



Alberta Darling
Wisconsin State Senator
Co-Chair, Joint Committee on Finance

TESTIMONY BEFORE THE SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT
SENATE BILL 528
JANUARY 26, 2015

Thank you Chairman Lemahieu and committee members for holding a public hearing today on Senate Bill 528. The legislation before you would give local municipalities the ability to suspend, revoke, or refuse to renew a retailer's cigarette and tobacco products license. The bill stems from a problem we are seeing in Milwaukee. Milwaukee is a first class city with so much potential. Part of that potential is being held back by certain bad actors.

An example of these bad actors, and I am sure my colleague Representative Goyke, has many more examples he can share, deals with a tobacco shop in the Near West Side area that has received 300 calls for police service in a 3 year period. Think of the time and resources that have been wasted on this one retailer alone based on the inability to revoke its license. This business continues its operations today.

The idea for this bill was brought to my attention by the Near West Side Partners. They want to revitalize and sustain the Near West Side as a thriving business and residential corridor. I wholeheartedly support their endeavor which is why I support SB 528.

Under current state law, local units of government are only allowed to suspend, revoke, or refuse to renew a cigarette and tobacco product license for violations related to selling products without a license or for sales to a minor.

Unfortunately, this allows local retail shops to harbor criminal activity with no ability for local units of government to revoke a retailer's license. Even after numerous complaints and active law enforcement involvement, these shops are able to stay in business because their tobacco licenses cannot be revoked.

We should not allow a few bad actors to inhibit the economic development of our largest city. This bill as amended will give the city of Milwaukee a specific process to follow in order to go after the few bad actors that are causing the trouble talked about today.

Very briefly, senate substitute amendment 1 addresses concerns that have been brought to our attention. I am confident that this bill, as amended, will allow Milwaukee to continue to reach for its full potential.

Once again thank you committee members for giving me the opportunity to testify before you. It is my hope that you will join me in support of this legislation.



January 26, 2016

Public Testimony of State Representative Evan Goyke

Re: Senate Bill 528

Good afternoon Chairman LeMahieu and members of the Elections and Local Government Committee. I'm grateful for the opportunity to testify today on a bill that is incredibly important to me, my neighborhood, and my city.

I'm also grateful to Senator Darling and Representative Ott for their willingness to work with me, across the political aisle, to craft this bill. Their support has been strong from the beginning of the process and I have enjoyed working with them and their great staff.

The core of Senate Bill 528 extends local control over the revocation, suspension, or non-renewal of retail licenses to sell tobacco. Current law requires a tobacco retailer to obtain a license from the municipality where they operate their business, yet fails to extend the power to revoke, suspend, or not-renew that license. This is not the case for alcohol retailers. SB 528 mirrors current law as it applies to alcohol retailers and extends it to tobacco retailers.

Following meetings with stakeholders, Senator Darling and I introduced a substitute amendment to this bill. The substitute makes several important changes to the bill, but maintains the core extension of local control over the revocation, suspension, or non-renewal of a tobacco retail license. The substitute amendment makes the following changes:

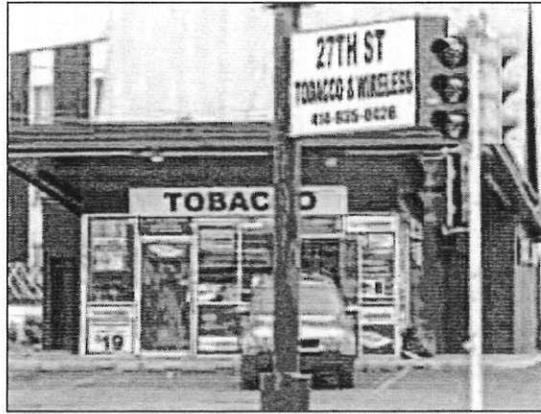
- 1) Limits the application of the bill to a city of the first class
- 2) Removes the ability of a resident to initiate a complaint
- 3) Removes sanitation as grounds for revocation of the license
- 4) Clarifies the definition of permitting criminal behavior on the premises
- 5) Adds the requirement of documentation of two or more violations prior to initiating the revocation, suspension, or non-renewal

These changes make SB 528 better. Concerns were brought forward by stakeholders with an important view of the daily reality of retail and I am happy to testify today that the changes within the substitute amendment address the major concerns of several important Wisconsin organizations.

