

**2001 DRAFTING REQUEST**

**Bill**

Received: 11/21/2000

Received By: fasttn

Wanted: Soon

Identical to LRB:

For: Tom Sykora (608) 266-1194

By/Representing: Marlin Hardinger

This file may be shown to any legislator: NO

Drafter: fasttn

May Contact: Gunnar Bergersen (255-7211)

Addl. Drafters: rmarchan

Subject: Transportation - miscellaneous

Extra Copies: PJH, ARG, RJM - 1

Submit via email: NO

Requester's email:

**Pre Topic:**

No specific pre topic given

**Topic:**

Fireworks arrest authority of state troopers

**Instructions:**

Redraft 99-3321/1

**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>
/?	fasttn 11/29/2000	hhagen 12/05/2000		_____			S&L
/1	fasttn 03/20/2001	hhagen 03/22/2001	martykr 12/06/2000	_____	lrb_docadmin 12/06/2000	lrb_docadminS&L 12/06/2000	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	rmarchan 03/22/2001			_____			
/2			martykr 03/23/2001	_____	lrb_docadmin 03/23/2001	lrb_docadminS&L 03/23/2001	
/3	fasttn 04/02/2001 rmarchan 04/04/2001 rmarchan 04/09/2001	hhagen 04/09/2001	pgreensl 04/09/2001 pgreensl 04/09/2001	_____ _____ _____ _____	lrb_docadmin 04/09/2001	lrb_docadmin 04/09/2001	

FE Sent For:

<END>

↳ At Intro.

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/2	<u>13</u>	13 hml 4/9/01	martykr 03/23/2001	<u>4/9</u> <u>4/11/01</u>	lrb_docadmin 03/23/2001	lrb_docadmin 03/23/2001	

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/1		12 hmk 3/23/01	martykr 12/06/2000		lrb_docadmin 12/06/2000	lrb_docadmin 12/06/2000	

FE Sent For:

*Handwritten initials and dates:*  
Vh 3/23  
RM 3/23

<END>

**2001 DRAFTING REQUEST**

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1?	fasttn	1, hmk 12/5/00	mc 12/6	JF 12/2 am 12/2			

FE Sent For:

<END>

## Tradewell, Becky

---

**From:** Nilsen, Paul  
**Sent:** Monday, November 20, 2000 2:26 PM  
**To:** Hardinger, Marlin  
**Cc:** Tradewell, Becky  
**Subject:** RE: AB-591

Marlin,

I am no longer employed by the LRB. I have forwarded this drafting request, along with the request for AB-331 (liquor on fish farms), to Becky Tradewell of the LRB. Becky will assign both drafting requests to the appropriate attorney for drafting.

For redrafting of bills that I drafted relating to transportation, you may submit your request directly to Timothy Fast. For other bills that I drafted, please submit your request to Becky Tradewell.

---

Paul E. Nilsen  
Office of General Counsel, WisDOT  
Paul.Nilsen@dot.state.wi.us  
(608) 261-0126

-----Original Message-----

**From:** Hardinger, Marlin  
**Sent:** Monday, November 20, 2000 2:06 PM  
**To:** Nilsen, Paul  
**Subject:** Ab-591

Hello this is Marlin Hardinger with Tom Sykora's office. Tom would like to re-introduce AB-591 LRB 3321/1

Topic: Fireworks arrest authority of state troopers.

Thank You,

Marlin Hardinger

Legislative Assistant

Rep. Tom Sykora

(608) 266-1194

[Marlin.Hardinger@legis.state.wi.us](mailto:Marlin.Hardinger@legis.state.wi.us) <<mailto:Marlin.Hardinger@legis.state.wi.us>>



2001

Date (time) needed \_\_\_\_\_

D-NOTE

LRB - PI7011

**BILL**

TNF : lmh : \_\_\_\_\_

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; relating to: .....

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

*Analysis by the Legislative Reference Bureau*

If titles are needed in the analysis, in the component bar:

For the main heading, execute: ..... **create** → **anal:** → **title:** → **head**

For the subheading, execute: ..... **create** → **anal:** → **title:** → **sub**

For the sub-subheading, execute: ..... **create** → **anal:** → **title:** → **sub-sub**

For the analysis text, in the component bar:

For the text paragraph, execute: ..... **create** → **anal:** → **text**

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

SECTION #.

# 1999 ASSEMBLY BILL 591

November 18, 1999 - Introduced by Representatives SYKORA, KELSO, LA FAVE, KREIBICH, MUSSER and PETROWSKI, cosponsored by Senators RISSER, DARLING and COWLES. Referred to Committee on Highway Safety.

1 AN ACT to amend 110.07 (1) (a) 1, 110.07 (1) (a) 3, and 110.07 (1) (b); and to  
2 create 343.12 (1) and 343.20 (2) (h) of the statutes, relating to enforcement  
3 by the state traffic patrol of restrictions on the possession and use of fireworks.

### Analysis by the Legislative Reference Bureau

Current law grants state traffic patrol officers specific power and duties, including the enforcement of state traffic laws, ~~the~~ enforcement of the conditions placed on the possession and transport of a firearm, bow or crossbow, and ~~the~~ enforcement of the prohibition against littering on a highway.

