

ABANDONED MOTOR VEHICLES IN WISCONSIN



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Tow Truck Operators' Perspective on Abandoned Motor Vehicles

Abandoned motor vehicles are often a traffic hazard, an environmental liability if not properly disposed of, and blight on areas where their owners leave them. Private businesses are required to abide by all laws and regulations applicable to their business operations. Local units of government in turn should be required to do likewise.

- By law, Local Units of Government are responsible for:
 - Determining if a vehicle is legally abandoned.
 - If vehicle abandonment is a violation of law and warrants a citation.
 - Ordering abandoned vehicles removed and impounded.
 - Providing notice to the owner/lienholder of record that he/she must reclaim the vehicle and pay any forfeitures and costs involved in removal, impoundment and disposal.
 - Seek collection forfeitures and costs.
 - Disposal of such vehicles through public or private sale or junking.
 - Paying the towing service for towing and reasonable charges for storage.
 - Notification to towing service of vehicle owner/lienholder information.

It is not profitable for towing services to remove and store abandoned motor vehicles when counties and municipalities fail to apply the abandoned vehicle law.

- The monetary value of nearly all abandoned vehicles is less than the costs of their removal, impoundment and disposal.
- Unless a vehicle is stolen, or the owner is in default of a secured interest, it is likely abandoned because it has no value to its owner.
- Towing services cannot recoup their costs of towing, storage, and disposal of essentially worthless abandoned vehicles through enforcement of towing and storage liens.

Wisconsin's abandoned motor vehicle law at s. 342.40 is fair and equitable and should be enforced by local units of government.

- Allows municipalities to enact ordinances to govern the removal and disposal of abandoned vehicles.
- Such ordinances may include provisions for a penalty and enforcement costs.
 - Forfeiture of up to \$200
 - Towing and storage charges.
 - Municipalities should use the Wisconsin DOT's Traffic Violation and Registration Program to help collect unpaid forfeitures and towing and storage charges.

Local and State law enforcement agencies must cite owners for vehicle abandonment. It's against the law. Taxpayers and tow truck operators should not bear the costs associated with the abandonment of motor vehicles. That burden should be placed on the owners as the law provides.

WISCONSIN'S ABANDONED VEHICLE LAW

The following is a detailed breakdown of Wisconsin's Abandoned Vehicle law, which appears under s. 342.40, Wis. Stats. (Vehicle abandonment prohibited; removal; disposal.)

(1c) In this section, "owner" includes the lessee of a vehicle if the vehicle is registered, or required to be registered, by the lessee under ch. 341.

Unlawful to abandon motor vehicles on public highways, private or public property.

(1m) No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public highway or private or public property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned.

Abandoned vehicles defined:

- *Vehicles left unattended without permission of property owner for more than 48 hours in cities of the 1st class (Milwaukee)*
- *Vehicles left unattended without permission of property owner for a period in other jurisdictions as determined by the local government.*
- *Vehicles are not abandoned when out of ordinary public view.*
- *Vehicles are not abandoned when so designated by an authorized public official.*

Except as otherwise provided in this subsection, whenever any vehicle has been left unattended without the permission of the property owner for more than 48 hours in cities of the 1st class and, in other cities, villages and towns, a period set by the governing body thereof, the vehicle is deemed abandoned and constitutes a public nuisance. A motor vehicle shall not be considered an abandoned motor vehicle when it is out of ordinary public view, or when designated as not abandoned by a duly authorized municipal or county official pursuant to municipal or county ordinance.

Abandoned vehicles may be impounded until lawfully claimed or disposed of.

Abandoned vehicles may be junked or sold by the municipality prior to the expiration of the impoundment period if the costs of towing and impoundment exceed the value of the vehicle.

(2) Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under sub. (3) except that if it is deemed by a duly authorized municipal or county representative that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold by the municipality or county prior to expiration of the impoundment period upon determination by the chief of police or sheriff having jurisdiction that the vehicle is not stolen or otherwise wanted for evidence or other reason. All substantially complete vehicles in excess of 19 model years of age shall be disposed of in accordance with sub. (3) (c).

Local units of government may enact ordinances governing the removal and disposal of abandoned vehicles except stolen vehicles.

Such ordinances may include a forfeiture as well as enforcement costs.

Law enforcement agencies are required to notify the towing service within 24 hours of owner and lienholder information of the vehicles they order removed.

