

LEGISLATIVE HEARING CALENDAR

Positions to be taken by the City of Milwaukee on the following bills will be discussed by the

COMMITTEE ON JUDICIARY-LEGISLATION

MONDAY, DECEMBER 17, 2001 AT 10:30 A.M.

Room 301-B, City Hall

A-534 Municipal Court; Refusal Hearings

A-675 Concealed Weapons

A-677 Firefighters; Collective Bargaining

Overview of Governor's Proposed Sales Tax Plan

2001 ASSEMBLY BILL 534

October 8, 2001 - Introduced by Representatives VRAKAS, GROTHMAN, MONTGOMERY, MCCORMICK, STASKUNAS, HAHN, DUFF, LADWIG, TOWNSEND, M. LEHMAN, J. FITZGERALD, MILLER, GRONEMUS, STONE, J. LEHMAN, OTT, PETROWSKI, SYKORA, NASS, FRISKE and RYBA, cosponsored by Senators RISSE, HUELSMAN and S. FITZGERALD. Referred to Committee on Judiciary.

- 1 AN ACT to amend 343.305 (9) (a) (intro.), 343.305 (9) (am) (intro.), 343.305 (9) (c),
- 2 343.305 (11), 800.04 (1) (d) and 800.07 of the statutes; relating to: allowing
- 3 municipal courts to hold 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.

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 where the violation occurred 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

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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.

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

2 343.305 (9) (a) (intro.) If a person refuses to take a test under sub. (3) (a), the
3 law enforcement officer shall immediately take possession of the person's license and
4 prepare a notice of intent to revoke, by court order under sub. (10), the person's
5 operating privilege. If the person was driving or operating a commercial motor
6 vehicle, the officer shall issue an out-of-service order to the person for the 24 hours
7 after the refusal and notify the department in the manner prescribed by the
8 department. The officer shall issue a copy of the notice of intent to revoke the
9 privilege to the person and submit or mail a copy with the person's license to the
10 circuit court for the county in which the arrest under sub. (3) (a) was made or to the
11 municipal court in the municipality in which the arrest was made if the arrest was
12 for a violation of a municipal ordinance under sub. (3) (a) and the municipality has
13 a municipal court. The officer shall also mail a copy of the notice of intent to revoke
14 to the attorney for that municipality or to the district attorney for that county as
15 appropriate, and to the department. The notice of intent to revoke the person's
16 operating privilege shall contain substantially all of the following information:

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

18 343.305 (9) (am) (intro.) If a person driving or operating or on duty time with
19 respect to a commercial motor vehicle refuses a test under sub. (3) (am), the law
20 enforcement officer shall immediately take possession of the person's license, issue

2001 ASSEMBLY BILL 675

December 7, 2001 - Introduced by Representatives GUNDERSON, PETTIS, SUDER, NASS, GUNDRUM, HUEBSCH, ALBERS, BIES, J. FITZGERALD, HINES, GROTHMAN, HUNDERTMARK, F. LASEE, LIPPERT, MCCORMICK, MUSSER, OWENS, PETROWSKI, REYNOLDS, SCHNEIDER, STARZYK, STONE, SYKORA and SERATTI, cosponsored by Senators ZIEN, WELCH, S. FITZGERALD, A. LASEE and HUELSMAN. Referred to Committee on Criminal Justice.

1 **AN ACT to renumber and amend 941.23; to amend 25.29 (1) (a), 165.82 (2),**
2 **440.26 (3m) and 941.235 (2); and to create 20.370 (5) (csr), 20.455 (2) (gp),**
3 **29.595, 59.25 (3) (u), 167.31 (4) (ar), 175.50, 941.23 (2), 941.295 (2) (bm), 946.32**
4 **(3) and 948.605 (2) (b) 4m. of the statutes; relating to: licenses to carry a**
5 **concealed weapon, requiring the exercise of rule-making authority, making**
6 **appropriations, and providing penalties.**

Analysis by the Legislative Reference Bureau

Currently, no person other than a peace officer may carry a concealed and dangerous weapon. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than nine months or both. In addition, current law prohibits, with certain exceptions, being armed with a firearm while in a public building, in or on the grounds of a school, or within 1,000 feet of the grounds of a school. Current law also prohibits, with certain exceptions, going armed with a handgun on any premises (such as a tavern) that has a license or permit to sell alcohol beverages for consumption on those premises. A person who violates these prohibitions may be fined not more than \$10,000 or imprisoned for not more than nine months or both, except that a person who goes armed in a public building may be fined not more than \$1,000 or imprisoned for not more than 90 days or both.

This bill creates a procedure by which a person may apply to a county sheriff for a license to carry a concealed weapon. Such a license authorizes a person to carry

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a concealed weapon anywhere in this state except in particular places specified under the bill. These specified places include police stations, sheriffs' offices, state patrol stations, prisons and jails, any premises (such as a tavern) that has a license or permit to sell alcohol beverages for consumption on those premises, a school administration building, an airport, and any place in which the carrying of a weapon is prohibited by federal law.

Under the bill, a county sheriff must issue a license to carry a concealed weapon to a person who meets the qualifications established in the bill for the license unless the county board of the sheriff's county decides by a two-thirds vote, taken before the fourth month after the bill becomes law, to authorize the sheriff not to issue concealed weapons licenses. The county board's vote does not prohibit the sheriff from issuing licenses; he or she may still choose to do so. The bill also allows two or more sheriffs to enter into cooperative agreements under which the sheriffs may jointly issue licenses to carry a concealed weapon or exercise their other responsibilities under the bill.

