



TOWING & STORAGE LIENS

(Rev. 7/9/2015)

This explanation is designed to provide reasonably accurate and authoritative information in regard to the subject matter covered.

It is provided to the members of the Wisconsin Towing Association with the understanding that the provider is not engaged in rendering legal or other professional service.

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DEFINITIONS

GOOD FAITH - means honesty in fact and the observance of reasonable commercial standards of fair dealing

COMMERCIALLY REASONABLE - Determination of whether conduct was commercially reasonable

(1) **GREATER AMOUNT OBTAINABLE UNDER OTHER CIRCUMSTANCES; NO PRECLUSION OF COMMERCIAL REASONABLENESS.** The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(2) **DISPOSITIONS THAT ARE COMMERCIALY REASONABLE.** A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

- (a) In the usual manner on any recognized market;
- (b) At the price current in any recognized market at the time of the disposition; or
- (c) Otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

DEBTOR - A person or entity who owes an obligation of a fixed or certain amount.

COLLATERAL - means the property subject to a security interest.

LIEN – means a legal right to hold property or to have it sold or applied for payment of a claim.

POSSESSORY LIEN – means the lienholder is required to have the collateral in his/her possession in order to have a lien on that collateral.

SENIOR LIENHOLDER – a party with a perfected security interest in the collateral.

SECURITY INTEREST – the property rights of a lender or creditor who's right to collect a debt is secured by property.

PERFECTION OF SECURITY INTERESTS (motor vehicles) - a security interest is perfected by the delivery to the department of the existing certificate of title, if any, an application for a certificate of title containing the name and address of the secured party, and the required fee.

PRIORITY AMOUNT – means the dollar amount to which a lien of in the case of a mechanic's or towing and storage lien is given over that of a perfected security interest.

NOTIFIES OR GIVES NOTICE - person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when:

1. It comes to the person's attention; or

2. It is duly delivered at the place of business through which the contract was made or at any other place held out by the person as the place for receipt of such communications.

DEFAULT – failure to make required debt payments on a timely basis or to comply with other conditions of an obligation or agreement.

REPOSSESSION – taking back of property by a lender or seller from the borrower or buyer, usually due to default.

REPLEVIN – a legal procedure for recovering personal property taken in order to obtain satisfaction of a claim, and restoring it to the plaintiff against a security, until the court decides who is its legal owner.

BAILEE – one to whom Personal Property is entrusted for a particular purpose by another, the bailor, according to the terms of an express or implied agreement.

BAILOR – a person who leaves goods in the custody of another, in which the custodian ("bailee") is responsible for the safekeeping and return of the property.

VEHICLE (As applied to 779.415) - means any device for moving persons or property or pulling implements from one place to another on land or rails or in the air.

WISCONSIN STATUTE 779.415 – TOWING AND STORAGE LIENS

WHO IS ENTITLED TO A TOWING AND STORAGE LIEN?

779.415 (1g) (a) Every motor carrier holding a permit to perform vehicle towing services, every licensed motor vehicle salvage dealer, and every licensed motor vehicle dealer who performs vehicle towing services or stores a vehicle, when such towing or storage is performed at the direction of a traffic officer or the owner of the vehicle, shall, subject to sub. (1m) (b), have a lien on the motor vehicle for reasonable towing and storage charges, and may retain possession of the vehicle, until such charges are paid.

WHAT IS THE PRIORITY OF THE LIEN OVER A PERFECTED SECURITY INTEREST?

If the vehicle is subject to a lien perfected under ch. 342, **a towing lien shall have priority only to the extent of \$100 for a vehicle having a manufacturer's gross weight rating of 20,000 pounds or less and \$350 for a motor vehicle having a manufacturer's gross weight rating of more than 20,000 pounds and a storage lien shall have priority only to the extent of \$10 per day but for a total amount of not more than \$600 for a motor vehicle having a manufacturer's gross weight rating of 20,000 pounds or less and \$25 per day but for a total amount of not more than \$1,500 for a motor vehicle having a manufacturer's gross weight rating of more than 20,000 pounds.**

HOW IS THE LIEN ENFORCED?

If the value of the vehicle exceeds \$750, the lien may be enforced under s. 779.48 (2).

If the value of the vehicle does not exceed \$750, the lien may only be enforced by sale or junking as provided in sub. (2).

WHAT ARE THE NOTICE REQUIREMENTS FOR ALL VEHICLES TOWED AND STORED?

