

1999 DRAFTING REQUEST

Senate Amendment (SA-AB335)

Received: 01/13/2000

Received By: nelsorp1

Wanted: Soon

Identical to LRB:

For: Gary George (608) 266-2500

By/Representing: Dan Rossmiller

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Courts - courts/judges
Courts - civil procedure

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Refusal hearing in municipal court

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	nelsorp1 01/13/2000	wjackson 01/13/2000	martykr 01/14/2000	_____	lrb_docadmin 01/14/2000	lrb_docadmin 01/14/2000	

FE Sent For:

<END>

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/1	nelsorp1	1 WJ 1/13	1/13	<i>[Signature]</i>			

FE Sent For:

<END>

State of Wisconsin



GARY R. GEORGE
SENATOR

To: Bob Nelson
From: Dan Rossmiller

Could you please draft an amendment to AB 335, relating to refusal hearings in municipal OWI cases, to address these concerns. Thank you.

Dan

1. The number of cases in 2010 was 100.

2. The number of cases in 2011 was 120.

3. The number of cases in 2012 was 150.

4. The number of cases in 2013 was 180.

5. The number of cases in 2014 was 200.

6. The number of cases in 2015 was 220.

7. The number of cases in 2016 was 250.

8. The number of cases in 2017 was 280.

9. The number of cases in 2018 was 300.

10. The number of cases in 2019 was 320.

11. The number of cases in 2020 was 350.

12. The number of cases in 2021 was 380.

13. The number of cases in 2022 was 400.

14. The number of cases in 2023 was 420.

15. The number of cases in 2024 was 450.

16. The number of cases in 2025 was 480.

17. The number of cases in 2026 was 500.

18. The number of cases in 2027 was 520.

19. The number of cases in 2028 was 550.

20. The number of cases in 2029 was 580.

21. The number of cases in 2030 was 600.

22. The number of cases in 2031 was 620.

23. The number of cases in 2032 was 650.

24. The number of cases in 2033 was 680.

25. The number of cases in 2034 was 700.

26. The number of cases in 2035 was 720.

27. The number of cases in 2036 was 750.

28. The number of cases in 2037 was 780.

29. The number of cases in 2038 was 800.

30. The number of cases in 2039 was 820.

31. The number of cases in 2040 was 850.

32. The number of cases in 2041 was 880.

33. The number of cases in 2042 was 900.

34. The number of cases in 2043 was 920.

35. The number of cases in 2044 was 950.



951 North James Lovell Street
Milwaukee, WI 53233

MEMORANDUM

Date: June 8, 1999
To: Dextra Hadnot
From: Leticia M. Smith *LS*
Re: 1999 Assembly Bill 335 relating to Municipal Courts and Refusal Hearings
REVISED POSITION

The Municipal Court recommends the following position on this bill:

- Support the bill in its entirety for reasons stated below.
- Support the bill with modifications as suggested below.
- Reject the bill in its entirety for reasons stated below.
- Take no position.

WHY WE SHOULD SUPPORT THE BILL:

The bill will eliminate the current split in adjudication of refusal charges and the underlying OWI charge. It makes sense that refusal hearings for OWI cases filed in municipal court be heard in municipal court rather than in circuit court.

Modifications suggested:

- 1. The language should make it clear that the court that hears the OWI cases should also hear the refusal case. There should be an amendment of Chapter 800 to allow the transfer of the refusal case to circuit court where the OWI is transferred on a jury demand. The refusal case should stay with the underlying OWI case.*
- 2. Chapter 800 should be amended to state that rules for discovery on all cases over which municipal courts have jurisdiction, including refusal cases, shall be the rules for discovery in municipal court.*

Estimated fiscal costs/revenues:

Other comments:

1:UTABASWPDATA\MS\BILT.S\ASSEMBLY\F\VIS\13,335

ASSEMBLY BILL 335 (LRB-2460)

An Act to amend 343.305 (9) (a) (intro.), 343.305 (9) (am) (intro.), 343.305 (9) (c) and 343.305 (11) of the statutes; relating to: allowing municipal courts to hold refusal hearings. (FE)

