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

TUESDAY, FEBRUARY 24, 2004 AT 9:00AM

Room 301-B City Hall

S-49	Evidence of lay and expert witnesses
S-104	Prohibiting the use of fireworks at certain outdoor venues and providing a penalty
S-347	Authorizes the use of design-build construction process for MMSD
S-363	Milwaukee Parental Choice Program and granting rule-making authority
S-415/ A-791	Harbor Assistance Program
A-677	Photographs for driver licenses and ID cards
A-687	Possession of ecstasy and providing penalties
A-688	Distributing controlled substances in a place in which a child is present and providing a penalty
A-758/ S-392	Removal by towing services of unregistered, abandoned or illegally parked vehicles
A-759/ S-393	Transfer of ownership of vehicles and the costs of removing, impounding, and disposing of abandoned vehicles
A-797	Regulation of pawnbrokers and second-hand article and jewelry dealers
A-808	The taking of private real property as the result of governmental action
A-819	Increasing filing fees for municipal court actions

Columbus Park Case Proposal

LRB–0671/1
RPN:cmh:cph

2003 SENATE BILL 49

February 26, 2003 – Introduced by Senators WELCH, STEPP and KANAVAS, cosponsored by Representatives GUNDRUM, OLSEN, HINES, ALBERS, TOWNSEND, MCCORMICK, KRAWCZYK, NASS, VUKMIR, MUSSER, VAN ROY, GUNDERSON and LADWIG. Referred to Committee on Judiciary, Corrections and Privacy.

1 AN ACT *to renumber and amend* 907.01 and 907.02; *to amend* 907.03; and *to*
2 *create* 907.01 (3), 907.02 (1) (a), (b) and (c) and 907.02 (2) of the statutes;
3 **relating to:** evidence of lay and expert witnesses.

Analysis by the Legislative Reference Bureau

Under current law, if a witness is not testifying as an expert, the witness's testimony is limited to those opinions that are rationally based on the perception of the witness and helpful to a clear understanding of the witness's testimony or of a fact at issue in the case. This bill adds the additional limit that a nonexpert's testimony may not be based on scientific, technical, or other specialized knowledge of the witness.

Current law allows the testimony of an expert witness if that scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact at issue in the case. This bill limits the testimony of an expert witness to testimony that is based on sufficient facts or data, that is the product of reliable principals and methods, and that is based on the witness applying those principals and methods to the facts of the case. The bill also prohibits the testimony of an expert witness who is entitled to receive any compensation contingent on the outcome of the case.

Currently, the facts or data in a particular case on which an expert witness bases his or her opinion may be made known to the expert at or before the case hearing, but if those facts or data are reasonably relied upon by experts in the field in forming opinions about the subject, they do not need to be admissible into evidence

in the case. This bill adds that facts or data that are otherwise inadmissible may not be disclosed to the jury unless the court determines that their value in assisting the jury to evaluate the expert's testimony outweighs their prejudicial effect.

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

SECTION 1. 907.01 of the statutes is renumbered 907.01 (intro.) and amended to read:

907.01 Opinion testimony by lay witnesses. (intro.) If the witness is not testifying as an expert, the witness's testimony in the form of opinions or inferences is limited to those opinions or inferences which are ~~rationally~~ all of the following:

(1) Rationally based on the perception of the witness ~~and helpful~~.

(2) Helpful to a clear understanding of the witness's testimony or the determination of a fact in issue.

SECTION 2. 907.01 (3) of the statutes is created to read:

907.01 **(3)** Not based on scientific, technical, or other specialized knowledge within the scope of a witness under s. 907.02 (1).

SECTION 3. 907.02 of the statutes is renumbered 907.02 (1) (intro.) and amended to read:

907.02 **(1)** (intro.) If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise~~.~~ if all of the following criteria are met:

SECTION 4. 907.02 (1) (a), (b) and (c) of the statutes are created to read:

907.02 **(1)** (a) The testimony is based upon sufficient facts or data.

2003 SENATE BILL 104

April 9, 2003 – Introduced by Senators KEDZIE, BROWN, COWLES, SCHULTZ, ROESSLER, KANAVAS and A. LASEE, cosponsored by Representatives JESKEWITZ, ALBERS, HAHN, LADWIG, TOWNSEND, HINES, TRAVIS, WEBER and OTT. Referred to Committee on Judiciary, Corrections and Privacy.

1 AN ACT *to amend* 167.10 (9) (b); and *to create* 167.10 (3) (i) and 167.10 (9) (bm)
2 of the statutes; **relating to:** prohibiting the use of fireworks at certain indoor
3 venues and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law regulates the possession, use, sale, storage, handling, and manufacture of certain fireworks. With certain exceptions, current law requires any person who possesses or uses regulated fireworks to have a fireworks permit that was issued by the city, village, or town (municipality) in which the possession or use occurs.

This bill prohibits any person from using fireworks in an indoor area in any building where individuals may assemble to enjoy musical or other entertainment, unless the indoor area has a capacity of more than 500 individuals. This prohibition does not apply to the use of fireworks for purposes of science education at an educational seminar that is open to the public and sponsored by a postsecondary educational institution. The bill creates criminal penalties of increasing severity for a violation of this prohibition, depending upon whether the violation results in bodily harm to or the death of an individual.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a

report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

1 **SECTION 1.** 167.10 (3) (i) of the statutes is created to read:

2 167.10 **(3)** (i) No person may intentionally use fireworks in an indoor area in
3 any building where individuals may assemble to enjoy musical or other
4 entertainment, unless the indoor area has a capacity of more than 500 individuals.
5 This paragraph does not prohibit the use of fireworks for purposes of science
6 education at an educational seminar that is open to the public and sponsored by a
7 postsecondary educational institution. This paragraph does not exempt any person
8 from the requirement to obtain a permit under par. (a).

9 **SECTION 2.** 167.10 (9) (b) of the statutes is amended to read:

10 167.10 **(9)** (b) A person who violates sub. (2), (3) (a) to (h), or (6) or an ordinance
11 adopted under sub. (5) shall forfeit not more than $1,000.