779.415 (1m) (a) Within 30 days after taking possession of a motor vehicle, every motor carrier, licensed motor vehicle salvage dealer, and licensed motor vehicle dealer under sub. (1) (1g) shall send written notice to the owner of the vehicle and the holder of the senior lien on the vehicle informing them that they must take steps to obtain the release of the motor vehicle.

WHAT MUST THE SENIOR LIENHOLDER DO TO REPOSSESS THE VEHICLE?

(b) To repossess the vehicle, the senior lienholder must pay all towing and storage charges that have a priority under sub. (1g) (a) and all reasonable storage charges that have accrued after 60 days from the date on which possession of the motor vehicle was taken.

WHAT IS THE RESULT OF NONCOMPLIANCE WITH 779.415(1m)(a)?

Failure to notify the owner and the senior lienholder as provided in par. (a) renders void, with respect to the senior lienholder, any lien to which the motor carrier, licensed motor vehicle salvage dealer, or licensed motor vehicle dealer would otherwise be entitled under sub. (1g).

WHAT ARE THE NOTICE REQUIREMENTS AND LIEN PROCEDURES FOR VEHICLES WITH A VALUE THAT DOES NOT EXCEED \$750

779.415 (2) At least 20 days prior to sale or junking, notice thereof shall be given by certified mail to the person shown to be the owner of the vehicle in the records of the department of transportation and to any person who has a lien on such vehicle perfected under ch. 342, stating that unless the vehicle owner or the owner's agent pays all reasonable towing and storage charges for the vehicle within said 20 days the vehicle will be exposed for sale or junked, as the case may be. If the proceeds of the sale exceed the charges, the balance shall be paid to the holder of the senior lien perfected under ch. 342, and if none, then to the owner as shown in the records of the department of transportation.

WHAT ARE THE NOTICE REQUIREMENTS AND LIEN PROCEDURES FOR VEHICLES WITH A VALUE EXCEEDING \$750?

779.48(2)

(2) Every person given a lien by ss. 779.41 and 779.43 (3) may in case the claim remains unpaid for 2 months after the debt is incurred, and a person given a lien under s. 779.47 (2) may if the claim remains unpaid 90 days after the lien is perfected, **enforce such lien by sale of the property substantially in conformity with subch. VI of ch. 409 and the lien claimant shall have the rights and duties of a secured party thereunder.** When such sections are applied to the enforcement of such lien the word debtor or equivalent when used therein shall be deemed to refer to the owner of the property and any other person having an interest shown by instrument filed as required by law or shown in the records of the department of transportation, and the word indebtedness or equivalent shall include all claims upon which such lien is based.

REQUIREMENTS:

May not enforce a lien until the debt remains unpaid for a period of two months from the time the debt is incurred.

On or after the 61st day after the debt was incurred, send notice of lien enforcement to the owner and any lienholder of record regarding the planned disposition of the vehicle. **We have deemed 20 days to be reasonable period of notice prior to final disposition of the vehicle.**

TIME LINE – ENFORCEMENT OF TOWNG & STORAGE LIENS

For Vehicles valued at MORE than \$750

0 Days

30 days

60 Days

80 Days



-
- Day 0** - **Vehicle towed in and/or stored.**
- * Day 30** - **Within 30 days, you must have notified the owner and lienholder of record that the vehicle is in your possession and they must take steps to reclaim the vehicle. If the charges are not paid within 30 days from the date the notice was mailed, you will enforce your lien for towing and storage by sale of the vehicle**
- ** Day 61** **Only if your claim remains unpaid for no less than 60 days after the debt is incurred, may you enforce your lien by selling the vehicle. At this point, you must send notice to the owner and lienholder of your plan to sell the vehicle to enforce your lien.**
- ** Day 81** **On day 81, you may sell the vehicle at public or private sale. The sale must Be commercially reasonable. To title the vehicle in your company name, the sale must be public to be considered “commercially reasonable”.**

IMPORTANT NOTES:

* You must give notice to the owner and lienholder to take steps to reclaim the vehicle within 30 days of taking possession of the vehicle. Failure to give reasonable notice renders void any lien you may be entitled to.

** You must wait at least 60 days from the time the vehicle is towed in and the debt is incurred before you can enforce your lien. At this point, the owner is in default. You must give 20 days written notice to the owner and lienholder (if any) before selling the vehicle as the law provides that notice of lien enforcement must be given after default. If you notify the owner and lienholder of your possession within 30 days and your intent to enforce your lien on day 61, the earliest you could sell the vehicle, would be on day 81.

