehicle created the unreasonable and substantial risk of death or great bodily harm.

3. The defendant's criminal negligence endangered the safety of any person or property.

File 251072 would create a new ordinance in Milwaukee under the authority granted through the passage of Assembly Bill 78/Senate Bill 65. The ordinance uses this existing definition of reckless driving, but allows for the seizure (towing) and impoundment of vehicles that are driven recklessly.

An amendment was added that gives the decision of whether or not to tow/impound to the officer citing or arresting the reckless driver. The bill states the decision to tow/impound is made "at the discretion of the officer." This means the decision to tow/impound is not mandatory. The bill does not define "discretion of the officer." Questions related to the Milwaukee Police Department's interpretation of or future guidance regarding the use of this discretion are best asked to the Department. The law requires the underlying act of reckless driving and does not provide any additional requirements to tow/impound.

File 251072 also adopts provisions of the state bill that require certain procedures if the vehicle involved in the reckless driving is believed to be a stolen vehicle and how the City may dispose of the towed/impounded vehicle if not claimed by the owner.

Again I apologize for my inability to appear before the Committee and welcome any questions Council members have regarding the file and/or the state bill.

Thank you!

Evan