

2001 ASSEMBLY BILL 93

February 1, 2001 – Introduced by Representatives STEINBRINK, STARZYK, KREUSER, J. LEHMAN and WILLIAMS, cosponsored by Senators DARLING and FARROW. Referred to Committee on Urban and Local Affairs.

1 **AN ACT to repeal** 167.10 (3) (g); **to renumber** 167.10 (7); **to amend** 167.10 (2)
2 (a), 167.10 (3) (a), 167.10 (3) (e), 167.10 (8) (a), 895.035 (7) and 895.485 (2)
3 (intro.); **to repeal and recreate** 167.10 (7) (title); and **to create** 167.10 (3) (cm),
4 167.10 (3) (i) and 167.10 (7) (b) of the statutes; **relating to:** permits for the
5 possession or use of certain fireworks, sales of fireworks to certain
6 organizations and groups, liability for the use of illegally sold fireworks, and the
7 authority of district attorneys to enforce laws relating to fireworks.

Analysis by the Legislative Reference Bureau

Current law regulates the possession, use, sale, storage, handling, and manufacture of certain fireworks. With certain exceptions, current law requires any person who possesses or uses regulated fireworks to have a fireworks permit that was issued by the city, village, or town (municipality) in which the possession or use occurs. Current law authorizes the mayor, president, or chairperson of a municipality, or other designated municipal official or employee, to issue a fireworks permit. In addition, under current law, a fire or law enforcement official of the municipality must be given a copy of a permit at least two days before the date of the use authorized in the permit. Current law does not specify who is required to give this copy to the fire or law enforcement official.

This bill specifies that a person must obtain a fireworks permit directly from the municipality that issues the permit. The bill also specifies that the municipal

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official or employee who issues the fireworks permit must do so at a location where he or she, in the normal course of municipal affairs, carries out his or her official responsibilities or duties. In addition, the bill requires each permit issued by a municipality to be approved and signed by a fire official of the municipality. The bill replaces the requirement that a copy of each permit be given to a fire or law enforcement official of the municipality with a requirement that the fire official retain a copy of each permit he or she approves and signs. The bill also specifies that a municipality may not issue a fireworks permit if less than two days remain before the date that the fireworks may be used under the permit.

With limited exceptions, current law prohibits the sale of regulated fireworks to any person who does not hold a fireworks permit. Only certain persons may obtain a fireworks permit under current law. These persons include, among others, any civic organization or group of resident or nonresident individuals.

With certain limited exceptions, this bill imposes additional requirements on a civic organization or group of resident or nonresident individuals that seeks to obtain a fireworks permit. Under the bill, a municipality may issue a permit to this type of organization or group only if the permit is provided to an individual who gives the municipality reasonable proof that he or she has been a member of the organization or group for at least six months and is authorized to act on behalf of the organization or group. In addition, under the bill, a municipality may not issue a permit to this type of organization or group if, within the six months preceding the date on which the permit is requested, the municipality provided a different individual with a permit for the organization or group. Any fireworks sold to this type of organization or group under the bill may be provided by the seller only to the individual who obtained the permit on behalf of the organization or group.

Under current law, certain individuals, including parents, foster parents, and legal guardians, may be held liable for damages caused by the use of fireworks by minors for whom the individuals are responsible. This bill creates another liability provision under which a person who illegally sells fireworks may be held liable for any bodily injury, death, and damage to property that is caused by the use of the fireworks.

Current law allows a municipality to enact ordinances that regulate the possession, use, and sale of fireworks in the municipality, provided the ordinances are at least as restrictive as similar provisions in the state fireworks law. A municipality may sue in circuit court for an order enjoining violations of its ordinances or violations of certain state laws relating to fireworks. This bill grants district attorneys the same authority to petition for an order enjoining violations of state laws relating to fireworks as is currently provided to municipalities.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

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1 **SECTION 1.** 167.10 (2) (a) of the statutes is amended to read:

2 167.10 **(2)** (a) To a person holding a permit under sub. (3) (c). A person who sells
3 fireworks to a civic organization or group of resident or nonresident individuals
4 holding a permit under sub. (3) (c), other than a civic organization or group that is
5 described in sub. (3) (c) 1. to 4. or 7., may provide the fireworks only to the individual
6 to whom the permit is provided under sub. (3) (i);

7 **SECTION 2.** 167.10 (3) (a) of the statutes is amended to read:

8 167.10 **(3)** (a) No person may possess or use fireworks without a user's permit,
9 obtained by the person from the mayor of the city, president of the village or
10 chairperson of the town city, village, or town in which the possession or use is to occur
11 or from an official or employee of that municipality designated by the mayor,
12 president or chairperson, that specifically authorizes the possession or use. No
13 person may use fireworks or a device listed under sub. (1) (e) to (g) or (i) to (n) while
14 attending a fireworks display for which a permit has been issued to a person listed
15 under par. (c) 1. to 5. or under par. (c) 6. if the display is open to the general public.