(Company Name; Physical Address – Street, City, Zip; Phone and Fax)

**NOTICE TO OWNER/LIENHOLDER
RELEASE OF VEHICLE UNDER 779.415 (1m)(a) WI STATS.**

To Registered Owner:

To: Senior Lienholder of Record:

Date:

Dear Sir/Madam:

Please take notice that _____ being a motor carrier holding a permit to perform vehicle towing services, at the direction of the owner of the vehicle described below and/or a traffic officer did perform towing and/or storage of said vehicle on _____ and have not been paid for said towing and storage. (date)

VEHICLE IDENTIFICATION

Vin Number: _____ *Make:* _____ *Year:* _____

Title Number: _____ *License Number:* _____

To date that such unpaid balance amounts to \$ _____ for towing and \$ _____, for storage which constitutes and lien against such vehicle. **Please be advised that storage accrues at \$ _____ per day.**

Wisconsin statute 779.415 – *Liens on motor vehicles for towing and storage*, allows us to retain possession of your vehicle until such charges are paid. If you fail to respond to this notice to obtain release of your vehicle, your vehicle will be subject to sale as allowed under s. 779.415 and s. 779.48(2) to enforce our statutory right of a lien for unpaid charges for towing and storage.

PLEASE CONTACT US AT THE ADDRESS OR PHONE NUMBER ABOVE REGARDING THE RELEASE OF YOUR VEHICLE.

Signature

Date

**NOTICE TO ENFORCE TOWNG & STORAGE LIEN
UNDER 779.415 and 779.48(2) WI STATS.**

To Registered Owner:

To: Senior Lienholder of Record:

Date:

Dear Sir/Madam:

Please take notice that _____ being a motor carrier holding a permit to perform vehicle towing services at the direction of the owner of the vehicle described below and/or a traffic officer did perform towing and/or storage of said vehicle on _____ and have not been paid for said towing and storage. Notice was sent to you

(date)

pursuant to s. 779.415(1m) to claim and seek release of said vehicle on _____ .
(date)

VEHICLE IDENTIFICATION

Vin Number: _____ Make: _____ Year: _____

Model: _____ Title Number: _____ License Plate Number: _____

To date that such unpaid balance amounts to \$ _____ for towing and \$ _____, for storage which constitutes a lien against such vehicle. **Please be advised that storage accrues at \$ _____ per day.**

NOTICE OF OUR PLAN TO SELL VEHICLE TO ENFORCE LIEN

We will sell the vehicle described herein at **public sale** _____. A sale could include a lease or license. The sale will be held as follows:

Date: _____ Time: _____ Place: _____
You may attend the sale and bring bidders if you want.

We will sell the vehicle described herein at **private sale** sometime after _____. A sale could include a lease or license.
(date)

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you will ___ or will not ___, still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past-due payments), including our expenses. To learn the exact amount you must pay, call us at (phone no.)

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at the telephone number or write us at the address noted above and request a written explanation. We will charge you \$ _____ for the explanation if we sent you another written explanation of the amount you owe us within the last 6 months.]

If you need more information about the sale, call us at the number or write to at the address noted above.

(Signature)

(date)

ACCESS TO MOTOR VEHICLE OWNER / LIENHOLDER INFORMATION

- First and foremost law enforcement is required to provide towing companies information about the vehicle ownership and liens when directing removal of a vehicle. This provision became law in 2004 with the passage of [2003 WI Act 142](#). The law requires the information to be provided within 24 hours of removal of a vehicle and you should not have to request it. It should be provided as a matter of course. If you are not receiving the vehicle record information for your police ordered tows, we suggest you make those agencies familiar with their lawful responsibility to do so.
- **Title 18 U.S. Code, Chapter 123, Section 2721.**

Prohibition on release and use of certain personal information from State motor vehicle records

(a) In General. - A State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity:

(1) personal information, as defined in 18 U.S.C. 2725(3), about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section; or

(b) Permissible Uses. - Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and chapters 301, 305, and 321-331 of title 49, and, subject to subsection a)(2), **may be disclosed as follows:**

(7) For use in providing notice to the owners of towed or impounded vehicles. (Emphasis added)

- Motor vehicle information not provided by law enforcement require a written request using the required VEHICLE / DRIVER RECORD INFORMATION REQUEST form MV2896 8/2014 which may be accessed on line at <http://www.dot.wisconsin.gov/drivers/forms/mv2896.pdf> Mailed record requests take 1 – 4 business days, additional for mail time.
- Non-individual lien information (name and address of lien holders with a perfected security interest) can be found at no cost at <http://on.dot.wi.gov/applicationdoc/lien/index.htm>
- **Public Abstract Request System** The [Public Abstract Request System](#) (PARS) is a secure online service that allows authorized account holders to receive driver and/or vehicle record abstracts quickly and easily using the Web.