Current law also prohibits a person from possessing or using fireworks without a permit unless certain conditions apply. A person who uses or possesses fireworks without a permit is subject to a fine of not more than \$1,000.

This bill expands the powers and duties of state traffic patrol officers to include the enforcement of the permit requirement for the possession and use of fireworks, where applicable, to highways. In exercising this new power and duty, state traffic patrol officers may issue uniform traffic citations for violations of the permit requirement. This bill also prohibits a court from forwarding records of convictions for violations of the permit requirement to the department of transportation (DOT) and prohibits DOT from assessing ~~persons~~ demerit points for the convictions.

any  
against the person's  
driving record

NO  
A

\*  
\*  
\*

MAA

a

**ASSEMBLY BILL 591**

For further information see the *state and 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:*

1           **SECTION 1.** 110.07 (1) (a) 1. of the statutes is amended to read:

2           110.07 (1) (a) 1. Enforce and assist in the administration of this chapter and  
3           chs. 166, 194, 218, 341 to 349, and 351, and ss. 23.33, 125.07 (4) (b), 125.085 (3) (b),  
4           167.10 (3) (a), 167.31 (2) (b) to (d) and 287.81 and ch. 350 where applicable to  
5           highways, or orders or rules issued pursuant thereto.

6           **SECTION 2.** 110.07 (1) (a) 3. of the statutes is amended to read:

7           110.07 (1) (a) 3. Have authority to enter any place where vehicles subject to this  
8           chapter, ss. 167.10 (3) (a), 167.31 (2) (b) to (d) and 287.81 and chs. 194, 218, and 341  
9           to 350 are stored or parked at any time to examine such vehicles, or to stop such  
10          vehicles while en route at any time upon the public highways to examine the same  
11          and make arrests for all violations thereof.

12          **SECTION 3.** 110.07 (1) (b) of the statutes is amended to read:

13          110.07 (1) (b) All municipal judges, judges, district attorneys, and law  
14          enforcement officers shall assist in enforcing this chapter, ss. 167.10 (3) (a), 167.31  
15          (2) (b) to (d) and 287.81 and chs. 194, 218, and 341 to 351, and orders or rules issued  
16          pursuant thereto and shall report to the department the disposition of every uniform  
17          traffic citation issued for cases involving those chapters.

18          **SECTION 4.** 345.11 (1t) of the statutes is created to read:

19          345.11 (1t) The uniform traffic citation may be used by a traffic officer  
20          employed under s. 110.07 for a violation of s. 167.10 (3) (a) when committed on a  
21          highway.

ASSEMBLY BILL 591

1 SECTION 5. 345.20 (2) (h) of the statutes is created to read:

2 345.20 (2) (h) Sections 23.50 to 23.85 apply to actions in circuit court to recover  
3 forfeitures for violations of s. 167.10 (3) (a). No demerit points may be assessed ~~under~~  
4 ~~s. 345.20 (2) (h)~~ for a conviction of a violation of s. 167.10 (3) (a). No report of conviction  
5 of a violation of s. 167.10 (3) (a) may be forwarded to the department.

6 (END)

D-NOTE

against the driving record of a person convicted

LRB-1170/1dn  
TNF: hmh

DRAFTER'S NOTE

Date

ATTN: Marlin Hardinger

With minor technical changes, this bill is identical to 1999 Assembly Bill 591. Please note that it does not give state motor vehicle inspectors concurrent authority to enforce certain fireworks violations.

TNF

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1170/1dn  
TNF:hmh:km

December 6, 2000

**ATTN: Marlin Hardinger**

With minor technical changes, this bill is identical to 1999 Assembly Bill 591. Please note that it does not give state motor vehicle inspectors concurrent authority to enforce certain fireworks violations.

Timothy N. Fast  
Senior Legislative Attorney  
Phone: (608) 266-9739  
E-mail: [tim.fast@legis.state.wi.us](mailto:tim.fast@legis.state.wi.us)

3/9 t/c with Gunnar Bergesen

- calling from Rep. Sytkora's office

- happy w LRB-1170/1

- would like s. 167.10(3)(a) changed to delete reference to possession

- also would like seizure under s. 167.10(3)(a) to not apply to forfeiture actions

- will have fireworks "expert" call next week, a Wayne Schulte

3/14 t/c w Wayne Schulte

- recommends that s. 167.10(2)(intro.) and (3) amended to remove references to possession of fireworks

- recommends s. 167.10(8)(b) seizure not apply except in criminal cases, i.e., not civil forfeitures

- phone #: (715) 273-3590

fax: (715) 273-3593

I believe that the most important thing that could be done to clear up the confusion would be to amend the first sentence of Section 167.10(3) to read:

Permit  
Language

Use. (a) No person may ~~possess or~~ use fireworks without a user's permit, unless that person is an authorized member of a group or organization that has been issued a user's permit from the mayor of the city, president of the village, or chairperson of the town in which the possession or use is to occur, or from an official or employee of that municipality designated by the mayor, president, or chairperson.

Search Language

167.10(8)(b) Fireworks stored, handled, sold, possessed or used by a person who violates this section, an ordinance adopted under sub.(5) or a court under par.(a) may be seized and held as evidence of the violation. Fireworks in possession of a member of a group holding a valid users permit issued pursuant to (3)(c), shall not be subject to seizure. Except as provided in s.968.20(4), only the fireworks that are the subject of a violation of this section, an ordinance adopted under sub.(5) or a court order under par.(a) may be destroyed after conviction for a violation. Except as provided in s.968.20(4), fireworks that are seized as evidence of a violation for which no conviction results shall be returned to the owner in the same condition as they were when seized to the extent practicable.





1st Sentence of Section 167.10(3) cleared up  
to read,

Use. (a) No person may possess or use fireworks without a user's permit, unless that person is an authorized member of a group or organization that has been issued a user's permit from the mayor of the city, president of the village, or chairperson of the town in which the possession or use is to occur, or from an official or employee of that municipality designated by the mayor, president, or chairperson.

TMF  
2



STEPHEN R. MILLER  
CHIEF

# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

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

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

December 6, 2000

### MEMORANDUM

To: Representative Sykora

From: Timothy N. Fast, Senior Legislative Attorney

Re: LRB-1170 Fireworks arrest authority of state troopers

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.

~~X~~ 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) 266-9739 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.

## Fast, Timothy

---

**From:** Hardinger, Marlin  
**Sent:** Monday, March 12, 2001 1:44 PM  
**To:** Fast, Timothy  
**Subject:** RE: Addendum re fireworks/state troopers

Hello sir I sent over the bill folder this afternoon and Gunnar is going to have his fireworks expert give you a call. Hope you are feeling better

Thank you,

Marlin Hardinger  
Legislative Assistant  
Rep. Tom Sykora  
(608) 266-1194

[Marlin.Hardinger@legis.state.wi.us](mailto:Marlin.Hardinger@legis.state.wi.us) <<mailto:Marlin.Hardinger@legis.state.wi.us>>

-----Original Message-----

**From:** Fast, Timothy  
**Sent:** Sunday, March 11, 2001 3:42 PM  
**To:** Hardinger, Marlin  
**Subject:** Addendum re fireworks/state troopers

Marlin,

More questions. They never seem to end, do they? I neglected to ask about two possible statutory revisions on LRB-1170 sent over to me by you a while ago.

First, I received draft language to clean up s. 167.10(3)(a), to read:

"No person may possess or use fireworks without a user's permit, unless that person is an authorized member of a group or organization that has been issued a user's permit ....".

Second, a request to amend s. 167.10 (8) (b) to prohibit the seizure of fireworks in possession of a member of a group holding a valid users permit (apparently regardless of whether the group member is the violator). This approach is different than the one Mr. Bergersen discussed with me.

We are fast moving out of my area of expertise. I'll need to discuss this with our fireworks "expert" but would like your thoughts first.

Thanks. Peace again, Tim

Timothy Fast, Senior Legislative Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
(608) 266-9739

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## Fast, Timothy

---

**From:** Fast, Timothy  
**Sent:** Sunday, March 11, 2001 12:51 PM  
**To:** Hardinger, Marlin  
**Subject:** Fireworks arrest authority of state troopers draft (LRB-1170)

Marlin,

Gunnar Bergersen was in Rep. Sykora's office on Friday and I spoke with him on the redraft of LRB-1170/1. At a minimum, Mr. Bergersen would like s. 167.10 (8) (b) amended to prohibit seizure of fireworks in those situations where the penalty for a violation is a civil forfeiture, i.e., not a criminal penalty of a fine or imprisonment or both. I'll make this change unless I hear otherwise from you. I'll draft it so seizure is still an option for violation of any court order under s. 167.10 (8) (a), even if the person is enjoined from committing a violation for which the penalty is a civil forfeiture. That is, violation of a court order will be treated the same re seizure as a violation for which a criminal penalty is provided. OK?

Mr. Bergersen indicated he'd have someone else call me early this week concerning the draft. If I don't hear from him by Wednesday, I'll give you a call. I know you want the draft pretty soon. Also, I see that the draft has been jacketed. Could you please return the jacket? Thanks.

Hope you had a great weekend. Peace, Tim

Timothy Fast, Senior Legislative Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
(608) 266-9739

---

Rob,  
An earlier  
e-mail I  
found in  
cyberspace!  
Tim

*SOON*

*+RJM*

*RMNR*

*DUOTE*

### 2001 ASSEMBLY BILL

*limiting*

*, and seizure of certain fireworks for law enforcement purposes*

*restrictions on the possession and use of fireworks,*

*re-fer*

1 AN ACT to amend 110.07 (1) (a) 1., 110.07 (1) (a) 3. and 110.07 (1) (b); and to  
2 create 345.11 (1t) and 345.20 (2) (h) of the statutes; relating to: enforcement  
3 by the state traffic patrol of restrictions on the possession and use of fireworks

*INSERT ANALYSIS A*

#### Analysis by the Legislative Reference Bureau

Current law grants state traffic patrol officers specific power and duties, including the enforcement of state traffic laws, enforcement of the conditions placed on the possession and transport of a firearm, bow, or crossbow, and enforcement of the prohibition against littering on a highway. Current law also prohibits a person from possessing or using fireworks without a permit unless certain conditions apply. A person who uses or possesses fireworks without a permit is subject to a fine of not more than \$1,000. *INSERT ANALYSIS B*

This bill expands the powers and duties of state traffic patrol officers to include the enforcement of the permit requirement for the possession and use of fireworks, where applicable, to highways. In exercising this new power and duty, state traffic patrol officers may issue uniform traffic citations for violations of the permit requirement. This bill also prohibits a court from forwarding a record of conviction for violation of the permit requirement to the department of transportation (DOT) and prohibits DOT from assessing any demerit points against the person's driving record for the conviction.

*INSERT ANALYSIS C*

**ASSEMBLY BILL**

For further information see the *state and 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:*

1           **SECTION 1.** 110.07 (1) (a) 1. of the statutes is amended to read:

2           110.07 (1) (a) 1. Enforce and assist in the administration of this chapter and  
3 chs. 166, 194, 218, 341 to 349, and 351, and ss. 23.33, 125.07 (4) (b), 125.085 (3) (b),  
4 167.10 (3) (a), 167.31 (2) (b) to (d), and 287.81 and ch. 350 where applicable to  
5 highways, or orders or rules issued pursuant thereto.

6           **SECTION 2.** 110.07 (1) (a) 3. of the statutes is amended to read:

7           110.07 (1) (a) 3. Have authority to enter any place where vehicles subject to this  
8 chapter, ss. 167.10 (3) (a), 167.31 (2) (b) to (d) and 287.81 and chs. 194, 218, and 341  
9 to 350 are stored or parked at any time to examine such vehicles, or to stop such  
10 vehicles while en route at any time upon the public highways to examine the same  
11 and make arrests for all violations thereof.

12           **SECTION 3.** 110.07 (1) (b) of the statutes is amended to read:

13           110.07 (1) (b) All municipal judges, judges, district attorneys, and law  
14 enforcement officers shall assist in enforcing this chapter, ss. 167.10 (3) (a), 167.31  
15 (2) (b) to (d), and 287.81 and chs. 194, 218, and 341 to 351, and orders or rules issued  
16 pursuant thereto and shall report to the department the disposition of every uniform  
17 traffic citation issued for cases involving those chapters.

18           **SECTION 4.** 345.11 (1t) of the statutes is created to read:

19           345.11 (1t) The uniform traffic citation may be used by a traffic officer  
20 employed under s. 110.07 for a violation of s. 167.10 (3) (a) when committed on a  
21 highway.

Insert  
2-17 16  
17





2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1170/2insRM  
RJM:.....

INSERT ANALYSIS A

*NbP* It is unclear under current law whether a person who intends to lawfully sell fireworks must have a permit to possess the fireworks pending their sale.

INSERT ANALYSIS B

*NbP* In addition, fireworks possessed or used by a person who violates any provision of the fireworks laws, any fireworks ordinance, or certain court orders relating to fireworks may be seized and held as evidence of the violation.

INSERT ANALYSIS C

*In addition* *P* *also* In addition, this bill clarifies that a person who intends to lawfully sell regulated fireworks may possess the fireworks without first obtaining a fireworks permit. The bill ~~also~~ deletes the authority for the seizure of fireworks that are possessed or used in violation of the fireworks laws or a fireworks ordinance, unless the violation is subject to criminal penalties under the fireworks laws. The bill also retains the authority to seize fireworks that are possessed or used in violation of certain court orders.

INSERT 2-17

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

*(Intro.)*  
*X* 167.10 (2) SALE. No person may sell ~~or possess with intent to sell~~ fireworks, except to any of the following:

- (a) To a A person holding a permit under sub. (3) (c);
- (b) To a A city, village, or town; or
- (c) For A person for a purpose specified under sub. (3) (b) 2. to 6.

SECTION 2. 167.10 (3) (title) of the statutes is repealed and recreated to read:

167.10 (3) (title) POSSESSION AND USE.

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

167.10 (3) (a) ~~No~~ Except as otherwise provided in this paragraph, no person may possess or use fireworks without a user's permit from the mayor of the city,

*X* president of the village, or chairperson of the town in which the possession or use is to occur or from an official or employee of that municipality designated by the

mayor, president, or chairperson. This paragraph does not prohibit the possession of fireworks with intent to sell the fireworks in compliance with sub. (2). No person may use fireworks or a device listed under sub. (1) (e) to (g) or (i) to (n) while attending a fireworks display for which a permit has been issued to a person listed under par. (c) 1. to 5. or under par. (c) 6. if the display is open to the general public.

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

167.10 (3) (b) <sup>(intro)</sup> ~~Paragraph (a) does~~ The prohibitions under par. (a) do not apply

to:

**SECTION 5.** 167.10 (8) (b) of the statutes is amended to read:

Ⓚ 167.10 (8) (b) Fireworks stored, handled, sold, possessed or used by a person who violates ~~this section, an ordinance adopted under sub. (5)~~ sub. (6m) (a), (b), or (c); a rule promulgated under sub. (6m) (e); or a court order under par. (a) may be seized and held as evidence of the violation. Except as provided in s. 968.20 (4), only the fireworks that are the subject of a violation of this section, an ordinance adopted under sub. (5) or a court order under par. (a) may be destroyed after conviction for a violation. Except as provided in s. 968.20 (4), fireworks that are seized as evidence of a violation for which no conviction results shall be returned to the owner in the same condition as they were when seized to the extent practicable.

**History:** 1977 c. 260; 1983 a. 446, 538; 1985 a. 135; 1987 a. 377; 1987 a. 403 s. 256; 1989 a. 31; 1989 a. 56 s. 258; 1993 a. 208, 446, 491; 1995 a. 27 ss. 4464 to 4469 and 9116 (5); 1995 a. 330; 1997 a. 3, 35, 283.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1170/2  
RJM:AM

*Date*

Representative Sykora:

The drafting instructions I received for this bill included the deletion of any reference to possession of fireworks in s. 167.10 (2) and (3) (a). As I understand it, the intent of this instruction was to clarify that fireworks dealers may possess fireworks pending their sale without first obtaining a permit. However, by deleting these references, the bill would exempt any person who possesses fireworks from the permit requirement. I have drafted the bill more narrowly to accomplish what I understand to be your intent. See proposed s. 167.10 (2) and (3) (a) and (b) (intro.). Please let me know if you desire any changes.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1170/2dn  
RJM:lmlh:kua

March 23, 2001

Representative Sykora:

The drafting instructions I received for this bill included the deletion of any reference to possession of fireworks in s. 167.10 (2) and (3) (a). As I understand it, the intent of this instruction was to clarify that fireworks dealers may possess fireworks pending their sale without first obtaining a permit. However, by deleting these references, the bill would exempt any person who possesses fireworks from the permit requirement. I have drafted the bill more narrowly to accomplish what I understand to be your intent. See proposed s. 167.10 (2) and (3) (a) and (b) (intro.). Please let me know if you desire any changes.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us





State of Wisconsin  
2001 - 2002 LEGISLATURE

Monday 4-9

3 (Redraft  
LRB-1170/2 makes  
TNF&RJM:hmh:km has  
stays been  
run)

2001 ASSEMBLY BILL

Regenerate

and sale

1 AN ACT *to amend* 110.07 (1) (a) 1., 110.07 (1) (a) 3., 110.07 (1) (b), 167.10 (2)  
2 (intro.), 167.10 (3) (a), 167.10 (3) (b) (intro.) and 167.10 (8) (b); *to repeal and*  
3 *recreate* 167.10 (3) (title); and *to create* 345.11 (1t) and 345.20 (2) (h) of the  
4 statutes; **relating to:** ~~restrictions on the possession of fireworks, enforcement~~  
5 by the state traffic patrol of restrictions on the possession and use of fireworks,  
6 and limiting seizure of certain fireworks for law enforcement purposes.

also

**Analysis by the Legislative Reference Bureau**

~~Current law~~ grants state traffic patrol officers specific power and duties, including the enforcement of state traffic laws, enforcement of the conditions placed on the possession and transport of a firearm, bow, or crossbow, and enforcement of the prohibition against littering on a highway. ~~Current law~~ prohibits a person from possessing or using fireworks without a permit unless certain conditions apply. It is unclear under current law whether a person who intends to lawfully sell fireworks must have a permit to possess the fireworks pending their sale. A person who uses or possesses fireworks without a permit is subject to a fine of not more than \$1,000. In addition, fireworks possessed or used by a person who violates any provision of the fireworks laws, any fireworks ordinance, or certain court orders relating to fireworks may be seized and held as evidence of the violation.

This bill expands the powers and duties of state traffic patrol officers to include the enforcement of the permit requirement for the possession and use of fireworks,

INSERT ANALYSIS A

**ASSEMBLY BILL**

where applicable, to highways. In exercising this new power and duty, state traffic patrol officers may issue uniform traffic citations for violations of the permit requirement. This bill also prohibits a court from forwarding a record of conviction for violation of the permit requirement to the department of transportation (DOT) and prohibits DOT from assessing any demerit points against the person's driving record for the conviction.

INVEST  
ANALYSIS  
3  
  
In  
addition,

This bill ~~also~~ clarifies that a person who intends to lawfully sell regulated fireworks may possess the fireworks without first obtaining a fireworks permit. ~~In addition, the bill deletes the authority for the seizure of fireworks that are possessed or used in violation of the fireworks laws or a fireworks ordinance, unless the violation is subject to criminal penalties under the fireworks laws. The bill ~~also~~~~ retains the authority to seize fireworks that are possessed or used in violation of certain court orders.

also

For further information see the *state and 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:***

1           **SECTION 1.** 110.07 (1) (a) 1. of the statutes is amended to read:  
2           110.07 (1) (a) 1. Enforce and assist in the administration of this chapter and  
3           chs. 166, 194, 218, 341 to 349, and 351, and ss. 23.33, 125.07 (4) (b), 125.085 (3) (b),  
4           167.10 (3) (a), 167.31 (2) (b) to (d), and 287.81 and ch. 350 where applicable to  
5           highways, or orders or rules issued pursuant thereto.

6           **SECTION 2.** 110.07 (1) (a) 3. of the statutes is amended to read:  
7           110.07 (1) (a) 3. Have authority to enter any place where vehicles subject to this  
8           chapter, ss. 167.10 (3) (a), 167.31 (2) (b) to (d) and 287.81 and chs. 194, 218, and 341  
9           to 350 are stored or parked at any time to examine such vehicles, or to stop such  
10          vehicles while en route at any time upon the public highways to examine the same  
11          and make arrests for all violations thereof.

12          **SECTION 3.** 110.07 (1) (b) of the statutes is amended to read:  
13          110.07 (1) (b) All municipal judges, judges, district attorneys, and law  
14          enforcement officers shall assist in enforcing this chapter, ss. 167.10 (3) (a), 167.31

**ASSEMBLY BILL**

1 (2) (b) to (d), and 287.81 and chs. 194, 218, and 341 to 351, and orders or rules issued  
2 pursuant thereto and shall report to the department the disposition of every uniform  
3 traffic citation issued for cases involving those chapters.

4 **SECTION 4.** 167.10 (2) (intro.) of the statutes is amended to read:

5 167.10 (2) SALE. (intro.) No person may sell ~~or possess with~~ intent to sell  
6 fireworks, except to any of the following:

7 (a) ~~To a~~ A person holding a permit under sub. (3) (c);

8 (b) ~~To a~~ A city, village, or town; ~~or~~.

9 (c) ~~For~~ A person for a purpose specified under sub. (3) (b) 2. to 6.

INSERT  
3-9

10 **SECTION 5.** 167.10 (3) (title) of the statutes is repealed and recreated to read:

11 167.10 (3) (title) POSSESSION AND USE.

12 **SECTION 6.** 167.10 (3) (a) of the statutes is amended to read:

13 167.10 (3) (a) No Except as otherwise provided in this paragraph, no person  
14 may possess or use fireworks without a user's permit from the mayor of the city,  
15 president of the village, or chairperson of the town in which the possession or use is  
16 to occur or from an official or employee of that municipality designated by the mayor,  
17 president, or chairperson. This paragraph does not prohibit the possession of  
18 fireworks with intent to sell the fireworks in compliance with sub. (2). No person may  
19 use fireworks or a device listed under sub. (1) (e) to (g) or (i) to (n) while attending  
20 a fireworks display for which a permit has been issued to a person listed under par.  
21 (c) 1. to 5. or under par. (c) 6. if the display is open to the general public.

22 **SECTION 7.** 167.10 (3) (b) (intro.) of the statutes is amended to read:

23 167.10 (3) (b) (intro.) ~~Paragraph (a) does~~ The prohibitions under par. (a) do not  
24 apply to:

INSERT  
3-24

25 **SECTION 8.** 167.10 (8) (b) of the statutes is amended to read:







from Draft 2483

# 2001 BILL

ANALYSIS  
INSERTS

1 AN ACT to amend 167.10 (2), 167.10 (3) (a), 167.10 (3) (b), 167.10 (3) (bm) and  
 2 167.10 (4); to repeal and recreate 167.10 (3) (title); and to create 167.10 (2)  
 3 (d) and 167.10 (3) (b) 8. of the statutes; relating to: the possession, sale, and  
 4 shipping of fireworks.

### Analysis by the Legislative Reference Bureau

Current law regulates the sale, use, and possession of certain fireworks. With certain exceptions, current law prohibits the possession of regulated fireworks, unless the person with possession has a fireworks user's permit. It is unclear under current law whether a person who intends to lawfully sell regulated fireworks must have a fireworks user's permit to possess the fireworks pending their sale.

With limited exceptions, current law also prohibits the sale of regulated fireworks to any person who does not hold a fireworks user's permit. One exception in current law authorizes a resident wholesaler to sell regulated fireworks "to a person outside of this state." In *State v. Victory Fireworks, Inc.*, 230 Wis. 2nd 721 (Ct. App. 1999), the court of appeals held that this exception only permits a sale to a person who is physically located outside of this state. Under current law, if a resident wholesaler sells fireworks under this exception, the resident wholesaler must package and ship the fireworks in accordance with applicable state and federal laws and must ship the fireworks by common, contract, or private motor carrier.

This bill reverses *State v. Victory Fireworks, Inc.* Under this bill, a resident wholesaler may sell regulated fireworks to any nonresident person if the nonresident person gives the wholesaler a signed statement indicating that the fireworks are for

also

INSERT ANALYSIS A

INSERT ANALYSIS B

**BILL**

use outside of this state. <sup>NOH</sup> Under the bill, a nonresident person may still purchase fireworks for use within this state if the nonresident person meets the requirements for use and possession in current law. ~~This bill also clarifies that a person who intends to lawfully sell regulated fireworks may possess the fireworks without first obtaining a fireworks user's permit.~~ <sup>NOH</sup>

In addition, the bill changes the shipping and transport requirements for fireworks. ~~Under the bill, a nonresident person that purchases fireworks for use outside of this state must transport the fireworks, or request that the fireworks be shipped by the resident wholesaler to a location outside of this state. If the fireworks are transported by the nonresident person, the bill authorizes the nonresident person to stop in any city, town, or village for up to 12 hours while en route to the out-of-state destination. This authorization is similar to an authorization in current law that applies to a person who is transporting fireworks to a permitted location within this state.~~ ~~In addition, the bill repeals the requirement that a resident wholesaler must use a common, contract, or private motor carrier to ship fireworks. Under the bill, if fireworks are shipped by a resident wholesaler, the resident wholesaler must follow all applicable state and federal laws.~~

transport fireworks to an out-of-state location and to

*end ms analysis B*

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

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

2           167.10 (2) SALE. No person may sell or possess with intent to sell fireworks,  
3           except to any of the following:

4           (a) ~~To a~~ A person holding a permit under sub. (3) (c);

5           (b) ~~To a~~ A city, village, or town; or

6           (c) ~~For~~ A person for a purpose specified under sub. (3) (b) 2. to 6.

7           **SECTION 2.** 167.10 (2) (d) of the statutes is created to read:

8           167.10 (2) (d) A nonresident person who, prior to the sale, gives the seller a  
9           signed statement indicating that the fireworks are for use outside of this state.

10          **SECTION 3.** 167.10 (3) (title) of the statutes is repealed and recreated to read:

11          167.10 (3) (title) POSSESSION AND USE.

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

BILL

INSEAF 3-9

use outside of this state. Under the bill, a nonresident person may still purchase fireworks for use within this state if the nonresident person meets the requirements for use and possession in current law. This bill also clarifies that a person who intends to lawfully sell regulated fireworks may possess the fireworks without first obtaining a fireworks user's permit.

In addition, the bill changes the shipping and transport requirements for fireworks. Under the bill, a nonresident person that purchases fireworks for use outside of this state must transport the fireworks, or request that the fireworks be shipped by the resident wholesaler, to a location outside of this state. If the fireworks are transported by the nonresident person, the bill authorizes the nonresident person to stop in any city, town, or village for up to 12 hours while en route to the out-of-state destination. This authorization is similar to an authorization in current law that applies to a person who is transporting fireworks to a permitted location within this state. In addition, the bill repeals the requirement that a resident wholesaler must use a common, contract, or private motor carrier to ship fireworks. Under the bill, if fireworks are shipped by a resident wholesaler, the resident wholesaler must follow all applicable state and federal laws.

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

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

167.10 (2) SALE. No person may sell or possess with intent to sell fireworks, except to any of the following:

(a) To a A person holding a permit under sub. (3) (c);

(b) To a A city, village, or town; or

~~(c) To a person for a purpose specified under sub. (3) (b) 2. to 6.~~

SECTION 2. 167.10 (2) (d) of the statutes is created to read:

167.10 (2) (d) A nonresident person who, prior to the sale, gives the seller a signed statement indicating that the fireworks are for use outside of this state.

~~SECTION 3. 167.10 (3) (title) of the statutes is repealed and recreated to read:~~

~~167.10 (3) (title) POSSESSION AND USE.~~

SECTION 4. 167.10 (3) (a) of the statutes is amended to read:

**BILL**

INSERT 3-24

1 Except as provided in par. (bm), the possession of fireworks in any city, town,  
2 or village while transporting the fireworks to a city, town, or village where the  
3 possession of the fireworks is authorized by permit or ordinance.

**SECTION 6.** 167.10 (3) (b) 8. of the statutes is created to read:

5 167.10 (3) (b) 8. Except as provided in par. (bm), the possession of fireworks by  
6 a nonresident person in any city, town, or village if the nonresident person intends  
7 to use the fireworks outside of this state and is transporting the fireworks to a  
8 location outside of this state.

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

10 167.10 (3) (bm) Paragraph (a) applies to a person transporting fireworks under  
11 par. (b) 7. or 8. if, in the course of transporting the fireworks through a city, town, or  
12 village, the person remains in that city, town, or village for a period of at least 12  
13 hours.

**SECTION 8.** 167.10 (4) of the statutes is amended to read:

15 167.10 (4) ~~OUT OF STATE AND IN STATE SHIPPING. SHIPPING AND TRANSPORTING.~~

16 ~~This section does not prohibit a resident wholesaler or jobber from selling fireworks~~  
17 ~~to a person outside of this state or to a person or group granted a permit under sub-~~  
18 ~~(3) (c) 1. to 7. A nonresident person who purchases fireworks from a resident~~  
19 ~~wholesaler or jobber for use outside of this state shall transport the fireworks to a~~  
20 ~~location outside of this state or shall request the wholesaler or jobber to ship the~~  
21 ~~fireworks to a location outside of this state. A resident wholesaler or resident jobber~~  
22 ~~that ships the fireworks sold under this subsection by the wholesaler or jobber shall~~  
23 ~~package and ship the fireworks in accordance with applicable state and federal law~~  
24 ~~by, as defined in s. 194.01 (1), (2), and (11), common motor carrier, contract motor~~  
25 ~~carrier, or private motor carrier.~~

Nonresident

Plain text

Plain text



**TOM SYKORA**  
STATE REPRESENTATIVE

TO: Robert Marchant

FAX NUMBER: 264-8522

FR: Wisconsin State Representative Tom Sykora - (608) 224-1197 ext (608) 282-366

Marlin

DATE: 2 APR 1 2001

PAGES: 3  
(cover page included)

RE: Here are the req  
changes

Thank you  
Marlin

TOTAL P.02

2-26 01:10:12PM;Wisconsin Assembly

1608 266 5104

2001 - 2002 Legislature

- 2 -

LRB-1170/2  
TNF&RJM:hrb:ksu

**ASSEMBLY BILL**

where applicable, to highways. In exercising this new power and duty, state traffic patrol officers may issue uniform traffic citations for violations of the permit requirement. This bill also prohibits a court from forwarding a record of conviction for violation of the permit requirement to the department of transportation (DOT) and prohibits DOT from assessing any demerit points against the person's driving record for the conviction.

