

## 2001 ASSEMBLY BILL 62

February 1, 2001 – Introduced by Representatives FOTI, KRAWCZYK, HUNDERTMARK, LA FAVE, AINSWORTH, ALBERS, DUFF, HAHN, JESKEWITZ, LADWIG, M. LEHMAN, LEIBHAM, MUSSER, OTT, OWENS, PETROWSKI, PLOUFF, SERATTI, STONE, URBAN, VRAKAS and WADE, cosponsored by Senators ERPENBACH, FARROW, BURKE, DARLING, S. FITZGERALD, HUELSMAN, ROESSLER and SCHULTZ. Referred to Committee on Urban and Local Affairs.

1     **AN ACT to repeal** 60.23 (21) (title); **to renumber and amend** 60.23 (21); **to**  
2             **amend** 66.0107 (1) (a), 66.0107 (1) (b), 349.02 (2) (b) 2., 349.02 (2) (b) 4., 778.25  
3             (1) (a) 1., 818.02 (7) and 961.577; and **to create** 59.54 (25m) and 778.25 (1) (a)  
4             1m. of the statutes; **relating to:** local ordinances governing drug  
5             paraphernalia.

---

### ***Analysis by the Legislative Reference Bureau***

Current law prohibits the possession, manufacture, and delivery of drug paraphernalia. If a person 17 years of age or older violates the prohibitions relating to drug paraphernalia, he or she is subject to criminal penalties (a fine or imprisonment or both). If a person under the age of 17 violates the prohibitions relating to drug paraphernalia, he or she is subject to suspension or revocation of his or her privilege to operate a motor vehicle for not less than six months nor more than five years and either or both of the following: a forfeiture (civil monetary penalty) of up to \$500, depending on whether the person has previous drug paraphernalia offenses, and a requirement that he or she participate in community service work. In addition, current law prohibits and provides more severe criminal penalties for the possession or use of drug paraphernalia used to produce, analyze, or store methamphetamine.

Current law also allows a city, village, or town to enact and enforce ordinances prohibiting the possession, manufacture, or delivery of drug paraphernalia. The ordinances must prohibit the same conduct that is prohibited under the state

**ASSEMBLY BILL 62**

statutes relating to the possession, manufacture, and delivery of drug paraphernalia generally (as opposed to the state statutes governing the possession or use of methamphetamine-related drug paraphernalia). In addition, the ordinances can apply only to the possession, manufacture, and delivery of drug paraphernalia by a person under the age of 17.

This bill allows a city, village, or town to enact and enforce ordinances prohibiting the possession, manufacture, or delivery of drug paraphernalia by persons 17 years of age and older. The ordinances must prohibit the same conduct that is prohibited under the state statutes relating to the possession, manufacture, and delivery of drug paraphernalia generally. Under the bill, a prosecutor could charge a person aged 17 years or older for violating either an ordinance enacted under this bill or the state statutes. A person prosecuted for violating an ordinance enacted under this bill would be subject to a forfeiture in an amount established by the ordinance instead of being subject to the criminal penalties provided under the state statutes.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 59.54 (25m) of the statutes is created to read:

2           59.54 **(25m)** DRUG PARAPHERNALIA. The board may enact and enforce an  
3 ordinance to prohibit conduct that is the same as that prohibited by s. 961.573 (1) or  
4 (2), 961.574 (1) or (2), or 961.575 (1) or (2) and provide a forfeiture for violation of the  
5 ordinance. Any ordinance enacted under this subsection does not apply in any  
6 municipality that has enacted an ordinance prohibiting conduct that is the same as  
7 that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or (2).

8           **SECTION 2.** 60.23 (21) (title) of the statutes is repealed.

9           **SECTION 3.** 60.23 (21) of the statutes is renumbered 66.0107 (1) (bp) and  
10 amended to read:

11           66.0107 **(1)** (bp) ~~Adopt~~ Enact and enforce an ordinance to prohibit conduct that  
12 is the same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575  
13 (1) or (2) and provide a forfeiture for violation of the ordinance.

14           **SECTION 4.** 66.0107 (1) (a) of the statutes is amended to read:

**ASSEMBLY BILL 62**

1           66.0107 (1) (a) Prohibit all forms of gambling and fraudulent devices and  
2 practices;

3           **SECTION 5.** 66.0107 (1) (b) of the statutes is amended to read:

4           66.0107 (1) (b) Seize anything devised solely for gambling or found in actual  
5 use for gambling and destroy the device after a judicial determination that it was  
6 used solely for gambling or found in actual use for gambling; and.

7           **SECTION 6.** 349.02 (2) (b) 2. of the statutes is amended to read:

8           349.02 (2) (b) 2. Chapter 961 and local ordinances that strictly conform to s.  
9 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or (2).

10          **SECTION 7.** 349.02 (2) (b) 4. of the statutes is amended to read:

11          349.02 (2) (b) 4. Local ordinances enacted under s. 59.54 (25), ~~60.23 (21)~~ or  
12 66.0107 (1) (bm).

13          **SECTION 8.** 778.25 (1) (a) 1. of the statutes is amended to read:

14          778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b), or 125.09 (2),  
15 ~~961.573 (2), 961.574 (2) or 961.575 (2)~~ or under a local ordinance strictly conforming  
16 to one of those statutes brought against an adult in circuit court or against a minor  
17 in the court assigned to exercise jurisdiction under chs. 48 and 938.

18          **SECTION 9.** 778.25 (1) (a) 1m. of the statutes is created to read:

19          778.25 (1) (a) 1m. Under s. 961.573 (2), 961.574 (2), or 961.575 (2) brought  
20 against a minor in the court assigned to exercise jurisdiction under chs. 48 and 938  
21 or under a local ordinance strictly conforming to s. 961.573 (1) or (2), 961.574 (1) or  
22 (2), or 961.575 (1) or (2) brought against an adult in circuit court or against a minor  
23 in the court assigned to exercise jurisdiction under ch. 48 and 938.

24          **SECTION 10.** 818.02 (7) of the statutes is amended to read:

