



2015 ASSEMBLY BILL 808

January 26, 2016 – Introduced by Representatives BALLWEG, BERNIER, BILLINGS, E. BROOKS, CZAJA, HORLACHER, JACQUE, JOHNSON, KAHL, KLEEFISCH, KRUG, LOUDENBECK, MURPHY, NOVAK, NYGREN, A. OTT, PETRYK, ROHRKASTE, SCHRAA, SINICKI, SKOWRONSKI, SPIROS, SUBECK, SWEARINGEN, C. TAYLOR, VANDERMEER, ZAMARRIPA, OHNSTAD and WACHS, cosponsored by Senators PETROWSKI, GUDEX, HARS DORF, C. LARSON, LASSA and OLSEN. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT to amend** 36.35 (1), 125.07 (4) (bs) (intro.) and 125.07 (4) (c) (intro.); and
2 **to create** 36.35 (4) and 125.07 (5) of the statutes; **relating to:** prohibiting
3 issuance of citations for alcohol beverages violations to certain underage
4 persons in connection with sexual assault or certain other crimes and
5 prohibiting certain disciplinary sanctions if the underage person is a student.

Analysis by the Legislative Reference Bureau

This bill prohibits issuance of an underage alcohol beverage citation to, or related student disciplinary action by the University of Wisconsin System against, an underage person who is a victim of, or bystander to, specified crimes and who cooperates with emergency responders when they arrive.

Under current law, a person who has not attained the legal drinking age of 21 years and who is not accompanied by his or her parent, guardian, or spouse who is at least age 21 (underage person) may not: 1) procure or attempt to procure alcohol beverages from an alcohol retailer; 2) possess or consume alcohol beverages on licensed retail premises or knowingly possess or consume alcohol beverages elsewhere; 3) enter or be on licensed retail premises, subject to various exceptions; or 4) falsely represent his or her age to obtain alcohol beverages from a retailer (underage violation). A person who commits an underage violation is subject to various penalties, including a forfeiture ranging in amount from \$250 to \$1,000 depending on the number of prior underage violations the person has committed.

Under this bill, an underage person may not be issued a citation for, or convicted of, an underage violation if all of the following apply:

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1. The underage person claims to have been the victim of sexual assault, human trafficking, sexual assault of a child, sexual exploitation of a child, or specified other sex-related crimes (crime victim) or is present with the crime victim at the time of or immediately following the alleged crime (bystander).

2. The crime victim or bystander requested emergency assistance in connection with the alleged crime or encountered a law enforcement officer at a medical facility at which the crime victim received treatment in connection with the alleged crime.

3. The underage person remains at the scene until emergency assistance arrives and thereafter cooperates with providers of emergency assistance. If the underage person encounters a law enforcement officer at a medical facility, the underage person cooperates with the officer and furnishes any requested information. This requirement to cooperate, however, does not apply if the underage person lacks capacity to cooperate.

4. The underage person has not fraudulently requested emergency assistance to avoid a citation for an underage violation.

The bill also prohibits the Board of Regents of the UW System and any two-year or four-year UW System school from imposing specified disciplinary sanctions against a student who commits an underage violation, but only if the bill exempts the student from a citation or conviction for the violation. The prohibited disciplinary sanctions are the following: 1) removal from a course in progress; 2) enrollment restrictions on a course or program; 3) suspension or expulsion; and 4) exclusion from student housing.

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

1 **SECTION 1.** 36.35 (1) of the statutes is amended to read:

2 36.35 (1) POWER TO SUSPEND; RULES. The board may delegate the power to
3 suspend or expel students for misconduct or other cause prescribed by the board. The
4 Subject to sub. (4), the board shall promulgate rules under ch. 227 governing student
5 conduct and procedures for the administration of violations.

6 **SECTION 2.** 36.35 (4) of the statutes is created to read:

7 36.35 (4) UNDERAGE ALCOHOL VIOLATIONS. The board or an institution or college
8 campus may not impose any of the following disciplinary sanctions against a student
9 for the student's violation of s. 125.07 (4) (a) or (b), if the student is exempt under s.
10 125.07 (5) from issuance of a citation for, or conviction of, the violation:

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- 1 (a) Removal from a course in progress.
- 2 (b) Enrollment restrictions on a course or program.
- 3 (c) Suspension or expulsion.
- 4 (d) Exclusion from student housing.

5 **SECTION 3.** 125.07 (4) (bs) (intro.) of the statutes is amended to read:

6 125.07 (4) (bs) (intro.) ~~Any~~ Subject to sub. (5), any person violating par. (a) is
7 subject to the following penalties:

8 **SECTION 4.** 125.07 (4) (c) (intro.) of the statutes is amended to read:

9 125.07 (4) (c) (intro.) ~~Any~~ Subject to sub. (5), any person violating par. (b) is
10 subject to the following penalties:

11 **SECTION 5.** 125.07 (5) of the statutes is created to read:

12 125.07 (5) REQUESTS FOR EMERGENCY ASSISTANCE. (a) In this subsection:

13 1. "Bystander" means a person who is present with a crime victim at the time
14 of or immediately following the alleged crime.

15 2. "Crime victim" means a person who claims to have been the victim of a crime
16 constituting a violation under s. 940.22 (2), 940.225, 940.302, 948.02 (1) or (2),
17 948.025, or 948.05 to 948.095.

18 (b) Subject to par. (c), an underage person may not be issued a citation for, or
19 convicted of, a violation of sub. (4) (a) or (b) if all of the following apply:

20 1. The underage person is a crime victim or bystander and either the crime
21 victim or the bystander requested emergency assistance, by dialing the telephone
22 number "911" or by other means, in connection with the alleged crime or the
23 underage person encountered a law enforcement officer at a medical facility at which
24 the crime victim received treatment in connection with the alleged crime.