12 **SECTION 3.** 167.10 (9) (bm) of the statutes is created to read:

13 167.10 **(9)** (bm) 1. A person who violates sub. (3) (i) may be fined not more than
14 $1,000 or imprisoned for not more than 90 days or both.

15 2. If a person violates sub. (3) (i) and the violation results in bodily harm to an
16 individual, the person may be fined not more than $10,000 or imprisoned for not more
17 than 9 months or both.

18 3. If a person violates sub. (3) (i) and the violation results in the death of an
19 individual, the person is guilty of a Class H felony.

20 **(END)**

2003 SENATE BILL 347

December 17, 2003 - Introduced by Senators DARLING and PLALE, cosponsored by Representatives JESKEWITZ, HAHN, WASSERMAN, YOUNG, RICHARDS, GUNDRUM, ZEPNICK, GUNDERSON, TAYLOR, KRUG and STASKUNAS. Referred to Committee on Economic Development, Job Creation and Housing.

1 AN ACT *to amend* 200.47 (2) (a), 200.47 (2) (e) and 281.41 (1) (a); and *to create*
2 200.47 (2) (bm), 200.47 (2) (f) to (k) and 281.01 (3e) of the statutes; **relating to:**
3 authorizing the use of the design-build construction process for the Milwaukee
4 Metropolitan Sewerage District.

Analysis by the Legislative Reference Bureau

This bill authorizes the Milwaukee Metropolitan Sewerage District (MMSD) to let not more than five contracts for public construction using the design-build construction process, which is defined as a project delivery and procurement process for the design, construction, repair, renovation, installation, or demolition of a public works project under which a single entity is responsible for the professional design services and construction services related to the project. Under the bill, the design-build construction process may be used only for contracts, the estimated cost of which exceeds $4,000,000.

If MMSD wishes to construct a public work using the design-build construction process, MMSD must use a two-stage selection process. Under the first stage, MMSD must publish a notice that includes a project statement that describes the project requirements, performance criteria, and design goals for the project, detailed submission requirements, selection procedures, selection criteria, the composition of the selection panel, and whether the district will offer a stipend to unsuccessful design-build teams and, if so, the amount of the stipend. If the public work is for the construction of underground facilities, MMSD must also prepare a geotechnical report, which must be issued as part of the first stage of the selection process.

Following receipt of the bids, MMSD must select no more than three prospective design–build teams to participate in the second stage of the selection process. The selection of the finalist teams in the first stage of the process must be based on factors that include the background, experience, and qualifications of the members of the teams, and the statement of qualifications and the initial project approach proposal.

In the second stage of the selection process, MMSD must choose from among the finalist teams if MMSD determines that at least one of the finalists will be able to construct the public work in a way that is satisfactory to MMSD. MMSD must conduct interviews of each team, and each team must make a presentation. The criteria to be used in making a final selection may include the quality of the proposed design, the extent to which a proposal demonstrates compliance with the project statement, the amount of participation of a disadvantaged business, and the contract price for the project. If MMSD enters into a contract with one of the teams, that design–build team must obtain bonding for the construction–related portions of the contract to guarantee completion of the project.

If the public work involves the construction of underground facilities, the contract must have a differing site conditions clause. If the contractor discovers any of a number of physical conditions at the site that differ materially from the conditions stated in the contract or from conditions that are ordinarily encountered in work to which the contract applies, the contractor must promptly notify MMSD in writing. MMSD must then investigate the conditions. If MMSD agrees with the contractor's assessment of the conditions and MMSD determines that the differing site conditions will increase or decrease the contractor's costs or time spent to perform the work under the contract, MMSD must make an equitable adjustment to the contract.

Under current law, the Milwaukee County board may let a contract for the construction of a sheriff's department training academy using the design–build construction process, although the process is not defined.

For further information see the ***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. 200.47 (2) (a) of the statutes is amended to read:

2 200.47 **(2)** (a) Except for a contract awarded under pars. (f) to (k) and except
3 as provided in par. (b), all work done and all purchases of supplies and materials by
4 the commission shall be by contract awarded to the lowest responsible bidder
5 complying with the invitation to bid, if the work or purchase involves an expenditure

2003 SENATE BILL 363

December 30, 2003 – Introduced by Senators MOORE, JAUCH, CARPENTER, COGGS, ERPENBACH, HANSEN, ROBSON, CHVALA, DECKER, WIRCH, BRESKE, M. MEYER and PLALE, cosponsored by Representatives JESKEWITZ, HINES, SINICKI, MORRIS, COLON, TAYLOR, TURNER, CULLEN, J. LEHMAN, RICHARDS, ZEPNICK, POCAN, BERCEAU and MILLER. Referred to Committee on Education, Ethics and Elections.

1 AN ACT ***to repeal*** 119.23 (7) (b); ***to renumber*** 119.23 (1) (a); ***to renumber and***
2 ***amend*** 119.23 (7) (am); and ***to create*** 119.23 (1) (am), 119.23 (7) (am) 2. and
3 3., 119.23 (7) (d), 119.23 (7) (e), 119.23 (10) and 119.23 (11) of the statutes;
4 **relating to:** the Milwaukee Parental Choice Program and granting
5 rule–making authority.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the Milwaukee Parental Choice Program (MPCP), under which certain low–income pupils who reside in the city of Milwaukee may attend participating private schools in the city at state expense. The changes include the following:

1. The bill requires a private school participating in the MPCP annually to conduct a criminal background check on all persons employed as instructional staff.

2. With certain exceptions, the bill prohibits a private school participating in the MPCP from employing a person who has been convicted of any of the specified felonies for six years following the conviction.

3. The bill requires a private school to submit to the Department of Public Instruction (DPI), before the school begins participating in the MPCP, a copy of the school's certificate of occupancy issued by the city of Milwaukee, evidence of financial viability, and proof that the administrator of the school participated in a fiscal management training program approved by DPI. Annually, a private school participating in the MPCP must submit to DPI evidence of sound fiscal practices.

4. The bill authorizes DPI to issue an order banning a private school from participating in the MPCP in the succeeding school year if DPI determines that the private school misrepresented information provided to DPI, failed to provide certain information to DPI by the date or within the period required, failed to refund overpayments to the state by the date required, or failed to meet at least one of the currently required academic or other standards by the required date.

5. The bill authorizes DPI to issue an order immediately terminating a private school's participation in the MPCP if DPI determines that conditions at the private school present an imminent danger to the health or safety of pupils or that the private school failed to provide certain information to DPI by the date or within the period required.

6. Finally, the bill authorizes DPI to withhold payment from a private school participating in the MPCP if the private school violates any law or administrative rule governing the MPCP.

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.** 119.23 (1) (a) of the statutes is renumbered 119.23 (1) (ar).

2 **SECTION 2.** 119.23 (1) (am) of the statutes is created to read:

3 119.23 **(1)** (am) "Instructional staff" means professional employees who have
4 as part of their responsibilities direct contact with pupils or with the instructional
5 program of the private school, and employees who supervise such employees.

6 **SECTION 3.** 119.23 (7) (am) of the statutes is renumbered 119.23 (7) (am) (intro.)
7 and amended to read:

8 119.23 **(7)** (am) (intro.) Each private school participating in the program under
9 this section is subject to uniform financial accounting standards established by the
10 department ~~and annually~~. Annually by September 1 following a school year in which
11 a private school participated in the program under this section, the private school
12 shall submit to the department ~~an~~ all of the following:

State of Wisconsin
2003 – 2004 LEGISLATURE

LRB-4056/1
ARG:kmg:jf

2003 SENATE BILL 415

January 29, 2004 – Introduced by Senators WELCH, BRESKE, PLALE, A. LASEE and KANAVAS, cosponsored by Representatives STONE, VAN AKKEREN, KESTELL, NISCHKE, AINSWORTH, ZEPNICK, ALBERS, MCCORMICK, VAN ROY, HINES, F. LASEE, BIES, GUNDERSON and VRAKAS. Referred to Committee on Transportation and Information Infrastructure.

1 AN ACT *to amend* 85.095 (1) (a); and *to create* 85.095 (1) (am) and 85.095 (5) of
2 the statutes; **relating to:** eligibility for the Harbor Assistance Program
3 administered by the Department of Transportation.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT), in consultation with the Wisconsin Coastal Management Council, administers a Harbor Assistance Program. Under the program, an eligible applicant may be awarded a grant to partially reimburse the applicant for expenses incurred in making certain harbor improvements. Eligible applicants include counties, cities, villages, towns, and boards of harbor commissioners.

Under this bill, a person who owns a harbor facility is also eligible for a grant under the Harbor Assistance Program. However, DOT may only award a grant for improvement of a privately owned harbor facility if the harbor facility will be held open for public use for at least ten years after it is improved. If the privately owned harbor facility is not so held open, the grant recipient must repay the grant funds to the extent and in the manner directed by DOT.

For further information see the *state* 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:

State of Wisconsin
2003 – 2004 LEGISLATURE

LRB–3828/1
ARG:kmg:pg

2003 ASSEMBLY BILL 791

February 2, 2004 – Introduced by Representatives STONE, VAN AKKEREN, KESTELL, NISCHKE, AINSWORTH, ZEPNICK, ALBERS, MCCORMICK, VAN ROY, HINES, F. LASEE, BIES, GUNDERSON and VRAKAS, cosponsored by Senators WELCH, PLALE, BRESKE, A. LASEE and KANAVAS. Referred to Committee on Transportation.

1 AN ACT ***to amend*** 85.095 (1) (a); and ***to create*** 85.095 (1) (am) and 85.095 (5) of
2 the statutes; **relating to:** eligibility for the Harbor Assistance Program
3 administered by the Department of Transportation.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT), in consultation with the Wisconsin Coastal Management Council, administers a Harbor Assistance Program. Under the program, an eligible applicant may be awarded a grant to partially reimburse the applicant for expenses incurred in making certain harbor improvements. Eligible applicants include counties, cities, villages, towns, and boards of harbor commissioners.

Under this bill, a person who owns a harbor facility is also eligible for a grant under the Harbor Assistance Program. However, DOT may only award a grant for improvement of a privately owned harbor facility if the harbor facility will be held open for public use for at least ten years after it is improved. If the privately owned harbor facility is not so held open, the grant recipient must repay the grant funds to the extent and in the manner directed by DOT.

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

State of Wisconsin
2003 – 2004 LEGISLATURE

LRB–3127/1
ARG:wlj:ch

2003 ASSEMBLY BILL 677

November 20, 2003 – Introduced by Representatives GRONEMUS, MONTGOMERY, SHILLING, HAHN, ALBERS, SUDER, BERCEAU and GROTHMAN, cosponsored by Senator A. LASEE. Referred to Committee on Transportation.

1 AN ACT ***to amend*** 103.73 (1) (a), 103.76, 125.085 (1), 343.14 (3), 343.17 (3) (a) 2.,
2 343.50 (3) and 343.50 (4); and ***to create*** 343.50 (4g) of the statutes; **relating**
3 **to:** photographs for motor vehicle operators' licenses and identification cards.

Analysis by the Legislative Reference Bureau

Under current law, a person may apply for an identification card issued by the Department of Transportation (DOT) if he or she is a resident of the state and if he or she does not possess a valid motor vehicle operator's license that contains the person's photograph. Current law requires DOT to take a photograph of all applicants for an identification card and, with limited exceptions, of all applicants for an operator's license. DOT may issue an operator's license without a photograph being taken if the applicant is stationed outside the state in military service and in specific situations where DOT deems such action appropriate. DOT, by rule, deems one such situation to be when the applicant has sincerely held religious convictions that do not allow the applicant to be photographed. If a photograph is required to be taken, the photograph must appear on the operator's license or identification card document.

Under this bill, an applicant for an identification card or operator's license may obtain an identification card or operator's license without a photograph being taken if the applicant provides an affidavit stating that he or she has a sincerely held religious belief against being photographed, identifying the religion to which he or she belongs or the religious tenets to which he or she adheres, and stating that the tenets of the religion prohibit him or her from being photographed.

2003 ASSEMBLY BILL 687

December 5, 2003 – Introduced by Representatives UNDERHEIM, HAHN, OLSEN, KRAWCZYK, PETROWSKI, HINES, VAN ROY, TOWNSEND, LOTHIAN, GUNDERSON and OTT. Referred to Committee on Criminal Justice.

1 AN ACT ***to amend*** 961.41 (3g) (b), 961.41 (3g) (c), 961.41 (3g) (d), 961.41 (3g) (e),
2 961.472 (2), 961.48 (3), 961.48 (5), 961.55 (1) (d) 3., 971.365 (1) (c) and 971.365
3 (2); and ***to create*** 961.41 (3g) (h) of the statutes; **relating to:** possession of
4 ecstasy and providing penalties.

Analysis by the Legislative Reference Bureau

Current law prohibits the possession of the controlled substance known as ecstasy (3,4–methylenedioxymethamphetamine or MDMA). A person who violates this prohibition is guilty of a misdemeanor (simple possession) and may be fined not more than $500 or sentenced to the county jail for up to 30 days or both. (Significantly higher penalties apply — and the person is guilty of a felony — if the person possesses ecstasy with intent to manufacture, distribute, or deliver it.) Current law also permits a court to suspend the prosecution of a person who pleads guilty to or is found guilty of simple possession of ecstasy (as well as certain other drugs, but excluding heroin, cocaine, LSD, methamphetamine, marijuana, and certain date–rape drugs), if the person has no prior controlled substance offenses. In such a case, the court places the person on probation. If the person violates the requirements of probation, the court reinstates the case and sentences the person. If the person complies with those requirements, the court dismisses the case without ever entering a judgment of conviction.

This bill increases the penalties for simple possession of ecstasy. If a person possesses ecstasy and has no prior controlled substance convictions, the person is guilty of a misdemeanor and may be fined not more than $5,000 or sentenced to the

county jail for up to one year or both. If the person has one or more prior controlled substance convictions, the person is guilty of a felony and may be fined not more than $10,000 or sentenced to a term of imprisonment (consisting of a term of confinement in state prison followed by a term of extended supervision) of up to three and a half years or both. The bill also eliminates the option of suspending the prosecution of a person who pleads guilty to or is found guilty of simple possession of ecstasy. Finally, the bill requires a person who is convicted of possession or attempted possession of ecstasy to submit to an assessment of the person's use of controlled substances, in the same manner as is required under current law for a conviction related to heroin, cocaine, LSD, or methamphetamine.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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:

SECTION 1. 961.41 (3g) (b) of the statutes, as affected by 2003 Wisconsin Act 49, is amended to read:

961.41 **(3g)** (b) *Other drugs generally.* Except as provided in pars. (c) to ~~(g)~~ (h), if the person possesses or attempts to possess a controlled substance or controlled substance analog, other than a controlled substance included in schedule I or II that is a narcotic drug or a controlled substance analog of a controlled substance included in schedule I or II that is a narcotic drug, the person is guilty of a misdemeanor, punishable under s. 939.61.

SECTION 2. 961.41 (3g) (c) of the statutes, as affected by 2001 Wisconsin Act 109, is amended to read:

961.41 **(3g)** (c) *Cocaine and cocaine base.* If a person possess or attempts to possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine base, the person shall be fined not more than $5,000 and may be imprisoned for not

2003 ASSEMBLY BILL 688

December 5, 2003 – Introduced by Representatives UNDERHEIM, AINSWORTH, KRAWCZYK, MUSSER, PETROWSKI, HINES, TOWNSEND, LOTHIAN, GUNDERSON and OTT, cosponsored by Senators DARLING, A. LASEE and ROESSLER. Referred to Committee on Criminal Justice.

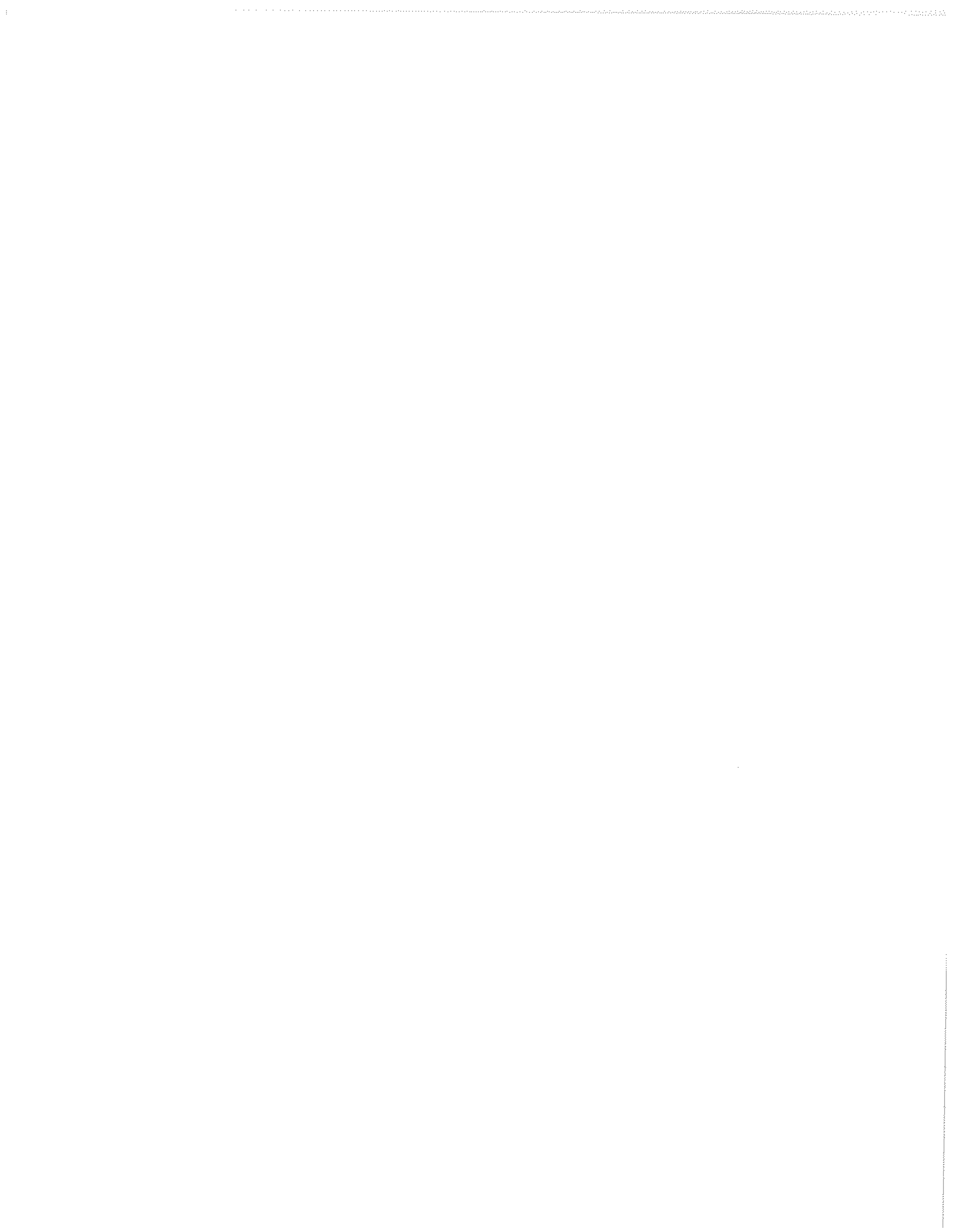
1 AN ACT *to create* 961.493 of the statutes; **relating to:** distributing controlled
2 substances in a place in which a child is present and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits the unauthorized distribution or delivery of a controlled substance and the unauthorized possession of a controlled substance with intent to distribute or deliver it. The maximum term of imprisonment, which consists of a term of confinement in state prison followed by a term of extended supervision, for a person who violates this prohibition ranges from three and one–half to forty years, depending on which controlled substance –– and how much of it –– is involved. In addition, the maximum term of imprisonment may be increased by five years if the offender distributes or delivers certain controlled substances (including cocaine, heroin, PCP, LSD, methamphetamine, and marijuana) within 1,000 feet of a school or public park or in other specified places.

