



## Legislation Text

File #: 051344, Version: 2

### 051344 SUBSTITUTE 2

ALD. DONOVAN, BOHL AND ZIELINSKI

A substitute ordinance relating to the immobilization, impoundment, and disposal of unregistered motor vehicles.

105-65.5 rp

101-24.7 cr

101-34-2-f am

101-34-7-f am

Under Wisconsin law, municipalities are authorized to enact ordinances prohibiting the location of unregistered motor vehicles upon alleys, streets, highways, public ways or thoroughfares and providing for the immobilization, impoundment, and disposal of such vehicles. 2005 Wisconsin Act 185 ("The Act") changes the definition of "unregistered motor vehicle" so that it applies to motor vehicles that do not display valid registration plates, temporary operation plate or other evidence of registration for the vehicles' current registration period or a registration period that expired the preceding month, rather than motor vehicles that reasonably appear to have been unregistered for at least 30 days. The Act provides a definition of parking enforcer that includes persons who are employed by a municipality and enforce nonmoving traffic violations. The Act also eliminates provisions exempting certain persons from conviction or costs if it is shown that the vehicle is not subject to registration in Wisconsin and removes redundant provisions that persons are exempt from conviction upon presenting evidence that a complete registration application had already been submitted to the state department of transportation at the time of the offense. This ordinance repeals the current ordinance relating to unregistered vehicles at code of ordinances, chapter 105, public safety, and creates a new section in chapter 101, traffic code, in strict conformity to state statutes regarding unregistered vehicles as amended by the Act. Placing these provisions in chapter 101 will permit parking enforcers, who are not authorized to issue uniform citations, to issue parking citations for violations of the section. A forfeiture under stipulation has been established at \$50 and a penalty for violation ranging from \$50 to \$70. Additional procedures have been established including notice of the right for immediate informal review by the office of the city attorney in accordance with due process requirements following the taking of property.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 105-65.5 of the code is repealed.

Part 2. Section 101-24.7 of the code is created to read:

**101-24.7. Unregistered Motor Vehicles. 1. DEFINITION.** In this section, "unregistered motor vehicle" means any motor vehicle that is located upon any alley, street, highway, public way or thoroughfare and that is not displaying valid registration plates, a temporary operation plate, or other evidence of registration as provided under s. 341.18(1), Wis. Stats., for the vehicle's current registration period or for a registration period for the vehicle that expired within the immediately

preceding 31 days.

2. PROHIBITED. No unregistered motor vehicle may be located upon any alley, street, highway or public place within the city.

3. REMOVAL OF VEHICLE; NOTICE.

a. The chief of police or the commissioner of public works or any person acting on their behalf may cause any unregistered motor vehicle located upon any alley, street, highway or public place within the city to be removed to a suitable place of impoundment.

b. A notice informing the owner of the location of the vehicle, the procedure for reclaiming the vehicle, and the availability of an informal hearing before the city attorney shall be mailed to the owner's last known address within 24 hours after removal.

4. OWNER RESPONSIBLE FOR COSTS. The owner of any unregistered motor vehicle shall be responsible for all costs of impounding and disposing of the motor vehicle. Costs not recovered from the sale of the motor vehicle may be recovered in a civil action by the city against the owner.

5. RELEASE OF VEHICLE. Notwithstanding sub. 6, the owner of an unregistered motor vehicle that is impounded under this section may secure release of the motor vehicle by paying any forfeiture imposed for violation of this section and the reasonable costs of impounding the motor vehicle and providing satisfactory evidence of one of the following:

a. That the motor vehicle is currently registered in the state of Wisconsin.

b. That a complete application for registration for the motor vehicle, including evidence of inspection under s. 110.20, Wis. Stats., when required, accompanied by the required fee has been delivered to the Wisconsin department of transportation or deposited in the mail properly addressed with postage paid.

6. DISPOSAL OF UNCLAIMED VEHICLES AND TRAILERS. As soon as practical after the removal, a duly authorized representative of the commissioner of public works shall appraise the value of such motor vehicle based on the prevailing market. Such vehicle shall be disposed of according to s. 105-65.

7. PROCEDURE. Notwithstanding the provisions of sub. 6, a vehicle removed and impounded pursuant to this section shall not be disposed of under s. 105-65 while an informal hearing, requested following notice under sub. 3-b, is pending or before the expiration of 30 days. Neither shall disposition of the vehicle be made prior to the conclusion of court proceedings where timely application is made to the municipal court or other court of competent jurisdiction contesting the basis for removal of the vehicle or seeking to secure the release of the vehicle. In addition to the forfeiture provided in s. 101-34, the owner shall pay the city to cover the city's cost of impoundment, storage or disposal of the motor vehicle, or both.

Part 3. Section 101-34-2-f of the code is amended to read as follows:

#### **101-34. Stipulation Procedure; Nonmoving Traffic Violations.**

##### **2. FORFEITURE SCHEDULE.**

f. Citations issued for violation of ss. 101-24, 101-24.1, 101-24.5>>, 101-24.7<< and 101-25: \$50.

Part 4. Section 101-34-7-f of the code is amended to read:

##### **7. PENALTY.**

f. Violations of ss. 101-24, 101-24.1, 101-24.5>>, 101-24.7<< and 101-25: \$50 to \$70.

APPROVED AS TO FORM

\_\_\_\_\_  
Legislative Reference Bureau

Date: \_\_\_\_\_

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

\_\_\_\_\_  
Office of the City Attorney

Date: \_\_\_\_\_

LRB06045-3

RLW

4/5/2006