Importantly, the bill and the substitute amendment do not change the process for obtaining a tobacco retail license. No application for a tobacco license may be denied. There are no quotas for the number of licenses, no new fees or registrations under the bill or the substitute amendment. Business as usual will continue for tobacco retailers following passage of this bill.

This bill is not about tobacco. The product being sold is not the issue. As others will confirm today, SB 528 is about a community's ability to uphold a fair standard of operation by empowering local government to respond to repeated problems at a tobacco retailer.

This bill, as amended, will reduce crime, increase neighborhood stability and promote economic development. I ask for your support and welcome any questions.



RICK WOOD / RWOOD@JOURNALSENTINEL.COM

Milwaukee is seeking an injunction to close 27th St. Tobacco, which city attorneys call a "safe haven" for illegal drug sales.

City seeks to shut smoke shop

Police have been called there 140 times this year

By **BRUCE VIELMETTI**
bvielmetti@journalsentinel.com

A tobacco store on Milwaukee's north side actually serves as "safe haven" for illegal drug sales and should be declared a public nuisance and closed, according to city attorneys.

A lawsuit claims Milwaukee police have been called to 27th St. Tobacco, at 848 N. 27th St., 140 times this year, and more than 400 times since January 2013 for "drug activity, firearms, loitering, suspicious activity, theft and physical altercations."

The city will seek an injunction closing the store at a court hearing Thursday.

In June, the city notified the property owner that he had failed to abate the nuisances at the store and that from then on he would be liable for the extra costs incurred by the city to monitor, patrol and enforce laws at 27th St. Tobacco.

Since June 2010, 39 ordinance violations related to the address have been recorded in Municipal Court, ranging from selling cigarettes to minors, disorderly conduct and littering to soliciting prostitution, obstructing police and carrying a concealed weapon, according to the lawsuit.

The action names as defendants the store's current proprietors, Midhat and Hazim Farrah, and their landlords, Amjad Tufail and Kausar Chattha of Brookfield. Despite being subjected to a search warrant in May, the suit contends, the store continued to attract and allow illegal activity all summer. There was no answer at the store's

listed phone number on Tuesday.

The lawsuit states that a man believed to be a drug and gun dealer from Illinois, and listed as an employee of the shop, handled an AR-15 rifle equipped with a 60-round magazine in the back of the store, in the presence of a Milwaukee police officer. That man, Eddie McCalley, was later charged with being a felon in possession of a firearm.

Hazim Farrah told police he often bought Apple electronics, TVs and other items for resale from people who came in off the street, without receipts and without paying tax. He also said he was aware that some of his employees brought marijuana into the store, though he denied knowledge of any sales of marijuana there. He said many people enter the store trying to sell guns, and that he bought a shotgun from one of them for \$400.

According to the city's lawsuit, the business does not have the required license to be a resale shop. It does hold a license to sell tobacco and cigarettes.

**GET UP,
GET OUT
AND
EXPLORE.**

There's no resource like
WisconsinTrails.com.
It uncovers the hidden
gems waiting for you in
every corner of the state.

wisconsin
wisconsintrails.com *Trails*

Judge stalls city's bid to permanently shut smoke shop

By **BRUCE VIELMETTI**
bvvielmetti@journalsentinel.com

It should be business as usual for at least three more months at 27th St. Tobacco and Wireless. A judge on Thursday found it a nuisance but imposed only a very limited temporary injunction.