Under this bill, the maximum term of imprisonment for unlawfully distributing or delivering a controlled substance or for unlawfully possessing a controlled substance with intent to deliver or distribute it may be increased by five years if: 1) the person commits the offense at a residential building while a child is present; or 2) the person uses a vehicle to facilitate the commission of the offense and a child is in or on the vehicle while the person commits it.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.



2003 ASSEMBLY BILL 758

January 21, 2004 – Introduced by Representatives AINSWORTH, ALBERS, GUNDERSON, HAHN, HINES, KRAWCZYK, LADWIG, M. LEHMAN, LEMAHIEU, OTT, OWENS, SERATTI and TOWNSEND, cosponsored by Senators LEIBHAM and BRESKE. Referred to Committee on Transportation.

1 AN ACT ***to amend*** 341.65 (2) (b) and 342.40 (3) (a); and ***to create*** 349.13 (5) (c)
2 of the statutes; **relating to:** the removal by towing services of unregistered,
3 abandoned, or illegally parked vehicles.

Analysis by the Legislative Reference Bureau

Under current law, any city, village, or town (municipality) or any county may enact an ordinance prohibiting unregistered motor vehicles and providing for, among other things, the removal and impoundment of such vehicles. Upon discovery of an unregistered vehicle upon a highway, a law enforcement officer may cause the vehicle to be removed to a suitable place of impoundment. Upon removal, the law enforcement officer must notify the sheriff or chief of police of the location to which the vehicle has been removed and impounded and the reason for the impoundment.

Current law also prohibits any person from abandoning a vehicle on a highway or public or private property and subjects abandoned vehicles to, among other things, removal and impoundment. Any municipality or county may enact an ordinance related to abandoned vehicles. Upon discovery of an abandoned vehicle upon a highway or public or private property, a law enforcement officer must cause the vehicle to be removed to a suitable place of impoundment. Upon removal, the law enforcement officer must notify the sheriff or chief of police of the abandonment and the location to which the vehicle has been removed and impounded.

Under this bill, a law enforcement officer who causes the removal of a vehicle by a towing service must, within 24 hours of ordering the removal, notify the towing service of the name and last–known address of the registered owner and all lienholders of record of the vehicle.

Current law, with certain exceptions, permits state and local highway authorities to prohibit or restrict the stopping, standing, or parking of vehicles on highways under their jurisdictions. A traffic officer may require the removal, to a permissible parking area or to storage, of a vehicle on a highway in violation of limitations on stopping, standing, or parking, or of a disabled vehicle that obstructs the roadway of a freeway or expressway, or of a vehicle involved in trespass parking on private property, or, in any first class city (presently only Milwaukee), of a disabled vehicle causing a hazard on any portion of the interstate system, limited access highway, or expressway.

Under this bill, a traffic or police officer who requests removal of a vehicle by a towing service must, within 24 hours of requesting the removal, notify the towing service of the name and last–known address of the registered owner and all lienholders of record of the vehicle if the removal is to be made to any location other than a public highway within one–half mile from the location from which the vehicle is to be removed.

For further information see the ***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. 341.65 (2) (b) of the statutes is amended to read:

2 341.65 **(2)** (b) Any municipal or university police officer, sheriff's deputy, county
3 traffic patrolman, state traffic officer or conservation warden who discovers any
4 unregistered motor vehicle located upon any highway may cause the motor vehicle
5 to be immobilized with an immobilization device or removed to a suitable place of
6 impoundment. Upon immobilization or removal of the motor vehicle, the officer or
7 warden shall notify the sheriff or chief of police of the location of the immobilized or
8 impounded motor vehicle and the reason for the immobilization or impoundment.
9 Upon causing the removal of the motor vehicle by a towing service, the officer or
10 warden shall, within 24 hours of ordering the removal, notify the towing service of
11 the name and last–known address of the registered owner and all lienholders of
12 record of the vehicle.

13 SECTION 2. 342.40 (3) (a) of the statutes is amended to read:

2003 - 2004 LEGISLATURE

LRB-3808/1
ARG:cjs:rs

2003 SENATE BILL 392

January 14, 2004 - Introduced by Senators LEIBHAM and BRESKE, cosponsored by Representatives AINSWORTH, BERCEAU, HINES, LADWIG, M. LEHMAN, LEMAHIEU, OWENS, PETROWSKI, SERATTI, TOWNSEND and VAN ROY. Referred to Committee on Transportation and Information Infrastructure.

