



2001 ASSEMBLY BILL 440

June 7, 2001 – Introduced by Representatives VRAKAS, DUFF, RYBA, D. MEYER, LASSA, HAHN, TOWNSEND, OWENS, LADWIG, HUEBSCH, URBAN, JESKEWITZ, GUNDERSON, POWERS, OTT, STONE and ALBERS, cosponsored by Senators GEORGE, HUELSMAN, GROBSCHMIDT, ROESSLER, COWLES and DARLING. Referred to Committee on Judiciary.

1 **AN ACT to repeal** 800.04 (1) (b) 1. c. and 800.04 (1) (d); and **to amend** 345.43 (1),
2 755.045 (1) (a), 800.02 (2) (a) 7. and 800.02 (3) (a) 6. of the statutes; **relating**
3 **to:** jury trials in municipal court regarding first offense drunk driving.

Analysis by the Legislative Reference Bureau

Current law allows a municipality to create an ordinance prohibiting a person from operating a vehicle while under the influence of an intoxicant or from operating a commercial motor vehicle while the person has a blood alcohol concentration of 0.04% or more but less than 0.1% (OWI offense). Under current law, if a person is charged with violating either of these ordinances, the case is heard by a municipal court if there is a municipal court in that municipality. If the offense is the person's second or subsequent OWI offense, the offense is criminal and heard in circuit court. Under current law, in municipal court a person charged with an OWI violation has the right to request a jury trial.

If the violator requests a jury trial and pays the required fees, current law requires the municipal court to transfer the case to the clerk of circuit court in the county where the violation occurred. The circuit court is then required to set a date for a jury trial.

This bill requires an OWI ordinance violation case to be held in the municipal court by removing a person's right in municipal court to request that his or her case regarding OWI be transferred to the circuit court for a jury trial. The bill does not affect the person's right to appeal the municipal court's decision to the circuit court.

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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.** 345.43 (1) of the statutes is amended to read:

2 345.43 (1) ~~If a case has been transferred under s. 800.04 (1) (d), or if in circuit~~
3 court either party files a written demand for a jury trial within 10 days after the
4 defendant enters a plea of not guilty under s. 345.34 and immediately pays the fee
5 prescribed in s. 814.61 (4), the court shall place the case on the jury calendar of the
6 circuit court. The number of jurors shall be 6. If no party demands a trial by jury,
7 the right to trial by jury is permanently waived.

8 **SECTION 2.** 755.045 (1) (a) of the statutes is amended to read:

9 755.045 (1) (a) If the action is transferred under s. ~~800.04 (1) or~~ 800.05 (3) to
10 a court of record.

11 **SECTION 3.** 800.02 (2) (a) 7. of the statutes is amended to read:

12 800.02 (2) (a) 7. Notice that the defendant may by mail prior to the court
13 appearance enter a plea of not guilty ~~and may within 10 days after entry of the plea~~
14 request a jury trial.

15 **SECTION 4.** 800.02 (3) (a) 6. of the statutes is amended to read:

16 800.02 (3) (a) 6. Notice that the defendant may by mail prior to the court
17 appearance enter a plea of not guilty ~~and may within 10 days after entry of the plea~~
18 request a jury trial.

19 **SECTION 5.** 800.04 (1) (b) 1. c. of the statutes is repealed.

20 **SECTION 6.** 800.04 (1) (d) of the statutes is repealed.

21 **SECTION 7. Initial applicability.**

