



2001 ASSEMBLY BILL 73

February 1, 2001 - Introduced by Representatives SCHNEIDER, RYBA, ALBERS and BOYLE, cosponsored by Senator BURKE. Referred to Committee on State Affairs.

1 **AN ACT to amend** 101.123 (1) (a); and **to create** 118.115 of the statutes; **relating**
2 **to:** smoking and using tobacco products at or near a school and providing a
3 penalty.

Analysis by the Legislative Reference Bureau

Under current law, persons under the age of 18 may not possess cigarettes or other tobacco products. In addition, the Clean Indoor Air Act, with certain exceptions, prohibits smoking in educational facilities and other buildings that are open to the public.

This bill bans the use of cigarettes and other tobacco products by anyone who has reason to believe that he or she is in a school zone. The bill defines a school zone to be the premises of a school or the area within 1,000 feet of the school premises. The bill exempts certain adults from this ban, including adults who are on private property that is not part of the school premises and adults who are in motor vehicles traveling through a school zone. This bill also exempts from this ban places that are regulated under the Clean Indoor Air Act. The bill authorizes the school administrator to authorize certain employees of the school to detain, for a reasonable length of time, any person whom they see violating the ban in order to turn the person over to a law enforcement officer or a parent or guardian.

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

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1 **SECTION 1.** 101.123 (1) (a) of the statutes is amended to read:

2 101.123 (1) (a) “Educational facility” means any building used principally for
3 educational purposes in which a school is located or a course of instruction or training
4 program is offered that has been approved or licensed by a state agency or board.
5 “Educational facility” does not include a school building that is subject to the
6 prohibition under s. 118.115 (2).

7 **SECTION 2.** 118.115 of the statutes is created to read:

8 **118.115 Tobacco-free school zones. (1) DEFINITIONS.** In this section:

9 (a) “Motor vehicle” has the meaning given in s. 340.01 (35).

10 (b) “Peace officer” has the meaning given in s. 939.22 (22).

11 (c) “School” means a public, parochial, private, or charter school which provides
12 an educational program for one or more grades between grades 1 and 12.

13 (d) “School administrator” means a school district administrator or, for private
14 or parochial schools, the governing body of the school.

15 (e) “School premises” means any school building, grounds, recreation area, or
16 athletic field or any other property owned, used, or operated for the purpose of the
17 school.

18 (f) “School zone” means any of the following:

19 1. School premises.

20 2. Any area within 1,000 feet of the school premises.

21 (g) “Smoke” means to carry a lighted cigar, cigarette, pipe, or any other lighted
22 tobacco product or lighted smoking equipment.

23 (h) “Tobacco products” means smoking tobacco, snuff, and any other kind or
24 form of tobacco prepared in such a manner as to be suitable for use for chewing.

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1 **(2) USE OF TOBACCO PRODUCTS IN SCHOOL ZONE.** (a) No person may smoke or use
2 tobacco products at a place that the person knows, or has reasonable cause to believe,
3 is a school zone.

4 (b) The prohibition under par. (a) does not apply to smoking or using tobacco
5 products by any of the following:

- 6 1. An adult on private property that is not part of the school premises.
- 7 2. An adult who is in a motor vehicle traveling through the school zone.
- 8 3. An adult in a program approved by the applicable school administrator.
- 9 4. An adult who smokes or uses tobacco products on the school premises as
10 permitted under a contract entered into between the applicable school administrator
11 and the adult or the employer of the adult.

12 (c) The prohibition against smoking under par. (a) does not apply to a place that
13 is subject to regulation under s. 101.123.

14 **(3) ENFORCEMENT.** (a) A school administrator, or any person who is covered by
15 a designation under par. (b), who has reasonable cause to believe that a person has
16 violated sub. (2) (a) in his or her presence may detain the person in a reasonable
17 manner for a reasonable length of time to deliver the person to a peace officer, or to
18 his or her parent or guardian in the case of a minor. The detained person must be
19 promptly informed of the purpose for the detention and be permitted to make phone
20 calls, but he or she shall not be interrogated or searched against his or her will before
21 the arrival of a peace officer who may conduct a lawful interrogation of the detained
22 person. The school administrator, or any person covered by the designation under
23 par. (b), may release the detained person before the arrival of a peace officer or parent
24 or guardian. Any school administrator, or any person covered by the designation

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1 under par. (b), who acts in good faith under this subsection is immune from civil and
2 criminal liability for those acts.

3 (b) A school administrator may designate individual employees, or
4 classifications of employees, of a school to act under par. (a).

5 (4) PENALTY. A person who commits a violation of sub. (2) (a) is subject to a
6 forfeiture of \$75.

7 (END)