

1999 DRAFTING REQUEST

Assembly Amendment (AA-SB144)

Received: 03/10/2000

Received By: rmarchan

Wanted: As time permits

Identical to LRB:

For: Terry Musser (608) 266-7461

By/Representing: kathy

This file may be shown to any legislator: NO

Drafter: rmarchan

May Contact:

Alt. Drafters:

Subject: Buildings/Safety - clean ind air

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Smoking

Instructions:

May only be penalized for violation if you are also in violation of another law (similar to enforcement of seatbelt law)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rmarchan 03/10/2000	csicilia 03/10/2000	jfrantze 03/10/2000	_____	lrb_docadmin 03/10/2000	lrb_docadmin 03/10/2000	

FE Sent For:

<END>

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1?	rmarchan	1 eys 3/10	3/10	Self 3/10			

FE Sent For:

<END>



State of Wisconsin
1999 - 2000 LEGISLATURE

Tuesday 3-14 AM

1
LRBa1742
RJM:Y:....

cjs
PMP
DWSTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT,
TO 1999 SENATE BILL 144

1 At the locations indicated, amend the engrossed bill as follows:

2 1. Page 3, line 8: after "\$50" insert ", except that, notwithstanding ss. 16.84
3 (2) and 62.09 (13), a law enforcement officer, as defined in s. 165.85 (2) (c), may arrest
4 a person, or issue a person a citation, for a violation of sub. (2) (ar) only if, during the
5 same act or occurrence that constitutes a violation of sub. (2) (ar), the person also
6 violates another ^{statute} ordinance or rule".

7 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1742/1dn

RJM:j:....

cjs

Read all

Representative Musser:

This amendment prohibits a law enforcement officer from arresting or citing a person for violating the bill, unless, during the same act or occurrence, the person also violated another law, ordinance or rule.

Robert J. Marchant
Legislative Attorney
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ENGROSSED 1999 SENATE BILL 144

March 8, 2000 - Printed by direction of ASSEMBLY CHIEF CLERK.

1 **AN ACT to amend** 101.123 (4) (a) 2., 165.755 (1) (b), 165.87 (2) (a), 302.46 (1) (a)
2 and 814.63 (1) (c); and **to create** 101.123 (1) (ar), 101.123 (2) (ar) and 101.123
3 (8) (b) of the statutes; **relating to:** prohibiting smoking in the state capitol
4 building and on the state capitol grounds, granting rule-making authority and
5 providing a penalty.

Analysis by the Legislative Reference Bureau

Engrossment information:

The text of Engrossed 1999 Senate Bill 144 consists of the bill, as passed by the senate on March 7, 2000, as affected by the following documents adopted in the senate on March 7, 2000: Senate Amendment 1 (as affected by Senate Amendment 1 thereto).

Content of Engrossed 1999 Senate Bill 144:

Current law, with some exceptions, prohibits smoking in public conveyances, inpatient health care facilities, indoor movie theaters, offices and passenger elevators, retail establishments, public waiting rooms, enclosed indoor areas of buildings owned by local or state units of government, motor buses, hospitals, physicians' offices, day care centers, educational facilities that offer state-approved or state-licensed instruction for training and any restaurant whose seating capacity exceeds 50 persons and whose receipts from the sale of beer or liquor, or both, amount to 50% or less of the restaurant's receipts. In some instances, however, a person in

ENGROSSED SENATE BILL 144

charge of an area in which smoking is prohibited, or his or her agent, may designate smoking areas within the area over which the person has charge.

This bill expands coverage of the existing law to prohibit smoking in the state capitol building and in the immediate vicinity of the state capitol building. The bill directs the department of administration to promulgate a rule defining the area that qualifies as the immediate vicinity of the state capitol building, except that, under the bill, the immediate vicinity of the state capitol building does not include any location that is more than one fathom from the state capitol building. The bill also provides that no person may designate a smoking area in the state capitol building or in the immediate vicinity of the state capitol building. A person who violates the bill after being advised that smoking is prohibited must forfeit up to \$50.

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

1 **SECTION 1m.** 101.123 (1) (ar) of the statutes is created to read:

2 101.123 (1) (ar) “Immediate vicinity of the state capitol” means the area
3 directly adjacent to the state capitol building, as determined by rule of the
4 department of administration. “Immediate vicinity of the state capitol” does not
5 include any location that is more than one fathom from the state capitol building.

6 **SECTION 2.** 101.123 (2) (ar) of the statutes is created to read:

7 101.123 (2) (ar) Notwithstanding par. (a) and sub. (3), no person may smoke
8 in the state capitol building or in the immediate vicinity of the state capitol.

