

Motor Vehicle Repossession in Wisconsin

❖ Notice to Customer

In Wisconsin, a creditor can repossess a motor vehicle if it mails a notice to the customer with the following information:

- 1) The name, address, and telephone number of the creditor, a brief identification of the credit transaction, and a brief description of the motor vehicle.
- 2) A statement that, as a result of the customer's default on the loan, the creditor has the right to take possession of the motor vehicle without further notice or court proceeding.
- 3) A statement that if the customer is not in default or objects to the creditor's right to take the motor vehicle, the customer may, **no later than 15 days** after the creditor has given the notice, demand that the creditor proceed in court by notifying the creditor in writing.
- 4) A statement that if the creditor proceeds in court, the customer may be required to pay court costs (i.e. filing fee and mailing cost) and attorney fees (usually \$100-\$500).

* Note: The Notice need only be sent to the address the customer gave the creditor when purchasing the vehicle or to whatever new address the customer provided to the creditor. Unless the creditor has reason to know of a different address, it is under no duty to try to find the customer's correct address.

❖ Verbal Objection/ Breaching the Peace

The creditor cannot breach the peace during repossession. Thus, if the customer verbally objects to the repossession (and, perhaps, calls the police) as the repossession is taking place, it is no longer a lawful repossession because the creditor has breached the peace.

❖ Penalties for Unlawful Repossession

If a creditor does not give this notice to a customer or if it gets a timely objection to a notice and then repossesses the vehicle anyway, the creditor is subject to the following penalties:

- 1) Customer gets to keep the vehicle
- 2) Customer is no longer required to make further payments on the vehicle
- 3) Customer is entitled to recover all payments made and
- 4) Customer recovers costs and attorney's fees.

Requesting a Court Case/Objecting to Repossession

If you want the creditor to proceed in court with the repossession, you need to:

- 1) Write a letter to the creditor **within 15 days** after the creditor gave the notice.
Do NOT Delay!
 - a. Tell the creditor: “Do NOT repossess my vehicle.”
 - b. State that you want the creditor to “Take me to Court” to resolve this dispute.
 - c. Include a copy of the notice you received to make sure the creditor knows which motor vehicle is being discussed.
- 2) Remember to keep a copy of any letters you send to the creditor and keep a record of any phone conversations you have with them.

*Do NOT just call the creditor to object. You must mail (or fax if they provide a fax number) the response described above.

❖ Advantages of Requesting a Court Case:

- 1) Allows you to object to what the creditor claims, if you believe they are wrong.
- 2) If you contest, you are provided more time to:
 - a. come up with the money that is needed to pay the creditor back or to enter into a new payment arrangement (if the creditor is willing).
 - b. take care of current responsibilities that you may have and that require a car.

❖ Disadvantages of Requesting a Court Case:

- 1) If you lose, your vehicle will still be taken.
- 2) You may have to pay court costs and attorney fees of the creditor if you do not prevail.

See Wis. Stat. 425/ The requirement for lawful repossession are under 425.205(1g). Prohibition on breaching the peace can be found at 425.206(2). Remedies are found at 425.305.

The above is intended to provide general information only and is not a substitute for thorough and specific advice on an individual case. Depending on the complexity of your legal problem, you may need to consult an attorney for advice or representation.

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