

2001 DRAFTING REQUEST

Bill

Received: 09/27/2000

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Steven Foti (608) 266-2401

By/Representing: Michael Heifetz

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Alt. Drafters:

Subject: Criminal Law - drugs
Munis - miscellaneous

Extra Copies: rlr

Pre Topic:

No specific pre topic given

Topic:

Ordinances regarding drug paraphernalia

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>
/?	mdsida 11/06/2000	jdye 11/14/2000		_____			
/1			jfrantze 11/15/2000	_____	lrb_docadmin 11/15/2000	lrb_docadmin 01/26/2001	

FE Sent For:

<END>

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1?	mdsida	1 jld 11/14	7 11/14	26 11/14			

FE Sent For:

<END>

Memo

To: Peter Dykman, LRB
From: Michael Heifetz *MH*
CC: Steve Miller, LRB
Date: 09/22/00
Re: 2000 drafting requests

Peter:

Thanks for the email regarding drafting requests. Below is a list of proposals to be drafted for the upcoming session. All are from last session and are listed by their bill number. Where appropriate, I have indicated inclusion or exclusion of certain amendments. Last session's drafter is also noted in parenthesis.

AB 62: Name change of a minor (Malaise). Please include Senate amendments 2 and 3.

AB 155: Municipalities/drug paraphernalia (Olsen). Please draft as passed by the Assembly.

AB 171: Prisoner reimbursement to a municipality (Nelson). Please draft as passed by the Assembly.

AB 182: Prisoner data entry (Olsen/Champagne). Please draft as passed by the Assembly.

AB 334: Unsolicited email (Kunkel). Please draft using LRB 0354/2 from last session (ASA to AB 334, not introduced).

AJR 3: 4-year terms for DAs (Dykman/Kuesel). Please draft as passed by the Assembly. Some changes may be needed to reflect future election years rather than those listed in 1999 AJR 3.

AJR 84: Conference committee reform (Dykman).

AJR 85: Conference committee reform (Dykman).

LRB 2266/1: Real estate sex-offender notification (Kahler). This version is not yet ready for introduction, but we are interested in further developing this proposal.

LRB 3770/3: Local expo taxes (Kroye).

LRB 4140/1: driver's license suspensions (Nilsen).

Thanks again. Please call with any questions (6-2401).

560/1

2001 BILL

mgd

JLD

1999 ASSEMBLY BILL 155

Soon

March 4, 1999 - Introduced by Representatives FOTI, KESTELL, TRAVIS, AINSWORTH, ALBERS, BRANDEMUEHL, HANDRICK, JESKEWITZ, KEDZIE, KELSO, KLUSMAN, KREIBICH, LADWIG, J. LEHMAN, M. LEHMAN, MONTGOMERY, MUSSER, NASS, OLSEN, SERATTI, SPILLNER, STASKUNAS, STEINBRINK, STONE, WARD, LA FAVE and GUNDERSON, cosponsored by Senators ERPENBACH, FITZGERALD, SCHULTZ, FARROW, WELCH, LAZICH, ROESSLER, ZIEN, DRZEWIECKI and DARLING. Referred to Committee on Urban and Local Affairs.

GEN est

and either or both of the following:

- 1 AN ACT to repeal 60.23 (21) (title); to renumber and amend 60.23 (21); to
- 2 amend 66.051 (1) (a), 66.051 (1) (b), 66.051 (1) (bm), 349.02 (2) (b) 2., 349.02 (2)
- 3 (b) 4., 778.25 (1) (a) 1., 818.02 (7) and 961.577; and to create 778.25 (1) (a) 1m.
- 4 of the statutes; relating to: local ordinances governing drug 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 the following penalties: (1) suspension or revocation of his or her privilege to operate a motor vehicle for not less than six months nor more than five years; (2) a forfeiture (civil monetary penalty) of up to \$500, depending on whether the person has previous drug paraphernalia offenses; and (3) a requirement that he or she participate in community service work.

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 statutes relating to the possession, manufacture, and delivery of 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

generally (as opposed to the state statutes governing the possession or use of methamphetamine-related drug paraphernalia)

and he or she does not use for possess the drug paraphernalia to produce, analyze, or store methamphetamine

NO #

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.

ASSEMBLY BILL 155

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. 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:

(W) sent
2/0

1 SECTION 1. 60.23 (21) (title) of the statutes is repealed.

0107

2 SECTION 2. 60.23 (21) of the statutes is renumbered 66.051 (1) (bp) and
3 amended to read:

4 66.051 (1) (bp) Adopt Enact and enforce an ordinance to prohibit conduct that
5 is the same as that prohibited by s. 961.573 (2), 961.574 (2) or 961.575 (2) and provide
6 a forfeiture for violation of the ordinance.