(3) Any municipality or county may enact ordinances governing the removal and disposal of abandoned vehicles and, except for abandoned vehicles that have been stolen, provide a forfeiture in addition to providing for the recovery by the municipality or county of the cost of impounding and disposing of the vehicle.

(a) Any municipal or university police officer, police officer appointed under s. 16.84 (2), sheriff's deputy, county traffic patrolman, state traffic officer or conservation warden who discovers any motor vehicle, trailer, semitrailer, or mobile home on any public highway or private or public property which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment. Upon removal of the vehicle the officer or warden shall notify the sheriff or chief of police of the abandonment and of the location of the impounded vehicle. Upon causing the removal of the motor vehicle by a towing service, the officer or warden shall, within 24 hours of ordering the removal, notify the towing service of the name and last-known address of the registered owner and all lienholders of record of the vehicle, unless the officer is employed by a municipality or county that has entered into a towing services agreement which requires the municipality or county to provide notice to such owner and lienholders of the towing.

Abandoned vehicle owners, except owners of stolen vehicles are responsible for abandonment and all costs of impounding and disposal of the vehicle.

Costs of impoundment and disposal may be recovered in a civil action by the municipality against the owner.

Whether or not the municipality recovers cost of towing and enforcement, they shall be responsible to the towing service for the towing and reasonable charges for storage.

(b) The owner of any abandoned vehicle except a stolen vehicle is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not recovered from the sale of the vehicle may be recovered in a civil action by the municipality against the owner. Whether or not the municipality recovers the cost of towing and enforcement, the municipality shall be responsible to the towing service for requisitional towing service and reasonable charges for impoundment.

Any vehicle not disposed under sub. (2) (if the costs of towing and impoundment exceed the value of the vehicle) must be stored for 10 days after notice is sent to owner and lienholders to reclaim vehicle after payment of towing and storage charges.

The notice must -

- *Identify the abandoned vehicle;*
- *Where it is being held;*
- *The right of the owner and lienholders to reclaim the vehicle;*
- *Failure to reclaim the vehicle deems a waiver of right, title and interest in the vehicle and a consent to sale.*

Vehicles not reclaimed may be sold.

(c) Any vehicle which is deemed abandoned by a duly authorized municipal or county representative and not disposed of under sub. (2) shall be retained in storage for a minimum period of 10 days after certified mail notice has been sent to the owner and lienholders of record to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model, and serial number of the abandoned motor vehicle, the place where the vehicle is being held, and shall inform the owner and any lienholders of their right to reclaim the vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the vehicle under this section shall be deemed a waiver of all right, title, and interest in the vehicle and a consent to the sale of the vehicle. Each retained vehicle not reclaimed by its owner or lienholder may be sold.

Vehicles may be sold by sealed bid or auction sale.

- *High bid shall be accepted unless deemed inadequate.*
- *If bid is inadequate, it may be rejected.*
- *If rejected,*
 - *Sale may be readvertised*
 - *Adjourned to a definite date*
 - *Sell vehicle at a private sale*
 - *Junk the vehicle.*
- *If no procedure for sale governed by ordinance:*
 - *Police or sheriff shall post public notice of sale.*
 - *Notice shall be in the same form as the notice that was sent to owner and lienholders.*
- *The municipality shall provide the purchaser with a certificate of transfer of abandoned vehicle, which will allow the purchaser to obtain a title for the vehicle from the Department.*
- *The purchaser has 10 days to remove the vehicle from the storage area. The municipality or county may dispose of the vehicle by sealed bid or auction sale as provided by ordinance. At such sale the highest bid for any such motor vehicle shall be accepted unless the same is deemed inadequate by a duly authorized municipal or county representative, in which event all bids may be rejected. If all bids are rejected or no bid is received, the municipality or county may either readvertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale or junk the vehicle. Any interested person may offer bids on each abandoned vehicle to be sold. If municipal or county ordinances do not state the procedure to be followed in advertising or providing public notice of the sale, a public notice shall be posted at the office of the municipal police department or the office of the county sheriff. The posting of the notice at the police or sheriff's department shall be in the same form as the certified mail notice sent to the owner or lienholders of record. Upon sale of an abandoned vehicle, the municipality or county shall supply the purchaser with a completed form designed by the department enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have 10 days to remove the vehicle from the storage area, but shall pay a reasonable storage fee established by the municipality or county for each day the vehicle remains in storage after the 2nd business day subsequent to the sale date.*

- Ten days after the sale, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by any municipality or county shall be made available to any interested person or organization which makes a written request for such list. The municipality or county may charge a fee for the list.

