



## **BILL SUMMARY**

**AB 335: Allowing Municipal Courts to Hold  
Refusal Hearings**

Date: October 26, 1999

### **BACKGROUND**

Under current law, if the driver of a motor vehicle refuses a law enforcement officer's request to submit to a breath, blood, or urine test to determine the presence of an intoxicant in that driver's system, the officer takes possession of the driver's license, and gives them notice that their license can be revoked for failing to submit to the test, as well as notice that the driver may request a refusal hearing in circuit court to determine if the refusal was proper and justified. If the driver requests such a hearing within ten days of receipt of the notice, the circuit court must hold a hearing to determine if the refusal was proper. If a person does not request a refusal hearing, or if the circuit court determines that the refusal was not proper, the court revokes the person's driving privilege.

### **SUMMARY OF AB 335 (AS AMENDED BY COMMITTEE)**

Assembly Bill 335 would allow municipal courts to hold refusal hearings and issue revocation orders based on the results of those hearings.

### **AMENDMENTS**

**Assembly Amendment 1** to AB 335 provides that DOT will promulgate rules to ensure the complete and prompt exchange of information pertaining to refusal hearings between the department, municipal courts and attorneys who represent municipalities [adoption recommended, 6-0-1, Rep. Urban absent].

### **FISCAL EFFECT**

A fiscal estimate prepared by the Department of Transportation indicated that AB 335 would have no fiscal impact on the department.

A fiscal estimate prepared by the Director of the State Courts Office indicated that AB 335 would have a minimal fiscal impact on municipal courts and circuit courts.

### **PROS**

1. First offense OWI offenses are tried in municipal courts. If a person refuses to be tested for alcohol or drugs in conjunction with a first offense, lawyers, law enforcement officers, and the alleged offender would have to attend two separate court proceedings—one for the OWI offense in the municipal court and one for the refusal hearing in the circuit court. AB 335 would streamline this process by allowing the municipal court to both hold the refusal hearing and try the OWI charge at the same proceeding.

### **CONS**

1. None apparent.

### **SUPPORTERS**

Rep. Dan Vrakas, author; Sen. Joanne Huelsman, lead co-author; Judge Richard Steinberg, WI Municipal Judges Association

### **OPPOSITION**

No one testified or registered in opposition to AB 335.

### **HISTORY**

Assembly Bill 335 was introduced on May 11, 1999, and referred to the Assembly Committee on Highway Safety. A public hearing was held on June 9, 1999. On September 15, 1999, the Committee voted 6-0-1 (Rep. Urban absent) to recommend passage of AB 335 as amended.

**CONTACT:** Mike Prentiss, Office of Representative Jeff Stone

LRB or Bill No./Adm. Rule No.  
AB335 (99-2460/1)  
Amendment No. if Applicable

FISCAL ESTIMATE  
DOA-2048 N(R1298)

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

Subject  
Relating to allowing municipal courts to hold refusal hearings.

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation       Increase Existing Revenues
- Decrease Existing Appropriation       Decrease Existing Revenues
- Create New Appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget     Yes     No

Decrease Costs

Local:  No local government costs

- 1.  Increase Costs  
     Permissive     Mandatory
- 2.  Decrease Costs  
     Permissive     Mandatory

- 3.  Increase Revenues  
     Permissive     Mandatory
- 4.  Decrease Revenues  
     Permissive     Mandatory

5. Types of Local Governmental Units Affected:
- Towns     Villages     Cities
  - Counties     Others
  - School Districts     WTCS Districts

Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This bill changes current law which requires that refusal hearings be held in circuit court. In those situations where a municipal ordinance violation occurs, it would allow the municipal court to hold the refusal hearing.

Conclusion: This will have no fiscal impact on the Department of Transportation.

Basis for Conclusion:

- 1. No impact on DMV workload: The Division of Motor Vehicles will enter and respond to all withdrawal actions regardless of their court of origin.
- 2. No impact on DSP workload: The State Patrol do not issue citations for municipal ordinance violations. Thus, they will continue to appear in circuit court for refusal hearings.
- 3. Impact will be on circuit and municipal courts. DOJ and State Courts estimate should be consulted for specifics.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)  
DMV - John Alley 166 0614 (DOT)

Authorized Signature/Telephone No.  
Roger D. Cross 266-2233

*Roger D. Cross for*

Date  
5/11/99

**FISCAL ESTIMATE WORKSHEET**

1999 Session

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R1298)

ORIGINAL  UPDATED  
 CORRECTED  SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
AB335

Amendment No.