1 AN ACT *to amend* 341.65 (2) (b) and 342.40 (3) (a); and *to create* 349.13 (5) (c)
2 of the statutes; **relating to:** the removal by towing services of unregistered,
3 abandoned, or illegally parked vehicles.

Analysis by the Legislative Reference Bureau

Under current law, any city, village, or town (municipality) or any county may enact an ordinance prohibiting unregistered motor vehicles and providing for, among other things, the removal and impoundment of such vehicles. Upon discovery of an unregistered vehicle upon a highway, a law enforcement officer may cause the vehicle to be removed to a suitable place of impoundment. Upon removal, the law enforcement officer must notify the sheriff or chief of police of the location to which the vehicle has been removed and impounded and the reason for the impoundment.

Current law also prohibits any person from abandoning a vehicle on a highway or public or private property and subjects abandoned vehicles to, among other things, removal and impoundment. Any municipality or county may enact an ordinance related to abandoned vehicles. Upon discovery of an abandoned vehicle upon a highway or public or private property, a law enforcement officer must cause the vehicle to be removed to a suitable place of impoundment. Upon removal, the law enforcement officer must notify the sheriff or chief of police of the abandonment and the location to which the vehicle has been removed and impounded.

Under this bill, a law enforcement officer who causes the removal of a vehicle by a towing service must, within 24 hours of ordering the removal, notify the towing service of the name and last-known address of the registered owner and all lienholders of record of the vehicle.

Current law, with certain exceptions, permits state and local highway authorities to prohibit or restrict the stopping, standing, or parking of vehicles on highways under their jurisdictions. A traffic officer may require the removal, to a permissible parking area or to storage, of a vehicle on a highway in violation of limitations on stopping, standing, or parking, or of a disabled vehicle that obstructs the roadway of a freeway or expressway, or of a vehicle involved in trespass parking on private property, or, in any first class city (presently only Milwaukee), of a disabled vehicle causing a hazard on any portion of the interstate system, limited access highway, or expressway.

Under this bill, a traffic or police officer who requests removal of a vehicle by a towing service must, within 24 hours of requesting the removal, notify the towing service of the name and last-known address of the registered owner and all lienholders of record of the vehicle if the removal is to be made to any location other than a public highway within one-half mile from the location from which the vehicle is to be removed.

For further information see the ***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.** 341.65 (2) (b) of the statutes is amended to read:

2 341.65 **(2)** (b) Any municipal or university police officer, sheriff's deputy, county
3 traffic patrolman, state traffic officer or conservation warden who discovers any
4 unregistered motor vehicle located upon any highway may cause the motor vehicle
5 to be immobilized with an immobilization device or removed to a suitable place of
6 impoundment. Upon immobilization or removal of the motor vehicle, the officer or
7 warden shall notify the sheriff or chief of police of the location of the immobilized or
8 impounded motor vehicle and the reason for the immobilization or impoundment.
9 Upon causing the removal of the motor vehicle by a towing service, the officer or
10 warden shall, within 24 hours of ordering the removal, notify the towing service of
11 the name and last-known address of the registered owner and all lienholders of
12 record of the vehicle.

13 **SECTION 2.** 342.40 (3) (a) of the statutes is amended to read:

2003 ASSEMBLY BILL 759

January 21, 2004 – Introduced by Representatives AINSWORTH, BERCEAU, HINES, LADWIG, M. LEHMAN, LEMAHIEU, OWENS, PETROWSKI, SERATTI, TOWNSEND and VAN ROY, cosponsored by Senators LEIBHAM and BRESKE. Referred to Committee on Transportation.

1 AN ACT *to amend* 342.09 (2) (intro.) and 342.15 (3); and *to create* 342.40 (3) (f)
2 of the statutes; **relating to:** transfers of ownership of vehicles and the costs of
3 removing, impounding, and disposing of abandoned vehicles.

Analysis by the Legislative Reference Bureau

Current law requires the owner of a vehicle (owner), when transferring an interest in the vehicle, to record certain information on the vehicle's certificate of title and deliver the certificate of title to the person taking the interest in the vehicle (buyer). Upon receiving the certificate of title, the buyer must promptly complete an application for a new certificate of title and submit the application and the old certificate of title to the Department of Transportation (DOT). DOT then updates its records to show the new owner and issues a new certificate of title for the vehicle. Except as between the parties, a transfer is not effective until all requirements of the owner and buyer have been satisfied.

This bill provides that a transfer of a vehicle is effective, regardless of whether the buyer satisfies his or her obligations, if the owner satisfies his or her obligations and also notifies DOT of the transfer by submitting to DOT a completed notice of transfer form prescribed by DOT. The bill further requires DOT to keep records of notices of transfer received from owners.

Current law prohibits any person from abandoning a vehicle on a highway or on public or private property and subjects abandoned vehicles to, among other things, removal and impoundment. Any municipality or county may enact an ordinance related to abandoned vehicles. Upon discovery of an abandoned vehicle

on a highway or public or private property, a law enforcement officer must cause the vehicle to be removed to a suitable place of impoundment. Except for a stolen vehicle, the vehicle owner is responsible for payment of all costs of removing, impounding, and disposing of an abandoned vehicle. Specified notice must be provided to the vehicle owner and lienholders related to impoundment and disposal of a vehicle.

This bill specifies that, for purposes of responsibility for the costs of, and notice related to, the removal, impoundment, or disposal of a vehicle, an "owner" includes the buyer of a vehicle regardless of whether the buyer has satisfied his or her obligation to apply for a new certificate of title and the transferor of the vehicle if the transferor has not submitted to DOT the notice of transfer form specified above and the buyer has not applied for a new certificate of title.

