



## 2013 ASSEMBLY BILL 256

June 26, 2013 - Introduced by Representatives BALLWEG, PETRYK, BERCEAU, BERNARD SCHABER, BERNIER, BILLINGS, BROOKS, CZAJA, DOYLE, KAHL, KLENKE, KRUG, MURPHY, OHNSTAD, A. OTT, PASCH, POPE, RICHARDS, RINGHAND, SARGENT, SCHRAA, SWEARINGEN, C. TAYLOR, WEATHERSTON and ZAMARRIPA, cosponsored by Senators RISSER, ERPENBACH, GUDEX, LEHMAN, MILLER and L. TAYLOR. Referred to Committee on Colleges and Universities.

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:** citations to  
3             underage persons for alcohol beverages violations and disciplinary sanctions  
4             against University of Wisconsin System students for such violations and  
5             providing penalties.

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### *Analysis by the Legislative Reference Bureau*

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:

1. A law enforcement officer has contact with the underage person because the underage person requested emergency medical assistance for himself or herself or for another person; another person requested emergency medical assistance for the

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underage person; or the underage person requested law enforcement assistance to report, request investigation of, or prevent a possible crime. The request for assistance may be made by dialing "911" or by other means.

2. The underage person remains at the scene until emergency medical assistance or law enforcement assistance arrives and thereafter cooperates with providers of emergency medical assistance or law enforcement assistance. However, this requirement does not apply if the underage person is the person in need of emergency medical assistance and lacks capacity to cooperate.

A person who requests assistance with an intention to claim this protection against citation or conviction for an underage violation knowing that the fact situation that he or she reports does not exist must be fined not less than \$100 nor more than \$600 or imprisoned not more than 90 days or both for the first offense and is guilty of a Class H felony for a subsequent offense within four years. A Class H felony is punishable by a fine not exceeding \$10,000 or imprisonment not exceeding six years or both.

The bill also prohibits the Board of Regents of the University of Wisconsin (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 and the student has not committed the offense described above. 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.

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.

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***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:

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1           36.35 (4) UNDERAGE ALCOHOL VIOLATIONS. The board or an institution or college  
2 campus may not impose any of the following disciplinary sanctions against a student  
3 for the student's violation of s. 125.07 (4) (a) or (b), if the student is exempt under s.  
4 125.07 (5) (a) from issuance of a citation for, or conviction of, the violation, and if the  
5 student has not violated s. 125.07 (5) (b):

- 6           (a) Removal from a course in progress.  
7           (b) Enrollment restrictions on a course or program.  
8           (c) Suspension or expulsion.  
9           (d) Exclusion from student housing.

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

11           125.07 (4) (bs) (intro.) Any Subject to sub. (5) (a), any person violating par. (a)  
12 is subject to the following penalties:

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

14           125.07 (4) (c) (intro.) Any Subject to sub. (5) (a), any person violating par. (b)  
15 is subject to the following penalties:

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

17           125.07 (5) REQUESTS FOR EMERGENCY ASSISTANCE. (a) An underage person may  
18 not be issued a citation for, or convicted of, a violation of sub. (4) (a) or (b) if all of the  
19 following apply:

20           1. A law enforcement officer has contact with the underage person because of  
21 any of the following:

22           a. The underage person requested emergency medical assistance, by dialing  
23 the telephone number "911" or by other means, for himself or herself or for another  
24 person.