That means it will continue as a magnet for illegal activity, according to city officials and neighbors, or as an honest center for retail commerce, in the eyes of the operators.

The city sued the landowner and his tenants, who operate the business, with the goal of getting the store shut down.

The suit cited numerous incidents of drug sales initiated in the store and an ongoing string of other violations ranging from selling cigarettes to minors and public drink-

ing to soliciting a prostitute and carrying a concealed weapon.

At a court hearing Thursday, Circuit Judge Daniel Noonan said he was going to consider only a limited claim of whether the store was a nuisance as a place that facilitated illegal drug sales. He said a lengthy affidavit from a Milwaukee police captain about drug sales at the store last spring was sufficient to find that it was.

As such, Noonan said, he was required to impose an order to try to abate the activity. He ordered that no illegal drug sales take place within the store and that the operators not allow the store to facilitate such sales.

Attorneys for both the store owner and its tenants said their clients have taken steps to achieve that since May, after police served a

search warrant at the store as part of a criminal investigation.

The store, near N. 27th St. and W. Kilbourn Ave., has been the focus of police for years. Since 2013, the city's suit claims, there have been more than 400 calls for police service at the address.

The current owners, Midhat Farrah and his father, Hazim Farrah, took over the business in January. There have been about 140 calls since then. Assistant City Attorney Nicholas DeSiato said most of those were self-generated by police, because of their own observations or ongoing investigations.

Midhat Farrah told a reporter earlier in the week that he does not buy stolen goods for resale and runs all iPhones through a website to check if they're reported stolen. In fact, he said, he found that one

iPhone he was being offered had been reported stolen by an airline employee at Mitchell International Airport and he bought it for \$80 and returned it to the rightful owner without reimbursement.

But police say at least one employee of the business, with a felony record, was handling an assault-style rifle in the store in the presence of an officer, and numerous illegal drug sales take place in the store's parking lot.

The man no longer works for the store, said Michael Maistelman, one of the attorneys for Hazim Farrah, and the city's suit indicates the employee has been charged with being a felon in possession of a firearm.

Vince Bobot, attorney for the property owner, said his client has suffered from serious medical conditions over the past few months but

wants to work with police and will do what's necessary to help reduce illegal behavior at the location.

DeSiato said earlier in the week that police "see illegal or suspected illegal activity every time they're there."

He suggested to Noonan at Thursday's hearing that he order 27th St. Tobacco to fence its parking lot, install more lighting and video surveillance, and hire round-the-clock security to make sure the owners' avowed intentions to improve the situation are accomplished.

Noonan, who retires next month, said imposing such conditions would be too drastic at this stage and would have to be considered by another judge after a daylong hearing on the city's request for a permanent injunction or closure order in February.

Cities could control tobacco licenses

Proposed bill would give power to shut nuisance establishments

By **ASHLEY LUTHERN**

aluthern@journalsentinel.com

Wisconsin lawmakers are circulating a bill for co-sponsors that would give municipalities the power to suspend, revoke or refuse to re-issue new tobacco licenses of businesses with documented nuisance activity, such as drug dealing and prostitution.

The process would be very similar to how cities deal with businesses licensed to sell alcohol, said State Rep. Evan Goyke (D-Milwaukee).

"This framework of local government over-

sight and putting some standards of business operation on the (alcohol) license has really worked to maintain good businesses in our neighborhood," Goyke said. "The same is not true for those that sell tobacco."

Retailers who sell tobacco already must be licensed, but under current law those licenses can only be suspended or revoked for violations related to selling products without a license or for tobacco sales to minors.

The proposed law does not give municipalities the power to deny a new license, nor does it set a limited number of tobacco licenses.

"You get a shot to open," Goyke said.

"There's nothing in the bill to prevent that. But if you do open that business and it becomes a magnet of criminal activity, then there's a repercussion."