The bill specifies the requirements that a person must satisfy in order to qualify for a license to carry a concealed weapon. Included among the requirements that a person must satisfy are the following: 1) he or she must be at least 21 years old; 2) he or she does not have a physical disability that prevents him or her from safely handling a weapon; 3) he or she must be eligible to possess a firearm under federal law; 4) he or she must not be prohibited from possessing a firearm due to a felony conviction, a juvenile delinquency adjudication, an order issued in a civil mental commitment case, or any other order prohibiting the person from possessing a firearm; 5) he or she must not have been committed for the treatment of drug dependency during the preceding three years; 6) he or she must not have been convicted of an offense relating to controlled substances during the preceding three years; 7) he or she must not chronically or habitually use alcohol or other substances to the extent that his or her normal faculties are impaired; 8) he or she must have successfully completed one of several specified firearms training or safety courses; 9) he or she must not have been subject to a finding of incompetency, found not guilty of a crime by reason of mental disease or mental defect, or involuntarily committed for treatment of mental illness during the preceding five years; 10) he or she must not have been convicted of one of a set of specified misdemeanors involving violence or serving a sentence for committing such a misdemeanor within the preceding three years; and 11) he or she must be a Wisconsin resident. In addition, the bill requires a sheriff to conduct a background check of a person who applies for a license to carry a concealed weapon to help determine the person's eligibility for a license. The background check requirement does not apply to a person applying for a license if the person is a law enforcement officer, a correctional officer, a probation and parole agent, or a person holding a current certification from the law enforcement standards board.

In addition, the bill does all of the following:

1. Allows a sheriff to issue an emergency license to an individual if the sheriff determines that immediate licensure is warranted to protect the individual from death or great bodily harm.

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2. Provides that a license to carry a concealed weapon is valid for five years and establishes a renewal procedure that includes a background check of the person renewing the license.
3. Requires a sheriff to revoke a license to carry a concealed weapon if the licensee no longer meets all of the requirements for licensure.
4. Requires a sheriff to suspend a license to carry a concealed weapon if the licensee is charged with an offense that may ultimately require its revocation.
5. Provides that a person whose application for a license is denied or whose license is suspended or revoked by the sheriff may appeal the sheriff's action to circuit court for review by a judge.
6. Specifies the information that must be on a license to carry a concealed weapon and an application for such a license and requires the department of justice (DOJ) to design the form of the license and the license application and renewal forms.
7. Requires the sheriff to provide information to DOJ concerning a person licensed to carry a concealed weapon, and requires DOJ to keep a computerized list of persons licensed to carry a concealed weapon. The list kept by DOJ is available only to law enforcement agencies in certain specified circumstances.
8. Requires the clerk of each court to notify the sheriff of court proceedings that would require suspension or revocation of a license.
9. Requires each licensee to notify the sheriff within ten days after being charged with a crime or a drunk driving offense under federal law or the law of another state.
10. Requires a person who applies for a license to carry a concealed weapon to pay a shooting range improvement fee, which is to be used by the department of natural resources to provide grants for the construction and improvement of shooting ranges.
11. Requires a person who applies for a license to carry a concealed weapon to pay a law enforcement excellence fund fee, which is to be used by the sheriff to improve law enforcement services in his or her county.
12. Treats a license or permit issued by another state in the same manner as a license issued under this bill.

The bill also establishes the following penalties for offenses relating to licenses to carry a concealed weapon. First, a person who fails to carry his or her license document while carrying a concealed weapon may be required to forfeit \$25. Second, a person who is licensed to carry a concealed weapon and who carries a concealed weapon in a place where the license does not authorize him or her to do so may be fined not more than \$1,000 or imprisoned for not more than 90 days or both. Third, a person who does any of the following shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not more than nine months: 1) intentionally makes a false statement in an application for a license; 2) intentionally fails to report being charged under federal law or the law of another state with any crime or any drunk driving offense within ten days after being charged; or 3) intentionally fails to relinquish a license document to a sheriff after the license has been revoked.

2001 ASSEMBLY BILL 677

December 7, 2001 - Introduced by Representatives KRUSICK, BERCEAU, BOCK, CARPENTER, MEYERHOFFER, OTT, PLALE, RICHARDS, SINICKI, SYKORA, TURNER, WILLIAMS and YOUNG, cosponsored by Senators BURKE and GEORGE, by request of Milwaukee Fire Department Chief Officers Association. Referred to Committee on Labor and Workforce Development.

1 AN ACT to amend 111.70 (8) (a) and 111.77 (8) (a) of the statutes; relating to:

2 collective bargaining and binding arbitration coverage under the Municipal

3 Employment Relations Act for fire fighting supervisors employed by a 1st class

4 city.

Analysis by the Legislative Reference Bureau

Under current law, fire fighters are covered under the Municipal Employment Relations Act (MERA) and, for those fire fighters employed by a city, village, or town having a population of 2,500 or more, are entitled to binding arbitration. The binding arbitration process that applies to fire fighters provides that the arbitrator must select the final offer of either of the parties on all of the matters on which there is no mutual agreement, unless the parties agree to allow the arbitrator to determine individually the items relating to wages, hours, and conditions of employment on which there is no mutual agreement. Current law, however, does not provide coverage under MERA to fire fighting supervisors.

This bill provides that fire fighting supervisors who are employed by a 1st class city (currently, only Milwaukee) are covered under MERA and are subject to the same binding arbitration law covering fire fighters who are not supervisors.