(1) or

7 SECTION 3. 66.051 (1) (a) of the statutes is amended to read:

8 66.051 (1) (a) Prohibit all forms of gambling and fraudulent devices and
9 practices;

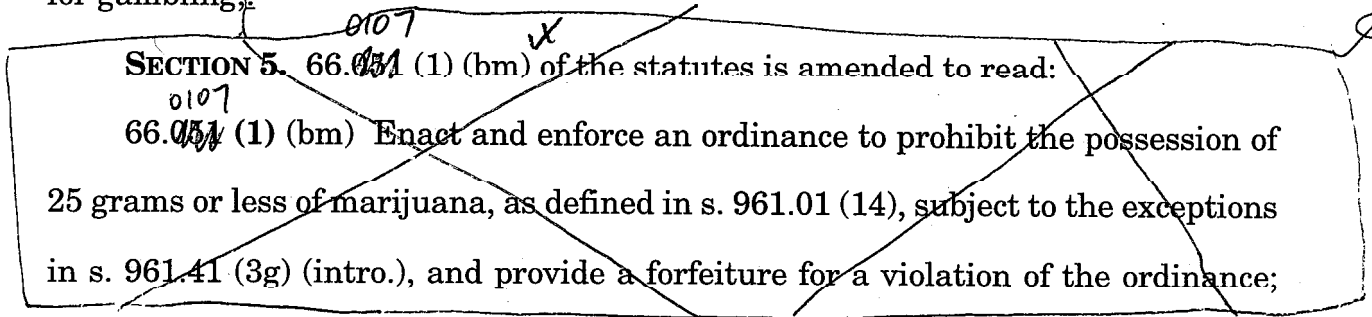
10 SECTION 4. 66.051 (1) (b) of the statutes is amended to read:

11 66.051 (1) (b) ~~Cause the seizure of~~ ^{Seize} anything devised solely for gambling or
12 found in actual use for gambling and ~~cause the destruction of any such thing~~ ^{destroy the device}
13 after a judicial determination that it was used solely for gambling or found in actual use
14 for gambling; ^{and}

Pwf

15 SECTION 5. 66.051 (1) (bm) of the statutes is amended to read:

16 66.051 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
17 25 grams or less of marijuana, as defined in s. 961.01 (14), subject to the exceptions
18 in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance;



ASSEMBLY BILL 155

1 except that any person who is charged with possession of more than 25 grams of
2 marijuana, or who is charged with possession of any amount of marijuana following
3 a conviction for possession of marijuana, in this state shall not be prosecuted under
4 this paragraph. ~~XXXX~~ (1)

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

6 349.02 (2) (b) 2. Chapter 961 and local ordinances that strictly conform to s.
7 961.573 (2), 961.574 (2) or 961.575 (2). (1) or

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

9 349.02 (2) (b) 4. Local ordinances enacted under s. 59.54 (25), 60.23 (21) or
10 66.0107 ← plain
66.0107 (1) (bm).

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

12 778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b) or 125.09 (2),
13 961.573 (2), 961.574 (2) or 961.575 (2) or under a local ordinance strictly conforming
14 to one of those statutes brought against an adult in circuit court or against a minor
15 in the court assigned to exercise jurisdiction under chs. 48 and 938.

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

17 778.25 (1) (a) 1m. Under s. 961.573 (2), 961.574 (2) or 961.575 (2) brought
18 against a minor in the court assigned to exercise jurisdiction under chs. 48 and 938
19 or under a local ordinance strictly conforming to s. 961.573, 961.574 or 961.575
20 brought against an adult in circuit court or against a minor in the court assigned to
21 exercise jurisdiction under ch. 48 and 938.

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

23 818.02 (7) In an action for a forfeiture under s. 961.573 (2), 961.574 (2) or
24 961.575 (2), or under a local ordinance strictly conforming to one of those statutes s.
25 961.573, 961.574 or 961.575.

(1) or (2)

PLAIN

PLAIN

ASSEMBLY BILL 155

SECTION 11

SECTION 11. 961.577 of the statutes is amended to read:

961.577 Municipal ordinances. Nothing in this subchapter precludes a County

city, village, or town from prohibiting may prohibit conduct that is the same as that

prohibited by s. 961.573 (2), 961.574 (2) or 961.575 (2).

(END)

(1) or

(2)

POF

1
2
3
4
5

**ASSEMBLY AMENDMENT 1,
TO 1999 ASSEMBLY BILL 155**

Insert 2/0

May 12, 1999 - Offered by Representative WOOD.

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

2 ~~1. Page 2, line 1: delete that line and substitute:~~

3 ~~SECTION 14. 59.54 (25m) of the statutes is created to read:~~

4 59.54 (25m) DRUG PARAPHERNALIA. The board may enact and enforce an
5 ordinance to prohibit conduct that is the same as that prohibited by s. 961.573,
6 961.574^{(1) or (2)} or 961.575 and provide a forfeiture for violation of the ordinance. Any
7 ordinance enacted under this subsection does not apply in any municipality that has
8 enacted an ordinance prohibiting conduct that is the same as that prohibited by s.
9 961.573, 961.574⁽¹⁾ or 961.575.

10 ~~SECTION 1r. 60.23 (21) (title) of the statutes is repealed.~~

11 ~~2. Page 4, line 2: after "a A" insert "county."~~

12 ~~(END)~~

(end insert)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

November 15, 2000

MEMORANDUM

To: Representative Foti

From: Michael Dsida, Legislative Attorney

Re: LRB-0560 Ordinances regarding drug paraphernalia

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9867 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.