1999

- 05-11. A. Introduced by Representatives Vrakas, Montgomery, Petrowski, Staskunas, Olsen, Huber, Spillner, La Fave, Stone, Ryba, Cullen, Musser, Rhoades, Brandemuehl, Powers, Goetsch, Grothman, Sykora, Gunderson and Albers; cosponsored by Senators Huelsman, Darling, Roessler, Drzewiecki and Grobschmidt.
- 05-11. A. Read first time and referred to committee on Highway Safety
- 174
- 05-26. A. Fiscal estimate received .
- 05-27. A. Assembly amendment 1 offered by Representatives Vrakas and Staskunas (LRB a0414)
- 209
- 06-09. A. Public hearing held .
- 06-18. A. Fiscal estimate received .
- 09-15. A. Executive action taken .
- 09-21. A. Report Assembly amendment 1 adoption recommended by committee on Highway Safety, Ayes 6, Noes 0
- 327
- 09-21. A. Report passage as amended recommended by committee on Highway Safety, Ayes 6, Noes 0
- 327
- 09-21. A. Referred to committee on Rules
- 327
- 10-20. A. Placed on calendar 10-26-1999 by committee on Rules .
- 10-26. A. Read a second time
- 401
- 10-26. A. Assembly amendment 1 adopted
- 401
- 10-26. A. Ordered to a third reading
- 401
- 10-26. A. Rules suspended
- 401
- 10-26. A. Read a third time and passed
- 401
- 10-26. A. Ordered immediately messaged
- 401
- 10-28. S. Received from Assembly
- 310
- 10-28. S. Read first time and referred to committee on Judiciary and Consumer Affairs
- 310



**SENATE AMENDMENT ,
TO 1999 ASSEMBLY BILL 335**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 19: after that line insert:

3 "SECTION 4m. 800.04 (1) (d) of the statutes is amended to read:

4 800.04 (1) (d) If a defendant charged with the violation of an ordinance which
5 is in conformity with s. 346.63 (1) or (5) pleads not guilty and within 10 days after
6 entry of the plea requests a jury trial and pays the required fees, the municipal judge
7 shall promptly transmit all papers and fees in the cause to the clerk of the circuit
8 court of the county where the violation occurred for a jury trial under s. 345.43. The
9 plea of not guilty and request for jury trial may be made by mail. If the person refused
10 to take a test under s. 343.305 (3) and requested a hearing under s. 343.305 (9) to
11 determine if the person's refusal was proper, the papers and fees involved in that
12 action shall be transferred to the same circuit court, which shall conduct the refusal
13 hearing. The amount of deposit set out in the citation shall accompany the mailed

Handwritten scribble in the left margin next to line 11.

Handwritten notes: "VER STET" and "INSTRUMENT" with arrows pointing to the underlined text in line 11.

1 request. Upon receipt of the request, the circuit court shall set a time for trial. Any
2 deposit made personally or by mail is forfeited upon nonappearance at the time set
3 for trial. The required fee for a jury is prescribed in s. 814.61 (4).

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17); 1979 c. 175 s. 50; Stats. 1979 s. 800.04; 1981 c. 183, 317; 1987 a. 27, 267, 389; 1989 a. 105, 107, 261; 1991 a. 39, 40, 189; 1993 a. 16; Sup. Ct. Order No. 95-10, 197 Wis. 2d xiii (1996); 1995 a. 224; 1997 a. 27.

4 SECTION 4.800.07 of the statutes is amended to read:

5 **800.07 Discovery in municipal court.** Neither party is entitled to pretrial
6 discovery in any action in municipal court, including refusal hearings held by a
7 municipal court under ^{s.}343.305 (9), except that if the defendant moves within 30 days
8 after the initial appearance in person or by an attorney and shows cause therefor, the
9 court may order that the defendant be allowed to inspect documents, including lists
10 of names and addresses of witnesses, if available, and to test under s. 804.09, under
11 such conditions as the court prescribes, any devices used by the plaintiff to determine
12 whether a violation has been committed.”.

History: 1977 c. 305; 1979 c. 32 s. 68; Stats. 1979 s. 800.07; 1987 a. 389.

(END)