



2003 ASSEMBLY BILL 512

September 11, 2003 - Introduced by Representatives MORRIS, OTT, TURNER, BIES
and A. WILLIAMS. Referred to Committee on State Affairs.

1 **AN ACT to amend** 134.66 (2m) (a), 134.66 (4) (a) 1., 134.66 (4) (a) 2. (intro.), 134.66
2 (4) (a) 2. a., 134.66 (4) (a) 2. b. and 134.66 (4) (a) 4.; **to repeal and recreate**
3 134.66 (4) (a) 3.; and **to create** 134.66 (4) (a) 2m. and 134.66 (4) (a) 3m. of the
4 statutes; **relating to:** sale of cigarettes or tobacco products to minors and
5 providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits, with certain exceptions, any person engaged in the business of manufacturing, distributing, or selling cigarettes or tobacco products (cigarettes) from selling or giving cigarettes to any person under the age of 18. A court may require a person who violates this prohibition to forfeit up to \$500, and may suspend the violator's license or permit to manufacture, distribute, or sell cigarettes (license or permit) for a period of up to 30 days. Current law increases the minimum forfeiture amount, and the minimum and maximum duration of a license or permit suspension, based upon the number of violations committed within the previous 12 months.

This bill eliminates the time period for counting previous violations and changes the penalties that apply, except that the bill does not change that time period or those penalties with respect to an agent, employee, or independent contractor of a cigarette retailer. Under the bill, the penalties for a violation committed by any person engaged in the business of manufacturing, distributing, or selling cigarettes, other than an agent, employee, or independent contractor of a cigarette retailer, are as follows:

ASSEMBLY BILL 512

1) For a first violation, a mandatory forfeiture of not less than \$500 nor more than \$1,000.

2) For a second violation, a mandatory forfeiture of not less than \$1,000 nor more than \$2,000. In addition, the court must suspend the violator's license or permit for not less than 30 days nor more than 90 days.

3) For a third or subsequent violation, the court must revoke the violator's license or permit.

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

1 **SECTION 1.** 134.66 (2m) (a) of the statutes is amended to read:

2 134.66 **(2m)** (a) Except as provided in par. (b), at the time that a retailer hires
3 or contracts with an agent, employee, or independent contractor whose duties will
4 include the sale of cigarettes or tobacco products, the retailer shall provide the agent,
5 employee, or independent contractor with training on compliance with sub. (2) (a)
6 and (am), including training on the penalties under sub. (4) (a) 2. and 2m. for a
7 violation of sub. (2) (a) or (am). The department of health and family services shall
8 make available to any retailer on request a training program developed or approved
9 by that department that provides the training required under this paragraph. A
10 retailer may comply with this paragraph by providing the training program
11 developed or approved by the department of health and family services or by
12 providing a comparable training program approved by that department. At the
13 completion of the training, the retailer and the agent, employee, or independent
14 contractor shall sign a form provided by the department of health and family services
15 verifying that the agent, employee, or independent contractor has received the
16 training, which the retailer shall retain in the personnel file of the agent, employee,
17 or independent contractor.

18 **SECTION 2.** 134.66 (4) (a) 1. of the statutes is amended to read:

ASSEMBLY BILL 512

1 134.66 (4) (a) 1. In this paragraph, “violation” means a violation of sub. (2) (a),
2 (am), (cm), or (e) or of a local ordinance which that strictly conforms to sub. (2) (a),
3 (am), (cm), or (e). For the purpose of determining whether a previous violation has
4 occurred, if more than one violation occurs at the same time all violations occurring
5 at that time shall be counted as one violation.

6 **SECTION 3.** 134.66 (4) (a) 2. (intro.) of the statutes is amended to read:

7 134.66 (4) (a) 2. (intro.) ~~A~~ Subject to subd. 2m., a person who commits a
8 violation is ~~subject to a forfeiture of~~ shall be:

9 **SECTION 4.** 134.66 (4) (a) 2. a. of the statutes is amended to read:

10 134.66 (4) (a) 2. a. ~~Not~~ Required to forfeit not less than \$500 nor more than \$500
11 \$1,000 if the person has not committed a previous violation ~~within 12 months of the~~
12 ~~violation; or,~~

13 **SECTION 5.** 134.66 (4) (a) 2. b. of the statutes is amended to read:

14 134.66 (4) (a) 2. b. ~~Not~~ Required to forfeit not less than \$200 \$1,000 nor more
15 than \$500 \$2,000 if the person has committed a previous violation ~~within 12 months~~
16 ~~of the violation.~~

17 **SECTION 6.** 134.66 (4) (a) 2m. of the statutes is created to read:

18 134.66 (4) (a) 2m. If an agent, employee, or independent contractor of a retailer
19 commits a violation for which the agent, employee, or independent contractor is
20 subject to a citation under sub. (2m) (c), the agent, employee, or independent
21 contractor is subject to the following:

22 a. A forfeiture of not more than \$500 if he or she has not committed a previous
23 violation within 12 months of the violation.

24 b. A forfeiture of not less than \$200 nor more than \$500 if he or she has
25 committed a violation within 12 months of the violation.