The proposal has support from the Near West Side Partners, a nonprofit organization made up of Milwaukee residents, businesses and heavy-hitting anchor institutions Aurora Health Care, Harley-Davidson, Marquette University, MillerCoors and Potawatomi Business Development Corp.

The organization's representatives sent a letter to lawmakers last week describing how the proposal will assist the nonprofit's \$1 million, three-year initiative to improve safety

Please see **TOBACCO, 4A**



Goyke

From page 3

TOBACCO

Nonprofit group backs lawmaker's proposal

and promote economic development on Milwaukee's near west side.

"It would be a big help to us," said Milwaukee County community prosecutor Chris Ladwig, who works in the neighborhood.

The law would give a "significant amount of power" to the local community and provide a more timely and specific response rather than a full-fledged lawsuit, Ladwig said.

City sues smoke shop

This fall, the city did file a lawsuit to shut down a tobacco shop at the corner of N. 27th St. and W. Kilbourn Ave.

Milwaukee police had been called to the location more than 400 times from January 2013 to September 2015 for various complaints, including drug dealing, loitering, public drinking and firearms offenses.

During investigations this year, Milwaukee police discovered felons handling



MICHAEL SEARS / MSEARS@JOURNALSENTINEL.COM

The City of Milwaukee has sued to shut down this tobacco shop, at N. 27th St. and W. Kilbourn Ave., as a chronic nuisance.

firearms, stolen merchandise and drug dealing inside and around the business, according to the lawsuit.

City and county prosecutors say they had met with the store's owners and filed the suit in September after problems had not been remedied. The owners have publicly disputed the claims in the lawsuit.

The court could decide to issue an injunction or permanently close the business. A next hearing in the case is set for February.

The proposed state law would be another "proverbial tool in the toolbox" to

use before a situation rises to the level of litigation, said Assistant City Attorney Nick DeSiato, who filed the lawsuit.

"It gives, frankly, another body to hear these complaints," he said. "It allows a municipality to have a more timely response to very serious nuisance activity."

"It also creates a forum for the community where anybody can testify about how it impacts them," DeSiato added. "You give those folks who might not otherwise speak up, and might not know a lawsuit exists, a chance."

3 linked to terror suspect charged

Trio accused of conspiracy, transport of stolen goods, other counts

By **JOHN DIEDRICH**
jdiedrich@journalsentinel.com

Three men related to a terrorism suspect are themselves facing criminal charges of trafficking stolen electronics, according to court documents unsealed in federal court Friday in Milwaukee.

Even as details of the terrorism and stolen goods cases unfold, it remains unclear what, if any, connection there is between the man alleged to have gone to Syria to fight alongside terrorists and a notorious cigarette store in Milwaukee, known for drug trafficking and sales of stolen iPhones.

In separate cases, four men — three brothers and their cousin — were arrested this week, two in Milwaukee and two in Sacramento, Calif.

In the Milwaukee case, Younis Mohammed Al-Jayab, Samer Mohammed Al-Jayab and Ahmed Waleed Mahmood are charged with



**Younis
Mohammed
Al-Jayab**



Mahmood

Please see **TERROR, 4A**

Man worked at notorious 27th St. cigarette store

conspiracy, interstate transportation of stolen goods and other counts.

Younis Mohammed Al-Jayab, 24, and Mahmood, 22, appeared Friday before U.S. Magistrate David Jones. Jones ordered the men released with electronic monitoring.

Samer Mohammed Al-Jayab was arrested in Sacramento, and prosecutors will seek to have him returned to Milwaukee.

In the Sacramento case, Aws Mohammed Younis Al-Jayab, a 23-year-old Iraqi refugee who once lived in Milwaukee, is charged with lying as part of a terrorism investigation. He traveled to Syria to fight alongside terrorist groups, a trip he planned while living in Milwaukee in 2013, court documents say.

It's unclear what connection there is between the cases filed in Milwaukee and Sacramento, besides the defendants being related. Officials said the Milwaukee stolen goods charges are not terrorism related.

Assistant U.S. Attorney Paul Kanter, who is prosecuting the stolen goods case, declined to say Friday if one case arose out of the other.

The stolen goods investigation started in May 2014 when an informant told the FBI that Younis Mohammed Al-Jayab was buying stolen merchandise and selling it overseas.

At the time, Younis Mohammed Al-Jayab was working at the 27th St. Tobacco store, which more recently has been the target of a nuisance action by the city of Milwaukee, according to the complaint.

Over roughly six months, undercover FBI agents sold Younis Mohammed Al-Jayab and Samer Mohammed Al-Jayab and Mahmood 32 new Apple iPhones, a laptop and a television, together valued at \$21,500, the complaint says. Some of the items were shipped overseas, to Romania and Cyprus, it says.

The city moved in September to close 27th St. Tobacco, saying it functions as a "safe haven" for illegal drug sales and should be declared a public nuisance.

A lawsuit claims Milwaukee police have been called to 27th St. Tobacco, at 848 N. 27th St., 140 times in 2015, and more than 400 times since January 2013 for "drug activity, firearms, loitering, suspicious activity, theft and physical altercations."

Hazim Farrah and his son Midhat Farrah own the business. Brian Kinstler, an attorney for Midhat Farrah, said the men facing federal charges may be related to the store's previous owner but were not employed by the Farrahs when they took over.

According to the city's civil suit, Hazim Farrah told police he often bought Apple electronics, TVs and other items for resale from people who came in off the street, without receipts and without paying tax. He said many people enter the store trying to sell guns, and that he bought a shotgun from one of them for \$400.

On Oct. 23, Midhat Farrah was charged with two misdemeanor counts of receiving or concealing stolen property in state court. That case is pending.

After an October hearing, a judge declared 27th St. Tobacco a nuisance but imposed only a very limited temporary injunction — that no illegal drug sales take place there. Another hearing is set for Feb. 1.

Terrorism case

According to the terrorism criminal complaint filed in Sacramento, Aws Mohammed Younis Al-Jayab is a Palestinian born in Iraq who emigrated from Syria to the United States as a refugee in October 2012, residing in Tucson, Ariz., and Milwaukee.

phone number."

The next day, Al-Jayab purchased an airline ticket in Chicago and flew to Istanbul, Turkey, before making his way to Syria, according to the complaint.

From November 2013 to January 2014, Al-Jayab reported on social media that he was in Syria fighting with various terrorist organizations, including Ansar al-Islam, a designated foreign terrorist organization since 2004, according to the complaint.

He returned to the United States on Jan. 23, 2014, and settled in Sacramento, according to the complaint.

Al-Jayab's arrest came on the same day federal authorities unsealed an indictment of a Houston resident and Iraqi refugee on charges of attempting to support the Islamic State. It was not immediately clear if the cases were linked.

The arrests in Houston and Sacramento are likely to inflame the ongoing national debate about immigration and whether the U.S. system for vetting refugees is stringent enough to weed out would-be ter-

"America will not isolate me from my Islamic duty. Only death will do us part."

Aws Mohammed Younis Al-Jayab, on social media post

It's unclear from the complaint when Al-Jayab moved to Milwaukee, however social media posts indicate he was in the area by 2013.

In April of that year, Al-Jayab wrote of his desire to go to Syria to fight.

"America will not isolate me from my Islamic duty," he wrote. "Only death will do us part."

In June 2013, he wrote to an individual identified in the complaint as "L" that he was at a shooting club in Wisconsin and wanted to "learn long-range shooting."

He also sent photos from the gun range, as well as photos of himself with various weapons, according to the complaint.

In early November 2013, Al-Jayab was in Milwaukee and bank records indicate he received approximately \$4,500 from an auto insurance settlement. No other details were provided.

On Nov. 7, 2013, Al-Jayab wrote to someone identified as "Individual N," saying "Haji, I managed to get money and everything. I do not want money from you, just find me a way, I beg you. Make arrangements for me, my Sheikh . . . I will be going to turkey and it is very important that you provide me with a tele-

rorists or terror sympathizers.

Washington University law professor and former Homeland Security official Stephen Legomsky believes it is.

"The risk can never be zero, but the risk of admitting dangerous individuals is small given how thorough the process is," said Legomsky, who served as chief council of the U.S. Citizenship and Immigration Services in the Obama administration.

On Friday, Gov. Scott Walker said the terrorism-related arrests vindicate his stance against Syrian refugees.

Walker tweeted Friday, asking if people still wonder why he raised concerns about ensuring that Syrian refugees coming into Wisconsin are safe. He included a link to a story about the arrests.

If convicted on the terrorism charge, Aws Mohammed Younis Al-Jayab faces a maximum statutory penalty of eight years in prison and a \$250,000 fine.

The penalties for the three on the stolen goods counts is five years in prison.

Annya Johnson, Bruce Vielmetti and Cary Spivek of the Journal Sentinel staff contributed to this report.



Department of Administration
Intergovernmental Relations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

Jennifer Gonda
Director of Intergovernmental Relations

City of Milwaukee Testimony on SB 528
Senate Committee on Elections and Local Government
January 26, 2016

The City of Milwaukee supports passage of SB 528 in its entirety. Modeled after alcohol beverage licensing laws found in Ch. 125, Wis. Stats., SB 528 provides an efficient enforcement tool to stem the negative impact created by businesses with a tobacco license that engage in illegal operations. This bill has no impact on lawfully operating businesses, including the lawful sale of tobacco.

Businesses that create, foster or maintain nuisance activity, particularly illegal drug activity, place a tourniquet on economic development in a community. They ward off new business while eliciting a disproportionate level of police resources that could be dedicated to other law abiding businesses and residents in the area. They create a magnet for disorder that would not otherwise exist but for that nuisance property.

By virtue of state and local law, municipalities have a limited but effective array of nuisance abatement tools to address licensed premises engaged in certain regulated activities, such as the sale of alcohol and food. This authority includes a suspension of a license from 10-90 days, the non-renewal of an annual license and the revocation of a license. In Milwaukee, these tools are used sparingly and only when necessary.

Using data for alcohol licenses as a guideline, SB 528 will impact a small, but significant, segment of businesses in the City of Milwaukee. Since 2010, there have been a total 6,056 tavern licenses issued, a total which includes both new and renewal licenses. Of those 6,056 licenses, the City of Milwaukee has suspended 52 licenses, not renewed 27 and revoked 2. Put another way, the City of Milwaukee has issued a negative action on 1.3% of all tavern licenses in the past 6 years. The number drops to .53% for liquor store licenses. The City of Milwaukee stresses progressive punishment in its licensing decisions and has historically rendered negative action on a business's license only when necessary.

While the volume of businesses affected by a negative licensing action is small, the nuisance activity at those underlying establishments is significant. Consider the following recent examples:

- A gas station's food dealer and extended hours licenses were not renewed after it received over 500 calls for service in less than a year. The convenience store at that gas station, holding a food dealer license, extended hours license and tobacco license, became a meeting place for significant nuisance activity, such as drug dealing and loitering. Because the store remained open with its tobacco license, the store remained a magnet for nuisance activity after its food and extended hours licenses were not renewed. Eventually, the City of Milwaukee, along with area partners, spent approximately \$800,000 to purchase the property.

- A restaurant's alcohol license was denied and food dealer license was not renewed after police investigation revealed the restaurant was being used to host underage after-hours parties that resulted in multiple incidents of shots fired.
- A tavern's liquor license was not renewed after it was found to be storing the equivalent of 7,000 doses of heroin a month.
- A tavern's liquor license was not renewed after security video footage caught the business owner covering up a shooting that occurred on premises.

Themes of excessive use of police resources, drug activity and firearm violence are common among nearly all licenses that have received negative licensing action.