INVOLUNTARY LIEN TRANSFERS – Form MV2881 7/2015

<http://wisconsindot.gov/Documents/formdocs/mv2881.pdf>

WISCONSIN DMV ONLINE LIEN HOLDER INFORMATION

<http://on.dot.wi.gov/applicationdoc/lien/index.htm>

WISCONSIN STATUTE 779.415

779.415 Liens on vehicles for towing and storage.

(1c) In this section, "vehicle" has the meaning given in [s. 29.001 \(87\)](#).

(1g)

(a) Every motor carrier holding a permit to perform vehicle towing services, every licensed motor vehicle salvage dealer, and every licensed motor vehicle dealer who performs vehicle towing services or stores a vehicle, when such towing or storage is performed at the direction of a traffic officer or the owner of the vehicle, shall, subject to [sub. \(1m\) \(b\)](#), have a lien on the vehicle for reasonable towing and storage charges, and may retain possession of the vehicle, until such charges are paid. If the vehicle is subject to a lien perfected under [ch. 342](#), a towing lien shall have priority only to the extent of \$100 for a vehicle having a manufacturer's gross weight rating of 20,000 pounds or less and \$350 for a vehicle having a manufacturer's gross weight rating of more than 20,000 pounds and a storage lien shall have priority only to the extent of \$10 per day but for a total amount of not more than \$600 for a vehicle having a manufacturer's gross weight rating of 20,000 pounds or less and \$25 per day but for a total amount of not more than \$1,500 for a vehicle having a manufacturer's gross weight rating of more than 20,000 pounds. If the value of the vehicle exceeds \$750, the lien may be enforced under [s. 779.48 \(2\)](#). If the value of the vehicle does not exceed \$750, the lien may only be enforced by sale or junking as provided in [sub. \(2\)](#).

(b) If the vehicle is towed or stored under the directions of a traffic officer, any personal property within the vehicle shall be released to the owner of the vehicle as provided under [s. 349.13 \(5\) \(b\) 2](#). No additional charge may be assessed against the owner for the removal or release of the personal property within the vehicle.

(c) Annually, on January 1, the department of agriculture, trade and consumer protection shall adjust the dollar amounts identified under [par. \(a\)](#) by the annual change in the consumer price index, as determined under [s. 16.004 \(8\) \(e\) 1.](#), and publish the adjusted figures.

(1m)

(a) Within 30 days after taking possession of a vehicle, every motor carrier, licensed motor vehicle salvage dealer, and licensed motor vehicle dealer under [sub. \(1g\)](#) shall send written notice to the owner of the vehicle and the holder of the senior lien on the vehicle informing them that they must take steps to obtain the release of the vehicle.

(b) To repossess the vehicle, the senior lienholder must pay all towing and storage charges that have a priority under [sub. \(1g\) \(a\)](#) and all reasonable storage charges that have accrued after 60 days from the date on which possession of the vehicle was taken. Failure to notify the senior lienholder as provided in [par. \(a\)](#) renders void, with respect to the senior lienholder, any lien to which the motor carrier, licensed motor vehicle salvage dealer, or licensed motor vehicle dealer would otherwise be entitled under [sub. \(1g\)](#).

(2) At least 20 days prior to sale or junking, notice thereof shall be given by certified mail to the person shown to be the owner of the vehicle in the records of the department of transportation and to any person who has a lien on such vehicle perfected under [ch. 342](#), stating that unless the vehicle owner or the owner's agent pays all reasonable towing and storage charges for the vehicle within said 20 days the vehicle will be exposed for sale or junked, as the case may be. If the proceeds of the sale exceed the charges, the balance shall be paid to the holder of the senior lien perfected under [ch. 342](#), and if none, then to the owner as shown in the records of the department of transportation.

NOTE: This section is shown as affected eff. 8-1-10 by 2009 Wis. Act. 201. Prior to 8-1-10 it reads:

779.415 Liens on motor vehicles for towing and storage. (1) (a) Every motor carrier holding a permit to perform vehicle towing services, every licensed motor vehicle salvage dealer and every licensed motor vehicle dealer who performs vehicle towing services or stores a motor vehicle, when such towing or storage is performed at the direction of a traffic officer or the owner of the vehicle, shall, if the vehicle is not claimed as provided herein, have a lien on the motor vehicle for reasonable towing and storage charges, and may retain possession of the vehicle until such charges are paid. If the vehicle is subject to a lien perfected under ch. 342, a towing lien shall have priority only to the extent of \$75 for a motor vehicle having a gross weight of 20,000 pounds or less and \$250 for a motor vehicle having a gross weight of more than 20,000 pounds and a storage lien shall have priority only to the extent of \$7 per day but for a total amount of not more than \$420 for a motor vehicle having a gross weight of 20,000 pounds or less and \$20 per day but for a total amount of not more than \$1,200 for a motor vehicle having a gross weight of more than 20,000 pounds. If the value of the vehicle exceeds \$500, the lien may be enforced under s. 779.48 (2). If the value of the vehicle does not exceed \$500, the lien may be enforced by sale or junking substantially as provided in sub. (2).