16 **SECTION 3.** 167.10 (3) (cm) of the statutes is created to read:

17 167.10 **(3)** (cm) 1. Each permit issued by a city, village, or town under this
18 subsection shall be issued by the mayor or city manager of the city, president of the
19 village, or chairperson of the town, or an official or employee of that municipality
20 designated by the mayor, city manager, president, or chairperson, acting on behalf
21 of that municipality. The mayor, city manager, president, chairperson, or designated
22 official or employee shall issue each permit under this subsection at a location where
23 he or she, in the normal course of municipal affairs, carries out his or her official
24 responsibilities or duties.

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1 2. A fire official of a city, village, or town shall approve and sign each permit
2 under this subsection before the permit is issued by that city, village, or town. The
3 fire official shall retain a copy of each permit that the fire official approves and signs.

4 3. A city, village, or town may issue a permit under this subsection only if the
5 permit is issued at least 2 days before the date of the use authorized under the
6 permit.

7 **SECTION 4.** 167.10 (3) (e) of the statutes is amended to read:

8 167.10 (3) (e) The ~~person~~ city, village, or town issuing a permit under this
9 subsection may require an indemnity bond with good and sufficient sureties or policy
10 of liability insurance for the payment of all claims that may arise by reason of injuries
11 to person or property from the handling, use or discharge of fireworks under the
12 permit. The bond or policy, if required, shall be taken in the name of the city, village
13 or town wherein the fireworks are to be used, and any person injured thereby may
14 bring an action on the bond or policy in the person's own name to recover the damage
15 the person has sustained, but the aggregate liability of the surety or insurer to all
16 persons shall not exceed the amount of the bond or policy. The bond or policy, if
17 required, together with a copy of the permit shall be filed in the office of the clerk of
18 the city, village or town.

19 **SECTION 5.** 167.10 (3) (g) of the statutes is repealed.

20 **SECTION 6.** 167.10 (3) (i) of the statutes is created to read:

21 167.10 (3) (i) A city, village, or town may not issue a permit under this
22 subsection to a civic organization or group of resident or nonresident individuals,
23 other than a civic organization or group that is described in par. (c) 1. to 4. or 7., unless
24 all of the following are satisfied:

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1 1. The permit is provided to an individual who gives the city, village, or town
2 reasonable proof that the individual has been a member of the civic organization or
3 group for at least the 6 months preceding the date on which the permit is requested
4 and that the individual is authorized to act on behalf of the civic organization or
5 group.

6 2. The permit states the name of the individual to whom the permit is provided.

7 3. The city, village, or town has not, during the 6 months preceding the date on
8 which the permit is requested, provided a different individual with a permit issued
9 to the civic organization or group under this subsection.

10 **SECTION 7.** 167.10 (7) (title) of the statutes is repealed and recreated to read:

11 167.10 (7) (title) LIABILITY.

12 **SECTION 8.** 167.10 (7) of the statutes is renumbered 167.10 (7) (a).

13 **SECTION 9.** 167.10 (7) (b) of the statutes is created to read:

14 167.10 (7) (b) A person who sells fireworks in violation of sub. (2) may be held
15 liable for any bodily injury to or death of others and for any damage to the property
16 of others that is caused by the use of the fireworks.

17 **SECTION 10.** 167.10 (8) (a) of the statutes is amended to read:

18 167.10 (8) (a) A city, village or town may petition the circuit court for an order
19 enjoining violations of sub. (2), (3) or (6) or an ordinance adopted under sub. (5)
20 within the municipality. A district attorney of a county where violations of sub. (2),
21 (3), or (6) occur may petition the circuit court for an order enjoining the violations.

22 **SECTION 11.** 895.035 (7) of the statutes is amended to read:

23 895.035 (7) This section does not affect or limit any liability of a parent under
24 s. 167.10 (7) (a) or 343.15 (2).

25 **SECTION 12.** 895.485 (2) (intro.) of the statutes is amended to read:

