

2001 DRAFTING REQUEST

Bill

Received: 02/09/2001

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Daniel Vrakas (608) 266-3007

By/Representing: Bonnie Deering

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Addl. Drafters: phurley

Subject: Courts - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Vrakas@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Municipal courts holding refusal hearings

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>
/?	nelsorp1 02/13/2001	jdye 02/14/2001		_____			S&L
/1			pgreensl	_____	lrb_docadmin	lrb_docadmin	

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			02/14/2001 _____		02/14/2001	08/17/2001	

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→ At Intro .

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1?	nelsorp1	1/24 JLD	2/14 PG	2/14 PG/RS			

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/?	nelsorp1			_____			

FE Sent For:

<END>

Nelson, Robert P.

From: Deering, Bonnie
Sent: Thursday, February 08, 2001 1:16 PM
To: Nelson, Robert P.
Subject: Redraft of 1999 Assembly Bill 335

I assume that it is okay to ask for bill drafts via email. If not, let me know.

Rep. Vrakas would like to get 1999 Assembly Bill 335 re-drafted for this session. Please have the bill drafted to include both AA1 and SA1 from the 1999 session. I don't have any further changes at this time. Thank you.

Also, I believe you are working to redraft 1999 AB 381 also. Thank you for your help on that also. (I requested that redraft in late January.)

No rush requested, I know you are busy with budget.

Bonnie Deering
Office of Representative Dan Vrakas
119 West, State Capitol
6-3007

AB335

ASSEMBLY BILL 335

An Act to amend 343.305 (9) (a) (intro.), 343.305 (9) (am) (intro.), 343.305 (9) (c) and 343.305 (11) of the statutes; relating to: allowing municipal courts to hold refusal hearings. (FE)

1999

- 05-11-99. A. Introduced by Representatives Vrakas, Montgomery, Petrowski, Staskunas, Olsen, Huber, Spillner, La Fave, Stone, Ryba, Cullen, Musser, Rhoades, Brandemuchl, Powers, Goetsch, Grothman, Sykora, Gunderson and Albers; cosponsored by Senators Huelsman, Darling, Roessler, Drzewiecki and Grobschmidt.
- 05-11-99. A. Read first time and referred to committee on Highway Safety. **174**
- 05-26-99. A. **Fiscal estimate received.**
- 05-27-99. A. Assembly amendment **1** offered by Representatives Vrakas and Staskunas **209**
- 06-09-99. A. Public hearing held.
- 06-18-99. A. **Fiscal estimate received.**
- 09-15-99. A. Executive action taken.
- 09-21-99. A. Report Assembly amendment **1** adoption recommended by committee on Highway Safety, Ayes 6, Noes 0. **327**
- 09-21-99. A. Report passage as amended recommended by committee on Highway Safety, Ayes 6, Noes 0 **327**
- 09-21-99. A. Referred to committee on Rules **327**
- 10-20-99. A. Placed on calendar 10-26-1999 by committee on Rules.
- 10-26-99. A. Read a second time **401**
- 10-26-99. A. Assembly amendment **1** adopted **401**
- 10-26-99. A. Ordered to a third reading **401**
- 10-26-99. A. Rules suspended **401**
- 10-26-99. A. Read a third time and **passed** **401**
- 10-26-99. A. Ordered immediately messaged **401**
- 10-28-99. S. Received from Assembly **310**
- 10-28-99. S. Read first time and referred to committee on Judiciary and Consumer Affairs **310**

2000

- 01-25-00. S. Public hearing held.
- 02-01-00. S. Executive action taken.
- 02-03-00. S. Report introduction and adoption of Senate amendment **1** recommended by committee on Judiciary and Consumer Affairs, Ayes 5, Noes 0 by committee on Judiciary and Consumer Affairs **419**
- 02-03-00. S. Report concurrence as amended recommended by committee on Judiciary and Consumer Affairs, Ayes 5, Noes 0 **419**
- 02-03-00. S. Available for scheduling.
- 04-06-00. S. Failed to concur in pursuant to Senate Joint Resolution 1 **583**

2001
1999 ASSEMBLY BILL 335

May 11, 1999 – Introduced by Representatives VRAKAS, MONTGOMERY, PETROWSKI, STASKUNAS, OLSEN, HUBER, SPILLNER, LA FAVE, STONE, RYBA, CULLEN, MUSSER, RHOADES, BRANDEMUEHL, POWERS, GOETSCH, GROTHMAN, SYKORA, GUNDERSON and ALBERS, cosponsored by Senators HUELSMAN, DARLING, ROESSLER, DRZEWIECKI and GROBSCHMIDT. Referred to Committee on Highway Safety.

regen.

1 AN ACT to amend 343.305 (9) (a) (intro.), 343.305 (9) (am) (intro.), 343.305 (9) (c)
2 and 343.305 (11) of the statutes; relating to: allowing municipal courts to hold
3 refusal hearings.

Analysis by the Legislative Reference Bureau

Under current law, if an operator of a motor vehicle refuses to submit to a test to determine the presence of an intoxicant in the person's breath, blood, or urine, the law enforcement officer that requested the test takes possession of the person's driver's license and gives the person a notice that the person's operating privilege will be revoked if the refusal was improper. The notice also informs the person that he or she may request a hearing before a circuit court to determine if the refusal was proper. If the person requests a hearing within ten days after receipt of the notice, current law requires the circuit court to hold a hearing to determine if the refusal was proper. Currently, if the person does not request a hearing or if the circuit court determines that the refusal was not proper, the court revokes the person's operating privilege. This bill allows municipal courts to hold refusal hearings and issue revocation orders based on the results of those hearings.

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:

insert
and: ✓

Currently if a person is charged with violating
for a license prohibiting drunk driving, he or she may request a hearing
and pay

ASSEMBLY BILL 335

SECTION 1

SECTION 1. 343.305 (9) (a) (intro.) of the statutes is amended to read:

343.305 (9) (a) (intro.) If a person refuses to take a test under sub. (3) (a), the law enforcement officer shall immediately take possession of the person's license and prepare a notice of intent to revoke, by court order under sub. (10), the person's operating privilege. If the person was driving or operating a commercial motor vehicle, the officer shall issue an out-of-service order to the person for the 24 hours after the refusal and notify the department in the manner prescribed by the department. The officer shall issue a copy of the notice of intent to revoke the privilege to the person and submit or mail a copy with the person's license to the circuit court for the county in which the arrest under sub. (3) (a) was made or to the municipal court in the municipality in which the arrest was made if the arrest was for a violation of a municipal ordinance under sub. (3) (a) and the municipality has a municipal court. The officer shall also mail a copy of the notice of intent to revoke to the attorney for that municipality or to the district attorney for that county, as appropriate, and to the department. The notice of intent to revoke the person's operating privilege shall contain substantially all of the following information:

SECTION 2. 343.305 (9) (am) (intro.) of the statutes is amended to read:

343.305 (9) (am) (intro.) If a person driving or operating or on duty time with respect to a commercial motor vehicle refuses a test under sub. (3) (am), the law enforcement officer shall immediately take possession of the person's license, issue an out-of-service order to the person for the 24 hours after the refusal and notify the department in the manner prescribed by the department, and prepare a notice of intent to revoke, by court order under sub. (10), the person's operating privilege. The officer shall issue a copy of the notice of intent to revoke the privilege to the person and submit or mail a copy with the person's license to the circuit court for the county

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ASSEMBLY BILL 335

1 in which the refusal is made or to the municipal court in the municipality in which
 2 the refusal is made if the person's refusal was in violation of a municipal ordinance
 3 and the municipality has a municipal court. The officer shall also mail a copy of the
 4 notice of intent to revoke to the attorney for that municipality or to the district
 5 attorney for that county, as appropriate, and to the department. The notice of intent
 6 to revoke the person's operating privilege shall contain substantially all of the
 7 following information:

8 **SECTION 3.** 343.305 (9) (c) of the statutes is amended to read:

9 343.305 (9) (c) If a law enforcement officer informs the circuit or municipal
 10 court that a person has refused to submit to a test under sub. (3) (a) or (am), the court
 11 shall be prepared to hold any requested hearing to determine if the refusal was
 12 proper. The scope of the hearing shall be limited to the issues outlined in par. (a) 5.
 13 or (am) 5. Section 967.055 applies to any hearing under this subsection.

