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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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**2007 Senate Bill 150**

**Senate Amendments  
1, 3, 4, 5, and 6**

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**SENATE BILL 150**

The bill prohibits smoking<sup>1</sup> in the following **indoor** locations: (1) passenger vehicles; (2) educational facilities; (3) residence halls or dormitories of universities or colleges; (4) day care centers; (5) inpatient health care facilities; (6) theaters; (7) lockup facilities, jails, or correctional facilities; (8) state institutions; (9) elevators; (10) restaurants; (11) taverns; (12) retail establishments; (13) lodging establishments, except as provided below; (14) government buildings; and (15) any indoor place, other than those listed above, that is a place of employment or that is open to the public or to which members of the public may be invited or have lawful access. The bill prohibits smoking at the following **outdoor** locations: (1) immediate vicinity of the state capitol; (2) premises of a day care center when children are present; (3) grounds of a Type 1 juvenile correctional facility; and (4) 25 feet or less from a residence hall or dormitory owned or operated by the Board of Regents of the University of Wisconsin System.

The prohibition against smoking does not apply to the following locations: (1) private residence; (2) room used by a person in a retirement home as a residence; (3) room in a retirement home in which two or more persons reside if every person that lives in that room smokes and each has made a written request to be placed in a room where smoking is permitted; and (4) room in a lodging establishment that has been designated as a room where smoking is permitted. The owner of a lodging establishment may designate not more than 25% of the guest rooms in the lodging establishment as guest rooms where smoking is permitted.

The bill provides that a person in charge of a location may not allow a person to smoke in violation of the bill and must make reasonable efforts to prohibit a person from smoking at that location,

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<sup>1</sup> The bill defines “smoking” as: (1) burning or holding a lighted cigar, cigarette, pipe, or any other lighted smoking equipment; or (2) inhaling or exhaling smoke from a lighted cigar, cigarette, pipe, or other lighted smoking equipment.

including posting signs, refusing to serve a person, asking a person to refrain from smoking or leave the location, and notifying law enforcement of a violation.

The bill does not limit the authority of any county, city, village, or town to enact ordinances or of any school district to adopt policies that, complying with the purpose of proposed s. 101.123, protect the health and comfort of the public.

The bill provides that any person who violates the prohibition against smoking is subject to a forfeiture of not less than \$10 nor more than \$100 per violation. Any person in charge who violates the prohibition against smoking is subject to a forfeiture of not less than \$50 nor more than \$100 for the first violation; not less than \$100 nor more than \$200 for the 2<sup>nd</sup> violation; and not less than \$200 nor more than \$500 for the 3<sup>rd</sup> or any subsequent violation. Each day that the prohibition against smoking is violated is a separate violation.

The bill's effective date is the first day of the 7<sup>th</sup> month beginning after publication.

**SENATE AMENDMENT 1 (LRBa1036/1)**

Senate Amendment 1 changes the effective date to January 1, 2009.

**SENATE AMENDMENT 3 (LRBa1050/1)**

Senate Amendment 3 changes the effective date to January 1, 2010, for taverns and restaurants and to January 1, 2009, for other locations. Prior to January 1, 2010, the current law regarding smoking in taverns and restaurants remains intact, which includes the following:

1. The prohibition against smoking does not apply to taverns operating under a "Class B" intoxicating liquor license or Class "B" fermented malt beverages license. [See s. 101.123 (1) (g) and (2) (a), Stats.]
2. The prohibition against smoking does not apply to restaurants that hold a "Class B" intoxicating liquor license or Class "B" fermented malt beverages license if the sale of intoxicating liquors or fermented malt beverages or both accounts for more than 50% of the restaurant's receipts. [s. 101.123 (3) (d), Stats.]
3. A person in charge of a restaurant may designate smoking areas in the restaurant, unless a fire marshal, law, ordinance, or resolution prohibits smoking. [s. 101.123 (4) (a) 1., Stats.] The person in charge must utilize, if possible, existing physical barriers and ventilation systems when designating smoking areas and must post notice of the designation of a smoking area. [s. 101.123 (4) (b) and (c), Stats.]

**SENATE AMENDMENT 4 (LRBa0721/1)**

Senate Amendment 4 provides that the owner of a retail establishment selling cigars may allow customers to sample cigars in order for the customers to determine whether to make a purchase if the retail establishment: (1) derives not less than 50% of its annual gross income from the on-site sale of tobacco, tobacco products, or tobacco product accessories; and (2) if it adjoins to another establishment, is sufficiently ventilated to prevent smoke from entering any adjoining establishment.

**SENATE AMENDMENT 5 (LRBa0722/1)**

Senate Amendment 5 provides that the prohibition against smoking does not apply to the following locations: (1) place of employment operated by a manufacturer, importer, wholesaler, or distributor of tobacco products; (2) place of employment operated by a tobacco leaf dealer or processor; and (3) tobacco storage facility.

**SENATE AMENDMENT 6 (LRBa0744/1)**

Senate Amendment 6 provides that if a lodging establishment has less than four rooms, the owner of the lodging establishment may designate one guest room as a guest room where smoking is permitted.

**Legislative History**

On January 8, 2008, the Senate Committee on Public Health, Senior Issues, Long-Term Care, and Privacy introduced Senate Amendments 1, 3, 4, 5, and 6 by unanimous consent. The committee recommended adoption of Senate Amendments 1, 3, and 5 on votes of Ayes, 3; Noes, 2, and adoption of Senate Amendments 4 and 6 on votes of Ayes, 5; Noes, 0. The committee then recommended passage of the bill, as amended, on a vote of Ayes, 3; Noes, 2.

JK:ksm