



1997 SENATE BILL 63

February 5, 1997 – Introduced by Senators RISSER, BUETTNER, BURKE and CLAUSING, cosponsored by Representatives BLACK, BOYLE, BALDWIN, URBAN, RYBA, MORRIS-TATUM, R. YOUNG, BOCK, LA FAVE, STASKUNAS, KREIBICH, OLSEN, L. YOUNG and ROBSON. Referred to Committee on Health, Human Services, Aging, Corrections, Veterans and Military Affairs.

1 **AN ACT to repeal** 134.66 (1) (h), 134.66 (1) (L), 134.66 (2) (b) 2., 134.66 (2) (c),
2 134.66 (2) (cm), 139.30 (14), 139.30 (15) and 139.34 (10); **to renumber** 134.66
3 (2) (b) 1.; **to amend** 134.66 (1) (k), 134.66 (2) (a), 134.66 (4) (a) 1., 139.34 (1) (a),
4 139.34 (4), 139.34 (5), 139.34 (6), 139.38 (1) and 139.38 (2) (b); and **to create**
5 134.66 (2) (cr) of the statutes; **relating to:** use of vending machines for the sale
6 of cigarettes and tobacco products and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits the sale of cigarettes or other tobacco products to persons under the age of 18. Current law also regulates the use of vending machines to sell cigarettes by prohibiting the placement of cigarette vending machines in a public establishment that is open to persons under the age of 18 in a location where the vending machine cannot be seen or controlled by an employe of the establishment or where it is accessible to the public when the establishment is closed. Also, current law prohibits the placement of these vending machines within 500 feet of a school. This bill prohibits the use of vending machines to sell cigarettes or tobacco products.

SENATE BILL 63

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1 **SECTION 1.** 134.66 (1) (h) of the statutes is repealed.

2 **SECTION 2.** 134.66 (1) (k) of the statutes is amended to read:

3 134.66 (1) (k) “Vending machine” ~~has the meaning given in s. 139.30 (14) is any~~
4 mechanical device that automatically dispenses cigarettes or tobacco products when
5 money or tokens are deposited in the device in payment for the cigarettes or tobacco
6 products.

7 **SECTION 3.** 134.66 (1) (L) of the statutes is repealed.

8 **SECTION 4.** 134.66 (2) (a) of the statutes is amended to read:

9 134.66 (2) (a) No retailer, manufacturer or distributor may sell or give
10 cigarettes or tobacco products to any person under the age of 18, except as provided
11 in s. 938.983 (3). ~~A vending machine operator is not liable under this paragraph for~~
12 ~~the purchase of cigarettes or tobacco products from his or her vending machine by~~
13 ~~a person under the age of 18 if the vending machine operator was unaware of the~~
14 ~~purchase.~~

15 **SECTION 5.** 134.66 (2) (b) 1. of the statutes is renumbered 134.66 (2) (b).

16 **SECTION 6.** 134.66 (2) (b) 2. of the statutes is repealed.

17 **SECTION 7.** 134.66 (2) (c) of the statutes is repealed.

18 **SECTION 8.** 134.66 (2) (cm) of the statutes is repealed.

19 **SECTION 9.** 134.66 (2) (cr) of the statutes is created to read:

20 134.66 (2) (cr) No person may set up for operation or operate a vending
21 machine.

SENATE BILL 63

1 **SECTION 10.** 134.66 (4) (a) 1. of the statutes is amended to read:

2 134.66 (4) (a) 1. In this paragraph, "violation" means a violation of sub. (2) (a),
3 ~~(e), (em) (cr)~~, (d) or (e) or a local ordinance which strictly conforms to sub. (2) (a), ~~(e),~~
4 ~~(em) (cr)~~, (d) or (e).

5 **SECTION 11.** 139.30 (14) of the statutes is repealed.

6 **SECTION 12.** 139.30 (15) of the statutes is repealed.

7 **SECTION 13.** 139.34 (1) (a) of the statutes is amended to read:

8 139.34 (1) (a) It is unlawful for any person to manufacture cigarettes in this
9 state or sell cigarettes in this state as a distributor, jobber, ~~vending machine operator~~
10 or multiple retailer and no person shall operate a warehouse in this state for the
11 storage of cigarettes for another person without first obtaining the proper permit to
12 perform such operations from the department of revenue. The application for a
13 permit and the permit shall be in the form prescribed by the department and the
14 application form shall require such information as is necessary to administer this
15 section.

16 **SECTION 14.** 139.34 (4) of the statutes is amended to read:

17 139.34 (4) A separate permit shall be required of and issued to each class of
18 permittee and the holder of any permit shall perform only the operations thereby
19 authorized. Such permit shall not be transferable from one person to another or from
20 one premises to another. A separate permit shall be required for each place where
21 cigarettes are stamped or where cigarettes are stored for sale at wholesale or through
22 ~~vending machines or multiple retail outlets.~~

23 **SECTION 15.** 139.34 (5) of the statutes is amended to read:

24 139.34 (5) The ownership and operation of any retail outlet does not preclude
25 a person from receiving a permit as a distributor or jobber, if more than 50% of that

SENATE BILL 63**SECTION 15**

1 person's sales of cigarettes are at wholesale to retailers, ~~vending machine operators~~
2 or multiple retailers neither owned, controlled nor operated by that person.

3 **SECTION 16.** 139.34 (6) of the statutes is amended to read:

4 139.34 (6) A ~~vending machine operator or a multiple retailer~~ may acquire
5 unstamped cigarettes from the manufacturers thereof and affix the stamps to
6 packages or other containers only if the ~~vending machine operator or multiple~~
7 retailer also holds a permit as a distributor.

8 **SECTION 17.** 139.34 (10) of the statutes is repealed.

9 **SECTION 18.** 139.38 (1) of the statutes is amended to read:

10 139.38 (1) Every manufacturer located out of the state shall keep records of all
11 sales of cigarettes shipped into this state. Every manufacturer located in the state
12 shall keep records of production, sales and withdrawals of cigarettes. Every
13 distributor shall keep records of purchases and sales of cigarettes. Every
14 manufacturer and distributor holding a permit from the secretary with the right to
15 purchase and apply stamps shall also keep records of purchases and disposition of
16 stamps. Every jobber; and multiple retailer ~~and vending machine operator~~ shall
17 keep records of all purchases and disposition of cigarettes. Every warehouse
18 operator shall keep records of receipts and withdrawals of cigarettes. All such
19 records shall be accurate and complete and be kept in a manner prescribed by the
20 secretary. These records shall be preserved on the premises described in the permit
21 or license in such a manner as to ensure permanency and accessibility for inspection
22 at reasonable hours by authorized personnel of the department.

23 **SECTION 19.** 139.38 (2) (b) of the statutes is amended to read:

24 139.38 (2) (b) The department may allow any jobber; or multiple retailer ~~or~~
25 ~~vending machine operator~~ permittee who does not sell cigarettes, except for those on