(b) If the vehicle is towed or stored under the directions of a traffic officer, any personal property within the vehicle shall be released to the owner of the vehicle as provided under s. 349.13 (5) (b) 2. No additional charge may be assessed against the owner for the removal or release of the personal property within the vehicle.

(1m) Within 30 days after taking possession of a motor vehicle, every motor carrier, licensed motor vehicle salvage dealer and licensed motor vehicle dealer under sub. (1) shall send written notice to the owner of the vehicle and the holder of the senior lien on the vehicle informing them that they must take steps to obtain the release of the motor vehicle. To reclaim the vehicle, the owner or the senior lienholder must pay all towing and storage charges that have a priority under sub. (1) (a) and all reasonable storage charges that have accrued after 60 days from the date on which possession of the motor vehicle was taken. A reasonable effort to so notify the owner and the holder of the senior lien satisfies the notice requirement of this subsection. Failure to make a reasonable effort to so notify the owner and the senior lienholder renders void any lien to which the motor carrier, licensed motor vehicle salvage dealer or licensed motor vehicle dealer would otherwise be entitled under sub. (1).

(2) At least 20 days prior to sale or junking, notice thereof shall be given by registered mail to the person shown to be the owner of the vehicle in the records of the department of transportation and to any person who has a lien on such vehicle perfected under ch. 342, stating that unless the vehicle is claimed by the owner or the owner's agent within said 20 days the vehicle will be exposed for sale or junked, as the case may be. If the proceeds of the sale exceed the charges, the balance shall be paid to the holder of the senior lien perfected under ch. 342, and if none, then to the owner as shown in the records of the department of transportation.

History: 1977 c. [29](#) s. 1654 (7) (b); 1977 c. [273](#); 1979 c. [32](#) ss. 57, 92 (9); Stats. 1979 s. 779.415; 1983 a. [213](#), [445](#); 1989 a. [320](#); 1995 a. [62](#); 2009 a. [201](#).

WISCONSIN STATUTE 779.48

779.48 Enforcement

(1) Every person given a lien by ss. 779.43 to 779.46, except s. 779.43 (3), or as bailee for hire, carrier, warehouse keeper or pawnee or otherwise, by common law, may, in case the claim remain unpaid for 3 months and the value of the property affected thereby does not exceed \$100, sell such property at public auction and apply the proceeds of such sale to the claim and the expenses of such sale. Notice in writing, of the time and place of the sale and of the amount claimed to be due shall be given to the owner of such property personally or by leaving the same at the owner's place of abode, if a resident of this state, and if not, by publication thereof, in the county in which such lien accrues, as a class 3 notice, under ch. 985. If such property exceeds in value \$100, then such lien may be enforced against the same by action.

(2) Every person given a lien by ss. 779.41 and 779.43 (3) may in case the claim remains unpaid for 2 months after the debt is incurred, and a person given a lien under s. 779.47 (2) may if the claim remains unpaid 90 days after the lien is perfected, enforce such lien by sale of the property substantially in conformity with subch. VI of ch. 409 and the lien claimant shall have the rights and duties of a secured party thereunder. When such sections are applied to the enforcement of such lien the word debtor or equivalent when used therein shall be deemed to refer to the owner of the property and any other person having an interest shown by instrument filed as required by law or shown in the records of the department of transportation, and the word indebtedness or equivalent shall include all claims upon which such lien is based.

History: 1977 c. 29 s. 1654 (7) (b); 1979 c. 32 ss. 57, 92 (9); 1979 c. 176; Stats. 1979 s. 779.48; 1983 a. 500 s. 43; 1993 a. 328; 2001 a. 10; 2005 a. 336.

Requirements of a common law lien are discussed. Even though some of the goods are returned, the lien may exist on the balance retained for the whole amount due. *Moynihan Associates, Inc. v. Hanisch*, 56 Wis. 2d 185, 201 N.W.2d 534 (1972).