Local units of government must notify the department within five days after sale or disposal of such sale or disposition.

(e) Within 5 days after the sale or disposal of a vehicle as provided in this subsection or sub. (2), the municipality or county shall advise the department of the sale or disposition on a form supplied by the department.

State agencies authorized to deem vehicles abandoned on land they are responsible for.

A vehicle is deemed abandoned if left unattended without the permission of the state agency for more than 72 hours.

The state agency may promulgate rules governing the removal and disposal of abandoned vehicles.

(4)(a) In this subsection, "state agency" has the meaning given for "agency" in s.227.01 (1)

(b) Notwithstanding any other provision of this section, a state agency responsible for the land on which a vehicle is left unattended and a duly authorized representative of that agency may exercise all of the powers and duties under this section of a municipality and a duly authorized municipal representative, subject to the following conditions:

1. Whenever a vehicle has been left unattended without the permission of the state agency for more than 72 hours, the vehicle is deemed abandoned and constitutes a public nuisance.
2. The state agency may promulgate rules governing the removal and disposal of abandoned vehicles and, except for abandoned vehicles that have been stolen, provide a forfeiture in addition to providing for the recovery by the state agency of the cost of impounding and disposing of the vehicle.

(c) This subsection applies to any vehicle deemed abandoned before April 30, 1996, except that no forfeiture may be assessed against the owner of such a vehicle.

DISCLAIMER FOR INVOLUNTARY LIEN TRANSFERS AND ABANDONMENT OF PROPERTY TO A LANDLORD

Wisconsin Department of Transportation (WisDOT)
MV2881 8/2015 ss. 342.18(2) and 342.19, Stats.

Under Wisconsin law, an eligible mechanic, towing company, or self-service storage operator, referred to as lien holder from this point forward, may transfer a vehicle pursuant to the proper enforcement of an involuntary lien. An eligible landlord has the power to dispose of an abandoned vehicle upon the tenant's removal from the leased premises by sale or other appropriate means.

The applicable law specifies the eligibility, required notification procedures, the associated waiting period, and the means by which an eligible lien holder or landlord may dispose of the vehicle.

A new certificate of title in the name of the transferee as owner as a result of an involuntary lien or abandonment of property to a landlord will receive:

ABANDONMENT OF PROPERTY TO LANDLORD INVOLUNTARY SELF-SERVICE STORAGE LIEN	INVOLUNTARY TRANSFER MECHANIC LIEN INVOLUNTARY TRANSFER TOWING LIEN
<ul style="list-style-type: none"> • A title without a secured party listed if there is a lien release submitted with the application. • If a lien release is not submitted with the application, the transferee <i>will</i> receive a Confirmation of Ownership and the title will be sent to the secured party if the previous owner's lien was listed after July 30, 2012. See http://wisconsindmv.gov/Pages/dmv/vehicles/title-plates/lienholder-default.aspx for more information. 	<ul style="list-style-type: none"> • A title without a secured party listed

Any money collected pursuant to an involuntary lien transfer or from the landlord's right to dispose of property must be distributed pursuant to Wisconsin State Statutes and the Uniform Commercial Code.

The applicant is required to certify his or her eligibility to enforce the lien or dispose of the abandoned property by signing their name on the statement of fact indicating that he or she is an eligible lien holder or landlord, and has complied with the procedures required by Wisconsin State Statutes.

Falsifying information on this form could result in a fine of up to \$10,000 or imprisonment for up to five (5) years or both.

Local Division of Motor Vehicles customer service centers can provide the odometer disclosure statement (MV2488), but cannot answer questions regarding this involuntary lien or abandonment of property to a landlord titling process. Inquiries can be made by:

Email: vehiclequestions@dot.wi.gov

- The Research & Information Unit may have to conduct research before replying; please allow two business days for an email response. Do not send a second email.
- If the inquiry involves a specific vehicle, please be sure to provide the vehicle identification number or license plate number in your email.

Phone: (608) 266-1466. Calls are answered from 7:30 a.m. to 4:30 p.m., Monday through Friday.