9 **SECTION 3.** 101.123 (4) (a) 2. of the statutes is amended to read:

10 101.123 (4) (a) 2. A person in charge or his or her agent may not designate an
11 entire building as a smoking area or designate any smoking areas in the state capitol
12 building, in the immediate vicinity of the state capitol, in a motor bus, hospital or
13 physician’s office or on the premises, indoors or outdoors, of a day care center when
14 children who are receiving day care services are present, except that in a hospital or
15 a unit of a hospital that has as its primary purpose the care and treatment of mental
16 illness, alcoholism or drug abuse a person in charge or his or her agent may designate

ENGROSSED SENATE BILL 144

1 one or more enclosed rooms with outside ventilation as smoking areas for the use of
2 adult patients who have the written permission of a physician. Subject to this
3 subdivision and sub. (3) (b), a person in charge or his or her agent may not designate
4 an entire room as a smoking area.

5 **SECTION 4.** 101.123 (8) (b) of the statutes is created to read:

6 101.123 (8) (b) Any person who wilfully violates sub. (2) (ar) after being advised
7 by an employe of the facility that smoking in the area is prohibited shall forfeit not
8 more than \$50.

9 **SECTION 5.** 165.755 (1) (b) of the statutes is amended to read:

10 165.755 (1) (b) A court may not impose the crime laboratories and drug law
11 enforcement assessment under par. (a) for a violation of s. 101.123 (2) (a), (am) 1. ~~or~~,
12 (ar) or (bm) or (5) (b) or for a violation of a state law or municipal or county ordinance
13 involving a nonmoving traffic violation or a safety belt use violation under s. 347.48
14 (2m).

15 **SECTION 6.** 165.87 (2) (a) of the statutes is amended to read:

16 165.87 (2) (a) Whenever a court imposes a fine or forfeiture for a violation of
17 state law or for a violation of a municipal or county ordinance except for a violation
18 of s. 101.123 (2) (a), (am) 1. ~~or~~, (ar) or (bm) or (5) or state laws or municipal or county
19 ordinances involving nonmoving traffic violations or safety belt use violations under
20 s. 347.48 (2m), there shall be imposed in addition a penalty assessment in an amount
21 of 23% of the fine or forfeiture imposed. If multiple offenses are involved, the penalty
22 assessment shall be based upon the total fine or forfeiture for all offenses. When a
23 fine or forfeiture is suspended in whole or in part, the penalty assessment shall be
24 reduced in proportion to the suspension.

25 **SECTION 7.** 302.46 (1) (a) of the statutes is amended to read:

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1 302.46 (1) (a) On or after October 1, 1987, if a court imposes a fine or forfeiture
2 for a violation of state law or for a violation of a municipal or county ordinance except
3 for a violation of s. 101.123 (2) (a), (am) 1. ~~or~~ (ar) or (bm) or (5) or state laws or
4 municipal or county ordinances involving nonmoving traffic violations or safety belt
5 use violations under s. 347.48 (2m), the court, in addition, shall impose a jail
6 assessment in an amount of 1% of the fine or forfeiture imposed or \$10, whichever
7 is greater. If multiple offenses are involved, the court shall determine the jail
8 assessment on the basis of each fine or forfeiture. If a fine or forfeiture is suspended
9 in whole or in part, the court shall reduce the jail assessment in proportion to the
10 suspension.

11 **SECTION 8.** 814.63 (1) (c) of the statutes is amended to read:

12 814.63 (1) (c) This subsection does not apply to an action for a violation of s.
13 101.123 (2) (a), (am) 1. ~~or~~ (ar) or (bm) or (5) or a safety belt use violation under s.
14 347.48 (2m).

15 **SECTION 9m. Nonstatutory provisions.**

16 (1) SUBMISSION OF PROPOSED RULE DETERMINING THE IMMEDIATE VICINITY OF THE
17 STATE CAPITOL. No later than the first day of the 3rd month beginning after
18 publication, the department of administration shall submit in proposed form the rule
19 determining the area that qualifies as the immediate vicinity of the state capitol
20 under section 101.123 (1) (ar) of the statutes, as created by this act, to the legislative
21 council staff under section 227.15 (1) of the statutes. The proposed rule shall include
22 a diagram that illustrates the area that qualifies as the immediate vicinity of the
23 state capitol.

24 **SECTION 10m. Effective dates.** This act takes effect on the first day of the 6th
25 month beginning after publication, except as follows:

ENGROSSED SENATE BILL 144

1 (1) SUBMISSION OF PROPOSED RULE DETERMINING THE IMMEDIATE VICINITY OF THE
2 STATE CAPITOL. SECTION 9m (1) of this act takes effect on the day after publication.

3 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1742/1dn
RJM:cjs:jf

March 10, 2000

Representative Musser:

This amendment prohibits a law enforcement officer from arresting or citing a person for violating the bill, unless, during the same act or occurrence, the person also violated another law, ordinance or rule.

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