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**Senate Committee on Transportation and Local Government
Testimony on Senate Bill 629
Liability Exemption for Motor Vehicle Sellers after Sale
January 17, 2024**

Thank you Mr. Chairman and members of the Committee for holding a public hearing on Senate Bill 629, relating to a liability exemption for motor vehicle sellers after sale. I'd also like to thank Sen. Felzkowski for her efforts in moving this bill forward in the Senate. This bill clarifies an ambiguity in statute to better protect individuals who sell their motor vehicles.

It should be common sense that if an individual no longer holds legal title to a vehicle, or possesses a vehicle, they should generally not be held liable for the vehicle. And, they shouldn't be held responsible for the actions of the vehicle's new owner. But under current state statutes, when a vehicle is sold, the transfer is not considered effective unless the parties have complied with certain statutory formalities. In short, state statutes do not adequately address a situation where the buyer has not yet transferred title to their name.

I introduced this after hearing about a situation where a constituent sold their vehicle, but the buyer failed to transfer the car's title to their name. The buyer proceeded to accumulate a number of parking tickets. City police tracked down the seller, and threatened to suspend their registration and driver's license if they didn't pay the buyer's accrued parking tickets. Vehicle sellers also risk being dragged into costly litigation if a buyer causes a crash before they have transferred the title into their name. One individual told my office it cost about \$10,000 in attorney's fees, including legal research, briefs, and arguments before the court, before a judge removed him as a party from a lawsuit.

We've worked with the Wisconsin Department of Transportation to incorporate case law, and to make sure we don't inadvertently remove protections sellers already have. The legislation simply codifies current, correct, Supreme Court precedent, and makes it easier for sellers to defend themselves from unfair traffic and parking tickets. Liability is shifted when the buyer and seller intend to transfer ownership of the vehicle, regardless of whether all statutory formalities have been completed.

It is important to note that liability exemptions do not apply if death or injury is caused by the seller's willful or wanton acts or omissions, nor does it apply to motor vehicle wholesale dealers. Placing liability on the rightful owner of a vehicle will protect our state's vehicle sellers from unjust civil and criminal liability.

Thank you again for your time and consideration. I am happy to answer any questions.



MARY FELZKOWSKI

STATE SENATOR • 12TH SENATE DISTRICT

Testimony on SB 629

Committee on Transportation and Local Government

Senator Mary Felzkowski

12th Senate District

January 17, 2024

Chair Tomczyk and Fellow Members of the Committee,

Thank you for the opportunity to testify on Senate Bill 629, which will provide a liability exemption for motor vehicle sellers after a sale.

Nowadays, personal motor vehicles play an important role in many of our lives, providing an easy means of transportation from one place to another. At a certain point in a vehicle's life, an owner may choose to sell their car or truck- maybe they want to upgrade to a nicer, newer vehicle, or maybe the cost of maintaining their current vehicle has become too high. Regardless of the reason, there are a number of routes an owner may take to sell their vehicle. Some folks may choose to do a trade-in, some may choose to sell through a dealership, and many choose to make private sales.

Private sales of vehicles are incredibly common, and can benefit both the buyer and the seller, as there is no middle man incurring further costs. While there are plenty of upsides to private sales, in current law there are downsides as well that may unfairly impact the seller. In Wisconsin, individuals who privately sell a vehicle are liable for any illegal actions committed by the buyer if a vehicle's title has not officially changed hands yet. For instance, if I sell a car to my neighbor and they get in an accident before the vehicle is officially re-titled (as the process of transferring a title can take several days to complete), I could still be held liable for any damages incurred.

SB 629 sets forth that if a title is signed and transferred along with a vehicle, then liability is also transferred to the buyer, and the seller is provided immunity. However, in instances where a title may not be involved in a sale, the intent to transfer ownership behind a sale made between a seller and buyer is recognized, and immunity is thus provided for a seller in that circumstance as well. This immunity doesn't apply if death or injury occurs due to the seller's willful or wanton acts or omissions, and it does not apply to motor vehicle or wholesale dealers. This simple, commonsense bill was written to be consistent with the case law established by *Bachelor v. Employers Mutual Liability Ins. Co.* (1980).

I am grateful to my Assembly author, Rep. Duchow, and her staff, for their hard work on this legislation. Thank you for your time today, and thank you for your consideration of this bill.



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EXECUTIVE DIRECTOR

January 4, 2024

AB-669/SB-629 Goes Too Far: Providing Immunity for Negligently Injuring or Killing Others

The bill should be amended to narrowly apply to parking tickets and other civil ordinance violations erroneously being attributed to vehicle sellers after their vehicles have been sold.

Protecting Sellers from Civil Ordinance Violations is a Noble Goal. We share the authors' goal that individuals who sell their vehicles should not face legal consequences from parking tickets or other civil ordinance violations that are attributable to the buyer.

A Seller who has Transferred Possession Already Not Legally Responsible for any Damages. Wis. Stat. § 342.15(3) already provides that “[a]n owner who has delivered possession of the vehicle to the transferee and has complied with the provisions of this section is not liable as owner for any damages thereafter resulting from operation of the vehicle.” For over forty years, Wisconsin law has interpreted this statute not to require strict compliance, meaning it already provides broad protection to sellers. Bachelor v. Employers Mut. Liability Ins. Co., 93 Wis.2d 564, 573, 287 N.W.2d 817 (1980).

Civil Liability is Connected to Negligent Acts – Not Ownership. Under existing Wisconsin law, a vehicle seller cannot be held responsible for the damages caused by the buyer's operation of the vehicle. The only way a vehicle seller would ever face civil liability in the event of a crash is if they were actively negligent, such as failing to disclose a defective condition. There are very few exceptions to this rule. (E.g., employees driving company owned vehicles while in the scope of their employment). The language in this bill conferring immunity to negligent sellers who cause injury or death, by definition, protects them even in situations where they have caused the harm.

Bill Would Allow Negligent Sale of Unsafe Vehicles. A seller who negligently fails to disclose a defective condition in a vehicle which causes injury or death would be given immunity under this bill. If the seller did not know about the defective condition, they would not be responsible for subsequent issues.

Sellers Must Notify the State. The DOT has created a website for sellers to notify the DOT when they have sold a vehicle and the identity of the new owner: <https://app.wi.gov/sellernotify>. Since 2015, sellers have been required to notify the DOT within 30 days and provide the identification number of the vehicle as well as the identity of the buyer.