The Wisconsin Department of Transportation provides the information on this web site as a convenience to eligible lien holders and landlords. Use of this form by the general public or organizations seeking to obtain a title for an abandoned vehicle is prohibited by law. This page and the application form do not constitute professional legal advice by WisDOT or guarantee eligibility, as circumstances will vary.

WisDOT is not liable for damages, court action, or denials incurred through the inappropriate or illegal use of the application form. By completing this form, the applicant agrees to hold WisDOT harmless in any related actions.

I have read and understand the disclaimer above regarding involuntary lien transfers and the abandonment of property to a landlord. I understand how to properly use and complete the application form.



DISPOSITION OF THE VEHICLE (please check one)

Sold to Purchaser Identified Title in Business Name Junked

VEHICLE INFORMATION

Vehicle Identification Number (VIN) <table border="1"> <tr> <td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td> </tr> </table>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	Vehicle Year	Vehicle Make	Vehicle Style	State Vehicle is Titled
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17					
Recorded Name of Vehicle Owner		Recorded Name of Vehicle Co-Owner																			
Recorded Name of Lien Holder(s)		Lien Release(s) Received and are Attached <input type="checkbox"/> YES <input type="checkbox"/> NO																			

SALE INFORMATION

Business Name/Seller Name	(Area Code) Telephone – Daytime																							
Address	City, State, ZIP Code																							
Purchaser Name	(Area Code) Telephone – Daytime																							
Address	City, State, ZIP Code																							
Purchaser Driver License Number <table border="1"> <tr> <td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td> </tr> </table>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	Purchaser FEIN Number (if applicable) <table border="1"> <tr> <td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td> </tr> </table>	1	2	3	4	5	6	7	8	9
1	2	3	4	5	6	7	8	9	10	11	12	13	14											
1	2	3	4	5	6	7	8	9																

SALE TYPE (please check one)

<input type="checkbox"/> PUBLIC*	Date of Sale	Sale Price	<input type="checkbox"/> PRIVATE*	Date of Sale	Sale Price
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*A *public sale* is an auction in which the public is invited by advertisement to appear for the purpose of bidding on the vehicle.

*A *private sale* is any sale in which the public is **not** invited by advertisement to appear for the purpose of bidding on the vehicle.

A vehicle cannot be transferred to a lien enforcer by a mechanic, motor carrier, or self-service storage operator by means of a private sale.

I agree to protect and indemnify the Wisconsin Department of Transportation in any claim arising out of the issuance of a title in the name of the purchaser at the sale on the above-described vehicle.

I also certify by signing this form that, to the best of my knowledge the information and statements on this form are true and correct.

I have acknowledged that falsifying information provided on this document could result in a fine of up to \$10,000 and/or imprisonment for up to five (5) years.

X

(Print – Seller's Name)

(Seller's Signature)

(Date – m/d/yy)

TO VERIFY OWNERSHIP AND/OR LIEN HOLDER INFORMATION

- If the vehicle is titled in Wisconsin and you have not yet verified ownership/lien holder's information, as required by law, you *may* be able to use form MV2896 *Vehicle/Driver Record Information Request* to obtain this information.
- If the vehicle is no longer on record with the Wisconsin Department of Transportation, you will need to contact the Research & Information Unit at (608) 266-1466 or vehiclequestions@dot.wi.gov for information on alternative procedures.
- When the vehicle is from another state, you will need to contact that state to obtain ownership/lien holder's information on record. You may use our web site www.wisconsindmv.gov to link to other out of state's web sites.
- If this vehicle was last titled in a state other than Wisconsin, please send proof of the current owner(s) on record, including lien holder information.

SERVICE MEMBERS CIVIL RELIEF ACTS

- A person holding a lien on the property or effects of a service member may not, during any period of military service of the service member and for 90 days thereafter, foreclose upon or enforce any lien on such property or effects without a court order granted before foreclosure or enforcement. 50 App. U.S.C.A. s. 537.
- No person may knowingly seize or retain personal property belonging to a service member who lawfully terminates a lease under this subsection, or in any manner interfere with the removal of the service member's personal property from the premises covered by the lease, for the purpose of subjecting the personal property to a claim for rent accruing after the termination of the lease. Any person who violates this paragraph shall be fined not more than \$10,000 or imprisoned for not more than 9 months or both. s. 321.62(14)(e), Stats.

QUESTIONS – For additional information contact the Research & Information Unit at (608) 266-1466, M–F 7:30 a.m. to 4:30 p.m. or email vehiclequestions@dot.wi.gov.