There remains a gap with businesses engaged predominantly or exclusively in the tobacco industry. Current state law only permits the termination of a license if the licensee repeatedly sells cigarette or tobacco products without a license or fails to keep complete and accurate records of all purchases and receipts of cigarettes and tobacco products. Thus, despite complaints from neighboring businesses and residents that a business is engaged in illegal activity, sometimes openly, those businesses know that current law makes their tobacco license nearly untouchable.

Currently, a municipality has limited legal options to address nuisance businesses engaged in tobacco sales. For example, Ch. 823, Wis. Stats. provides a mechanism for injunctive relief, including a nuisance receivership. However, litigation is a lengthy process that may take years to resolve and may result in a court order that does not permanently abate the nuisance. In fact, the City of Milwaukee is currently engaged in ongoing nuisance litigation with a tobacco shop with no resolution in sight. In trial court, witness testimony is limited, and often the community has no idea this litigation is even occurring. There remains no mechanism for a court to find that a business must relinquish its tobacco license based on nuisance activity.

Conversely, the authority to take negative licensing action against a nuisance property allows a municipality to hold a timely license hearing in which the entire community – including negatively impacted area businesses – can participate. The license hearing protects the licensee's right to due process and a timely decision is made to address the harmful activity. This expedited and efficient process frees up countless hours of police and prosecutorial resources, saving considerable taxpayer money.

SB 528 does not permit a municipality to regulate local businesses unchecked. As with the authority governing alcohol licensing, due process would be afforded to a business both at the time of a municipal licensing hearing, if held, and on appeal through the court system whenever a tobacco license is revoked or suspended. Given the long lineage of alcohol related case law, there is already an established legal doctrine interpreting the language used in this bill. The implementation of this legislation would be turnkey.

Given the effective and judicious use of licensing authority for alcohol licenses, the addition of tobacco licensing authority is a necessary step in abating significant nuisance activity that has thwarted vital economic development and public safety. Thank you for your consideration of our concerns and we urge you to support SB 528.

For more information please contact:

Nick DeSiato, Assistant City Attorney, ndesia@milwaukee.gov, 414-286-2638

Brenda Wood, Senior Legislative Coordinator, bwood@milwaukee.gov, 414-286-2371

Milwaukee County District Attorney's Office Testimony on SB 528

January 26, 2016

The Milwaukee County District Attorney's Office supports passage of SB 528 in its entirety. As a 7-year veteran assistant district attorney who has prosecuted violent crimes, gun offenses, drug crimes, and robberies, I understand the importance of being tough on crime by fostering crime free neighborhoods where residents and businesses, big and small, can invest and thrive. I have been a community prosecutor since 2009 and have worked directly within Milwaukee neighborhoods for 7 years. In that time, I have learned how relentless crime and nuisance at one location can tear apart entire neighborhoods.

To be tough on crime, prosecutors need to not only prosecute violent offenders, but we need to work proactively with residents and businesses on changing the behavior at locations where we have chronic nuisance and criminal behavior. It is clear that in crime prevention, places and businesses matter. Derelict business owners allow problems to return to their locations even after police and prosecutors take significant and costly action. Derelict business owners deter investment from small and big businesses and deter interest from homebuyers.

The best way for prosecutors to ensure safety in our communities is to not only remove dangerous people, but to pressure the bad owners into improving their businesses and ensuring the environment encourages community development and investment.

We cannot accomplish this in any neighborhood when a business is a magnet for loitering, fighting, drug dealing, and other unwanted activity. The current law ties a hand behind the back of local communities. The current law takes away the ability of residents, positive business owners, and local governments to set a standard of livability in their neighborhoods.