Subject Relating to allowing municipal courts to hold refusal hearings.

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):  
None

II. Annualized Costs:	Annualized Fiscal Impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		
State Operations - Salaries and Fringes	\$ 0	\$ -
(FTE Position Changes)	(0 FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>TOTAL State Costs by Category</b>	<b>\$ 0</b>	<b>\$ -</b>
<b>B. State Costs by Source of Funds</b>	<b>Increased Costs</b>	<b>Decreased Costs</b>
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>II. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>	<b>Increased Rev.</b>	<b>Decreased Rev.</b>
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>TOTAL State Revenues</b>	<b>\$</b>	<b>\$ -</b>

**NET ANNUALIZED FISCAL IMPACT**

STATE

LOCAL

NET CHANGE IN COSTS \$0 \$

NET CHANGE IN REVENUES \$0 \$

Agency/Prepared by: (Name & Phone No.)  
IMV - John Alley 266 0614

Authorized Signature/Telephone No.  
Roger Cross 266 2233

Date  
5/11/99

*Jane A. Gzesinski for*

<b>FISCALESTIMATE</b> A-2048 N(R10/98)	<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL	<b>1999 Session</b> LRB or Bill No./Adm. Rule No. AB 335 (99-2460/1) Amendment No. if Applicable
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Subject: **Allowing Municipal Courts to Handle Refusal Hearings**

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

<input type="checkbox"/> Increase Existing Appropriation	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Decrease Existing Appropriation	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Create New Appropriation		

Local:  No local government costs

1. Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
2. Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

<b>Fund Sources Affected</b> <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	<b>Affected Ch. 20 Appropriations</b>
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**Assumptions Used in Arriving at Fiscal Estimate**

Presently, if a person is cited for a first offense OWI municipal court violation and refuses to submit to a BAC test the OWI charge is held in the municipal court while the refusal hearing must be held in the circuit court of the county in which the violation occurred. This bill would allow the municipal court to handle both proceedings.

It is not known how many such refusal hearings are actually held in circuit court but it is expected that the decrease in workload will be minimal. No increase in municipal court workload is expected because both proceedings would more than likely be handled at the same time.

**Long-Range Fiscal Implications**

Agency/Prepared by: (Name & Phone No.) Director of State Courts Office	Authorized Signature/Telephone No. <b>6-6984</b> <i>Sheryl Dewan</i>	Date 6/4/99
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## AB 335-Relating to Allowing Muni. Courts to Hold Refusal Hearings

Testimony for the June 9<sup>th</sup> Public Hearing before the Committee on Highway Safety

I want to thank Chairman Stone and the other Committee members for hearing AB 335 today.

I have been working with the Wisconsin Municipal Judges Association on a number of proposals which include:

- allowing municipal courts to order default judgements against defendants who fail to appear (Gundrum).
- allowing municipal courts to have full jurisdiction over both juvenile and adult drug paraphernalia cases (Foti).
- require 1<sup>st</sup> degree municipal OWI cases to be heard first before the municipal court. Currently defendants can ask for immediate jury demand moving the case directly to the circuit court. (Vrakas).
- AND VARIOUS OTHER ISSUES.

I introduced AB 335 at the request of the Wisconsin Municipal Judges Association to allow municipal courts to hold refusal hearings for municipal OWI offenses.

Under current law, if a person suspected of driving under the influence of alcohol refuses to submit to a blood alcohol test, three things happen:

1. The police officer takes possession of the person's drivers license.
2. Informs the person that their license will be revoked if it is determined that their refusal to take the BAC test was improper.
3. And, that he or she may request a hearing before the **circuit court** to determine if the refusal was proper. This is called a **refusal hearing**.

The law states that the **refusal hearing** must be heard before the circuit court even if the alleged OWI offense is a municipal ordinance violation, within a municipal court's jurisdiction.

AB 355 would simply allow municipal courts to hold refusal hearings for 1<sup>st</sup> offense OWI cases if the alleged OWI offense was a municipal ordinance violation (*after the 1<sup>st</sup>, any additional OWI offenses automatically go to the circuit court*).

Under the current law, you have two different courts handling the same case. By allowing the municipal court to handle refusal hearings, time and money are saved and the confusion between the two court systems is lessened. In addition, it is only appropriate for the hearing to be heard before court in which the offense took place

There was a technical amendment that was added to page 3, section 4, line 19—which includes municipal attorneys as a group that also needs to be contacted under this section.

I'd like to thank the Chairman and the Committee members again, and I would be happy to respond to any questions.