14 **SECTION 4.** 343.305 (11) of the statutes is amended to read:

15 343.305 (11) RULES. The department shall promulgate rules under ch. 227
 16 necessary to administer this section. The rules shall include provisions relating to
 17 the expeditious exchange of information under this section between the department
 18 and law enforcement agencies, circuit courts, municipal courts, and district
 19 attorneys. The rules may not affect any provisions relating to court procedure.

20 **SECTION 5. Initial applicability.**

21 (1) The treatment of section ^s343.305 (9) (a) (intro.), (am) (intro.), and (c) of the
 22 statutes first applies to refusals committed on the effective date of this subsection,
 23 but does not preclude the counting of previous suspensions, revocations, or
 24 convictions for purposes of determining the period that a person's operating privilege
 25 is revoked.

, 800.04(1)(d), and 800.07

PWF

Insert
3-19

Insert 3-18

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2462/?ins
.....

where the violation
occurred

insert an:

¶ Currently, if a person charged with violating an ordinance that prohibits drunk driving wants the case transferred to the circuit court for a jury trial, the person pleads not guilty in the municipal court, pays the appropriate fee, and requests a jury trial. The municipal court then transfers the case to the circuit court in the county for a jury trial. Under this bill, if that person has also requested a hearing regarding his or her refusal to submit to testing to determine the amount of alcohol in his or her blood, that refusal hearing is transferred to the circuit court that will be conducting the drunk driving ordinance violation jury trial.

**ASSEMBLY AMENDMENT 1,
TO 1999 ASSEMBLY BILL 335**

Insert 3-18

May 27, 1999 - Offered by Representatives VRAKAS and STASKUNAS.

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

2 **1. Page 3, line 18: after "municipal courts" insert "attorneys who represent**
3 **municipalities".**

4 (END)

Insert 3-19

**SENATE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 335**

February 3, 2000 - Offered by COMMITTEE ON JUDICIARY AND CONSUMER AFFAIRS.

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

2 1. Page 3, line 19: after that line insert:

3 ~~SECTION 4m.~~ 800.04 (1) (d) of the statutes is amended to read:

PWF

4 800.04 (1) (d) If a defendant charged with the violation of an ordinance which
5 is in conformity with s. 346.63 (1) or (5) pleads not guilty and within 10 days after
6 entry of the plea requests a jury trial and pays the required fees, the municipal judge
7 shall promptly transmit all papers and fees in the cause to the clerk of the circuit
8 court of the county where the violation occurred for a jury trial under s. 345.43. The
9 plea of not guilty and request for jury trial may be made by mail. If the person refused
10 to take a test under s. 343.305 (3) and requested a hearing under s. 343.305 (9) to
11 determine if the person's refusal was proper, the papers and fees involved in that
12 action shall be transferred to the same circuit court, which shall conduct the refusal
13 hearing. The amount of deposit set out in the citation shall accompany the mailed



INS 3-19
CONT

1 request. Upon receipt of the request, the circuit court shall set a time for trial. Any
2 deposit made personally or by mail is forfeited upon nonappearance at the time set
3 for trial. The required fee for a jury is prescribed in s. 814.61 (4).

4 SECTION ~~800.07~~ 800.07 of the statutes is amended to read:

5 **800.07 Discovery in municipal court.** Neither party is entitled to pretrial
6 discovery in any action in municipal court, including refusal hearings held by a
7 municipal court under s. 343.305 (9), except that if the defendant moves within 30
8 days after the initial appearance in person or by an attorney and shows cause
9 therefor, the court may order that the defendant be allowed to inspect documents,
10 including lists of names and addresses of witnesses, if available, and to test under
11 s. 804.09, under such conditions as the court prescribes, any devices used by the
12 plaintiff to determine whether a violation has been committed."

PWF

13

(END)



end of
insert 3-19



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

February 14, 2001

MEMORANDUM

To: Representative Vrakas

From: Robert P. Nelson, Senior Legislative Attorney

Re: LRB-2462 Municipal courts holding refusal hearings

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) 267-7511 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.