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:

SECTION 1. 342.09 (2) (intro.) of the statutes is amended to read:

342.09 **(2)** (intro.) The department shall maintain a record of all applications ~~and~~, all certificates of title issued by it, and all notices of transfer received by it under s. 342.15 (3):

SECTION 2. 342.15 (3) of the statutes is amended to read:

342.15 **(3)** Except as provided in ~~s.~~ ss. 342.16 and 342.40 (3) (b) and as between the parties, a transfer by an owner is not effective until the provisions of ~~this section~~ subs. (1), (2), and (4) have been complied with~~. An~~ or, unless the vehicle is a junk vehicle or has been junked, until the owner has complied with the provisions of subs. (1) and (4) and has mailed or delivered to the department a notice of transfer on a form prescribed by the department, which shall include the name and address of the transferee, if the notice is delivered to the department or deposited in the mail properly addressed to the department with postage prepaid within 7 business days of delivery of the vehicle to the transferee. Subject to s. 342.40 (3) (b), an owner who has delivered possession of the vehicle to the transferee and has complied with the

2003 SENATE BILL 393

January 14, 2004 - Introduced by Senators LEIBHAM and BRESKE, cosponsored by Representatives AINSWORTH, ALBERS, GUNDERSON, HAHN, HINES, KRAWCZYK, LADWIG, M. LEHMAN, LEMAHIEU, OTT, OWENS, SERATTI and TOWNSEND. Referred to Committee on Transportation and Information Infrastructure.

1 AN ACT *to amend* 342.09 (2) (intro.) and 342.15 (3); and *to create* 342.40 (3) (f)
2 of the statutes; **relating to:** transfers of ownership of vehicles and the costs of
3 removing, impounding, and disposing of abandoned vehicles.

Analysis by the Legislative Reference Bureau

Current law requires the owner of a vehicle (owner), when transferring an interest in the vehicle, to record certain information on the vehicle's certificate of title and deliver the certificate of title to the person taking the interest in the vehicle (buyer). Upon receiving the certificate of title, the buyer must promptly complete an application for a new certificate of title and submit the application and the old certificate of title to the Department of Transportation (DOT). DOT then updates its records to show the new owner and issues a new certificate of title for the vehicle. Except as between the parties, a transfer is not effective until all requirements of the owner and buyer have been satisfied.

This bill provides that a transfer of a vehicle is effective, regardless of whether the buyer satisfies his or her obligations, if the owner satisfies his or her obligations and also notifies DOT of the transfer by submitting to DOT a completed notice of transfer form prescribed by DOT. The bill further requires DOT to keep records of notices of transfer received from owners.

Current law prohibits any person from abandoning a vehicle on a highway or on public or private property and subjects abandoned vehicles to, among other things, removal and impoundment. Any municipality or county may enact an ordinance related to abandoned vehicles. Upon discovery of an abandoned vehicle

on a highway or public or private property, a law enforcement officer must cause the vehicle to be removed to a suitable place of impoundment. Except for a stolen vehicle, the vehicle owner is responsible for payment of all costs of removing, impounding, and disposing of an abandoned vehicle. Specified notice must be provided to the vehicle owner and lienholders related to impoundment and disposal of a vehicle.

This bill specifies that, for purposes of responsibility for the costs of, and notice related to, the removal, impoundment, or disposal of a vehicle, an "owner" includes the buyer of a vehicle regardless of whether the buyer has satisfied his or her obligation to apply for a new certificate of title and the transferor of the vehicle if the transferor has not submitted to DOT the notice of transfer form specified above and the buyer has not applied for a new certificate of title.

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:

SECTION 1. 342.09 (2) (intro.) of the statutes is amended to read:

342.09 **(2)** (intro.) The department shall maintain a record of all applications ~~and~~, all certificates of title issued by it, and all notices of transfer received by it under s. 342.15 (3):

SECTION 2. 342.15 (3) of the statutes is amended to read:

342.15 **(3)** Except as provided in ~~s.~~ ss. 342.16 and 342.40 (3) (b) and as between the parties, a transfer by an owner is not effective until the provisions of ~~this section~~ subs. (1), (2), and (4) have been complied with~~. An~~ or, unless the vehicle is a junk vehicle or has been junked, until the owner has complied with the provisions of subs. (1) and (4) and has mailed or delivered to the department a notice of transfer on a form prescribed by the department, which shall include the name and address of the transferee, if the notice is delivered to the department or deposited in the mail properly addressed to the department with postage prepaid within 7 business days of delivery of the vehicle to the transferee. Subject to s. 342.40 (3) (b), an owner who has delivered possession of the vehicle to the transferee and has complied with the

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2003 ASSEMBLY BILL 797

February 2, 2004 – Introduced by Representatives KRUSICK, SUDER, ALBERS, BERCEAU, COLON, FRISKE, GIELOW, GRONEMUS, GUNDRUM, HAHN, JESKEWITZ, KERKMAN, KESTELL, KREIBICH, M. LEHMAN, PLOUFF, SINICKI, STASKUNAS, STEINBRINK, STONE, VRAKAS and ZEPNICK, cosponsored by Senators SCHULTZ, CARPENTER, LASSA and PLALE, by request of City of Greenfield Police Department, Wisconsin Law Enforcement Coalition, Wisconsin Chiefs of Police Association and Milwaukee Police Association. Referred to Committee on Criminal Justice.

1 AN ACT ***to amend*** 134.71 (5) (a), 134.71 (5) (c), 134.71 (6), 134.71 (7) (a) 1., 134.71
2 (8) (c) 1., 134.71 (8) (c) 2., 134.71 (8) (d) 2. and 134.71 (8) (d) 3.; and ***to create***
3 134.71 (1) (a) 12m. and 134.71 (8) (c) 3. of the statutes; **relating to:** the
4 regulation of pawnbrokers and secondhand article and jewelry dealers.

Analysis by the Legislative Reference Bureau

Under current law, transactions involving the purchase, receipt, and exchange of certain articles (transactions) by pawnbrokers and by secondhand article dealers and secondhand jewelry dealers (secondhand dealers) are regulated by law. Pawnbrokers and secondhand dealers must have a license issued by the county or by the city, town, or village in which they operate.

Under current law, transactions relating to only certain articles require a pawnbroker or secondhand article dealer to have a license. Those articles include china, computers, electronic equipment, and small electrical appliances. This bill provides that transactions involving prerecorded video tapes or disks, audio tapes or disks, or other optical media also require a pawnbroker or secondhand article dealer to have a license.