SB 528 is not about tobacco. A quick story will highlight this point. In 2010, our Community Prosecution team was facing a challenge in the Avenues West neighborhood related to abuse of malt liquor beverages. In that year, Marquette University safety personnel was inundated with 276 incidents related to malt liquor abuse. This was a significant drain on the safety resources that were intended to protect the campus and the students. We created a plan to address this issue that included pressuring the neighborhood liquor stores generating the most complaints. The law allows the local government to suspend, revoke or not renew a liquor license. This leverage in discussions with business owners with poor management was significant in changing the unwanted behavior. By 2015, the malt liquor related incidents were reduced to 12 and other crimes in the surrounding neighborhood have also decreased.

We achieved this result with a thoughtful, holistic plan and we did it without closing a single business. The local municipality's ability to suspend, revoke or not renew a liquor license was motivation enough to get the mismanaged business owners to change behavior.

Again, this legislation is not about tobacco. SB 528 is only about the ability of local residents and positive business owners to reduce crime and nuisance activity in their neighborhoods, set community standards, and hold the bad actors accountable. This bill is as much about creating environments for investment and improvement than it is about any type of enforcement. Thank you for your consideration for your support of this legislation.

For more information please contact:

Christopher Ladwig, Assistant District Attorney,
Christopher.Ladwig@da.wi.gov, 414-308-7807



STATE REPRESENTATIVE
JOSH ZEPNICK
WISCONSIN STATE ASSEMBLY

To: Senate Committee on Election and Local Government
From: Representative Josh Zepnick
Date: January 26, 2016
Re: Testimony in favor of Senate Bill 528, relating to suspending, revoking, or refusing to renew cigarette and tobacco products retailer licenses.

Good Afternoon Chairman LeMahieu and committee members, and thank you for holding a hearing on this bill.

Senate Bill 528 is a commonsense, bipartisan, and necessary piece of legislation. Unlike sales of alcohol, municipalities do not currently have substantial authority to investigate and punish problem properties with existing tobacco licenses. The bill would define and penalize activities conducted on the premises of cigarette and tobacco retailers which lower quality of life, increase the chances of criminal activity, or even violate current law. Included in the list of prohibited actions are keeping disorderly, unsanitary, or indecent property, allowing criminals or prostitutes to loiter, personally being involved with the illegal sale of controlled substances, or allowing another to do the same on premises. This is a set of undoubtedly reasonable standards by which tobacco retailers, or any retailer with a municipality-issued license, should conduct business.

There is a legitimate fear that what has happened in the 6th Senate District could happen elsewhere. Across my district there are 100 tobacco retailers, often located near small businesses, senior public housing, and family neighborhoods. I have heard from community groups and businesses who fear a situation similar to that of the 6th District and the proximity of these retailers to both families and businesses.

Will Sebern, the Executive Director of the Layton Boulevard West Neighbors in the 9th Assembly District on Milwaukee's South Side, has brought to my attention many of these establishments and concerns. Currently, my community does not

have the ability to deal with a future problem business at any location. On one busy corner alone, a tobacco shop operates next to more than ten successful businesses, residential areas with many kids and young adults, and public housing. Simply put, a disorderly premises or criminal activity would put these businesses, and residents in the area, at risk. As such, it should come as no surprise this legislation has seen support from both business and neighborhood associations in Milwaukee. There are few options under current law which my constituents and the city can use to address problem tobacco retailers should any issues arise. Under SB 528, they would now be given a chance to make their concerns heard, and give municipalities legitimate control over a local matter.

Importantly, SB 528 gives retailers due process in defending against unjust claims. Any business accused of violating the provisions under the bill is first entitled to a hearing before their governing body, and is allowed to bring evidence, witnesses, an attorney, and an opportunity to cross-examine. Even if the governing body finds the complaint to be true, the business is given the right to appeal the judgement in circuit court. There is no doubt this bill establishes a fair and reasonable process through which claims against businesses can be investigated.

For all of these reasons, I ask you to support SB 528. It will fill in the gap in current law to support our communities, businesses, and law-abiding tobacco retailers while deterring disorderly and criminal establishments.