This bill also clarifies that a person who intends to lawfully sell regulated fireworks may possess the fireworks without first obtaining a fireworks permit. In addition, the bill deletes the authority for the seizure of fireworks that are possessed or used in violation of the fireworks laws or a fireworks ordinance, unless the violation is subject to criminal penalties under the fireworks laws. The bill also retains the authority to seize fireworks that are possessed or used in violation of certain court orders.

For further information see the state and 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:*

1 SECTION 1. 110.07 (1) (a) 1. of the statutes is amended to read:

2 110.07 (1) (a) 1. Enforce and assist in the administration of this chapter and  
3 chs. 168, 194, 218, 341 to 343, and 351, and ss. 23.33, 125.07 (4) (b), 125.085 (8) (b),  
4 ~~167.10 (3) (a), 167.31 (2) (b) to (d), and 287.81~~ and ch. 350 where applicable to  
5 highways, or orders or rules issued pursuant thereto.

6 SECTION 2. 110.07 (1) (a) 3. of the statutes is amended to read:

~~110.07 (1) (a) 3.~~ Have authority to enter any place where vehicles subject to this  
8 chapter, ss. ~~167.10 (3) (a), 167.31 (2) (b) to (d)~~ and 287.81 and chs. 194, 218, and 341  
9 to 350 are stored or parked at any time to examine such vehicles, or to stop such  
10 vehicles while en route at any time upon the public highways to examine the same  
11 and make arrests for all violations thereof.

12 SECTION 3. 110.07 (1) (b) of the statutes is amended to read:

13 110.07 (1) (b) All municipal judges, judges, district attorneys, and law  
14 enforcement officers shall assist in enforcing this chapter, ss. ~~167.10 (3) (a), 167.31~~

03/26/01 MON 12:47 FAX 608 255 2203

CONNOR COMM.

→→ SCRULTE  
: 608 224 5104

003

2001 - 2002 Legislature

- 3 -

LRB-1170/2  
TNP&RJM:hmb:kr  
SECTION 3

**ASSEMBLY BILL**

1 (2) (b) to (d), and 287.81 and chs. 194, 218, and 341 to 351, and orders or rules issued  
2 pursuant thereto and shall report to the department the disposition of every uniform  
3 traffic citation issued for cases involving those chapters.

4 SECTION 4. 167.10 (2) (intro.) of the statutes is amended to read:

5 167.10 (2) SALE. (intro.) No person may sell or possess with intent to sell  
6 fireworks, except to any of the following:

7 (a) To a person holding a permit under sub. (3) (c).

8 (b) To a city, village, or town; or

9 (c) For a person for a purpose specified under sub. (3) (b) 2. to ~~to~~.

*No interest  
OR out of  
state sales*

*X - Add*

10 SECTION 5. 167.10 (3) (title) of the statutes is repealed and recreated to read:

11 167.10 (3) (title) POSSESSION AND USE.

12 SECTION 6. 167.10 (3) (a) of the statutes is amended to read:

13 167.10 (3) (a) ~~No~~ Except as otherwise provided in this paragraph, no person  
14 may possess or use fireworks without a user's permit from the mayor of the city,  
15 president of the village, or chairperson of the town in which the possession or use is  
16 to occur or from an official or employee of that municipality designated by the mayor,  
17 president, or chairperson. This paragraph does not prohibit the possession of  
18 fireworks with intent to sell the fireworks in compliance with sub. (2). No person may  
19 use fireworks or a device listed under sub. (1) (e) to (g) or (i) to (n) while attending  
20 a fireworks display for which a permit has been issued to a person listed under par.  
21 (c) 1. to 5. or under par. (c) 6. if the display is open to the general public.

22 SECTION 7. 167.10 (3) (b) (intro.) of the statutes is amended to read:

23 167.10 (3) (b) (intro.) ~~Paragraph (a) does~~ The prohibitions under par. (a) do not  
24 apply to:

25 SECTION 8. 167.10 (8) (b) of the statutes is amended to read:

*7 OR paragraph 4*



**Barman, Mike**

---

**From:** Barman, Mike  
**Sent:** Monday, April 16, 2001 10:47 AM  
**To:** Hardinger, Marlin  
**Subject:** LRB-1170/3 (attached - per your request)

***Mike Barman***

Mike Barman - Senior Program Asst. (PH. 608-266-3561)  
(E-Mail: [mike.barman@legis.state.wi.us](mailto:mike.barman@legis.state.wi.us)) (FAX: 608-264-6948)

State of Wisconsin  
Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703

04/16/2001

CCC

LRB-1170  
TNF

Assembly Bill 362

Prepared by the Legislative Reference Bureau  
(July 17, 2001)

#. Page 3, line 9: on lines 9 and 10, delete "(intro.)".

LRB-1170/3 ecc-

HMH:



State of Wisconsin  
2001-2002 LEGISLATURE

**CORRECTIONS IN:**

**2001 ASSEMBLY BILL 362**

Prepared by the Legislative Reference Bureau  
(July 18, 2001)

1. Page 3, line 9: on lines 9 and 10, delete "(intro.)".