Current law requires a pawnbroker or secondhand dealer to provide certain information on an application to obtain a license, including the applicant's name, place of birth, and residence address. This bill requires that the applicant also list all states where the applicant has previously resided.

Under current law, the governing body of a county or a city, town, or village is required to grant a license to an applicant for a pawnbroker's or secondhand dealer's

license if the applicant satisfies certain conditions. Among those conditions is that the applicant has not been convicted of a felony within the preceding ten years or a misdemeanor within the preceding five years. Under this bill, the applicant may not obtain a license if the applicant has been convicted of a felony within the preceding 20 years or a misdemeanor within the preceding ten years.

Current law requires secondhand article dealers to keep a written inventory for certain transactions. The secondhand article dealer must record certain information in the inventory including the name and address of each customer and the date, time, and a detailed description of the article that is the subject of the transaction. This bill provides that the inventory must also include the article's serial number and model number, if any.

Under current law, a secondhand article dealer must keep any secondhand article purchased or received by the secondhand article dealer for not less than ten days after purchase or receipt. A secondhand jewelry dealer must keep any secondhand jewelry purchased or received by the secondhand jewelry dealer for not less than 15 days after purchase or receipt. This bill provides that the secondhand article or secondhand jewelry must be kept for 21 days.

This bill also requires every secondhand article dealer to prepare a list on a weekly basis that contains certain information about transactions occurring during the week for which the list was prepared. The secondhand article dealer must make this list available to any law enforcement officer for inspection.

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.** 134.71 (1) (a) 12m. of the statutes is created to read:

2 134.71 **(1)** (a) 12m. Prerecorded video tapes or disks, prerecorded audio tapes
3 or disks, and other prerecorded optical media.

4 **SECTION 2.** 134.71 (5) (a) of the statutes is amended to read:

5 134.71 **(5)** (a) The applicant's name, place and date of birth ~~and~~, residence
6 address, and all states where the applicant has previously resided.

7 **SECTION 3.** 134.71 (5) (c) of the statutes is amended to read:

8 134.71 **(5)** (c) A statement as to whether the applicant has been convicted
9 within the preceding ~~10~~ 20 years of a felony or within the preceding ~~5~~ 10 years of a
10 misdemeanor, statutory violation punishable by forfeiture or county or municipal

2003 ASSEMBLY BILL 808

February 5, 2004 – Introduced by Representatives ALBERS, MUSSER, AINSWORTH and BIES, cosponsored by Senators REYNOLDS and A. LASEE. Referred to Committee on Property Rights and Land Management.

1 AN ACT *to amend* 814.04 (intro.); and *to create* 893.78 and 895.45 of the
2 statutes; **relating to:** the taking of private real property as the result of
3 governmental action.

Analysis by the Legislative Reference Bureau

This bill gives a private real property owner the right to bring an action against a state or local governmental unit to void an action of that governmental unit if the property owner proves that the governmental unit's action has resulted in the taking of the private property. In the bill, a "taking" occurs if the action requires the governmental unit to compensate the private property owner or results in the reduction of the value of the private property to an amount that is 50 percent or less of the property's value before the governmental action. "Governmental action" under the bill includes enacting a law or ordinance, promulgating a rule, and creating a limit on the use of private property.

Under the bill, if the court determines that there has been a taking that results in the reduction of the value of the property to 50 percent or less of its previous value, the court must enter an order voiding the governmental action as it relates to the private property owner that brought the action unless the governmental unit pays that property owner an amount equal to the reduction in the value of the private property. The bill requires the court to award the prevailing party the costs of bringing the action, including attorney fees.

The bill excludes certain types of governmental action from being subject to court action as a taking, including the exercise of eminent domain, seizure or

forfeiture of property as part of a proceeding related to a law violation, an action based on a court order declaring a property a nuisance, an action to regulate water safety, hunting, or fishing, or an action that is taken in good faith as necessary to prevent an immediate and substantial threat to life or property.

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. 814.04 (intro.) of the statutes is amended to read:

2 **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.30 (5m),
3 106.50 (6) (i) and (6m) (a), 115.80 (9), 281.36 (2) (b) 1., 767.33 (4) (d), 769.313, 814.025,
4 814.245, 895.035 (4), 895.10 (3), 895.45 (4), 895.75 (3), 895.77 (2), 895.79 (3), 895.80
5 (3), 943.212 (2) (b), 943.245 (2) (d) and 943.51 (2) (b), when allowed, costs shall be as
6 follows:

7 SECTION 2. 893.78 of the statutes is created to read:

8 **893.78 Governmental actions affecting private property.** An action
9 under s. 895.45 (2) shall be commenced within 6 months after the plaintiff discovers
10 or should have discovered the effect of a governmental action on the fair market value
11 of his or her private real property or be barred.

12 SECTION 3. 895.45 of the statutes is created to read:

13 **895.45 Private real property rights. (1)** In this section:

14 (a) "Governmental action" means a governmental unit's exercise of any power
15 or duty required or authorized by law, including all of the following actions, whether
16 temporary or permanent:

17 1. Enacting a law.

18 2. Promulgating an administrative rule.

19 3. Enacting an ordinance.

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2003 ASSEMBLY BILL 819

February 5, 2004 – Introduced by Representatives KAUFERT, JESKEWITZ, AINSWORTH, ALBERS, GUNDRUM, HAHN, HINES, KRAWCZYK, M. LEHMAN, NISCHKE, OLSEN, STONE and TOWNSEND, cosponsored by Senators ROESSLER and ELLIS. Referred to Committee on Corrections and the Courts.

1 AN ACT ***to amend*** 814.65 (1) of the statutes; **relating to:** increasing filing fees
2 for municipal court actions.

Analysis by the Legislative Reference Bureau

Current law provides that in most municipal court actions, the filing fee must be at least $15 but not more than $23. This bill increases the upper limit to $28.

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:

3 SECTION 1. 814.65 (1) of the statutes, as affected by 2003 Wisconsin Acts 30 and
4 33, is amended to read:

5 814.65 **(1)** COURT COSTS. In a municipal court action, except for an action for
6 a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1)
7 (b), if the person who committed the violation had a blood alcohol concentration of
8 0.08 or more but less than 0.1 at the time of the violation, or for a violation of an