



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-5169/1  
JK&KP:kjf&wlj

## 2019 ASSEMBLY BILL 889

February 11, 2020 - Introduced by Representatives VINING, BILLINGS, ANDERSON, BOWEN, CONSIDINE, CROWLEY, EMERSON, FIELDS, HEBL, HESSELBEIN, KOLSTE, MILROY, NEUBAUER, OHNSTAD, POPE, RIEMER, SARGENT, SINICKI, SPREITZER, STUBBS, SUBECK, C. TAYLOR, VRUWINK and ZAMARRIPA, cosponsored by Senators SHILLING, BEWLEY, CARPENTER, LARSON, RISSER and SCHACHTNER. Referred to Committee on State Affairs.

1     **AN ACT** *to renumber and amend* 134.65 (1); *to amend* 134.65 (title), 134.65  
2           (1m), 134.65 (1r), 134.65 (4), 134.65 (5m) and 134.65 (8); and *to create* 20.566  
3           (1) (am) and 134.65 (1a) of the statutes; **relating to:** licenses for the retail sale  
4           of vapor products and making an appropriation.

---

### *Analysis by the Legislative Reference Bureau*

This bill requires a person who sells vapor products to obtain a cigarette and tobacco products retailer license. Current law defines a “vapor product” as a noncombustible product that produces vapor or aerosol for inhalation from the application of a heating element, regardless of whether the liquid or other substance contains nicotine.

Specifically, the bill requires a retailer who sells or offers for sale vapor products to obtain an annual license from the clerk of the city, village, or town where the retailer is located. Additionally, the bill authorizes two positions in the Department of Agriculture, Trade and Consumer Protection to conduct investigations of retail sales that are regulated by DATCP and two positions in the Department of Revenue for administering and enforcing the taxes imposed on the sale of vapor products.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

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

**ASSEMBLY BILL 889**

1           **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
2 the following amounts for the purposes indicated:

			<b>2019-20</b>	<b>2020-21</b>
<b>20.566 Revenue, department of</b>				
(1) COLLECTION OF TAXES				
(am) Administration of vapor products				
tax and enforcement	GPR	C	206,640	243,250

7           **SECTION 2.** 20.566 (1) (am) of the statutes is created to read:  
8           20.566 (1) (am) *Administration of vapor products tax and enforcement.* As a  
9 continuing appropriation, the amounts in the schedule for the purpose of  
10 administering and enforcing the taxes imposed for the sale of vapor products.

11           **SECTION 3.** 134.65 (title) of the statutes is amended to read:  
12           **134.65 (title) Cigarette, vapor products, and tobacco products retailer**  
13 **license.**

14           **SECTION 4.** 134.65 (1) of the statutes is renumbered 134.65 (1d) and amended  
15 to read:

16           **134.65 (1d)** No person shall in any manner, or upon any pretense, or by any  
17 device, directly or indirectly sell, expose for sale, possess with intent to sell,  
18 exchange, barter, dispose of or give away any cigarettes, vapor products, or tobacco  
19 products to any person not holding a license as herein provided or a permit under ss.  
20 139.30 to 139.41 or 139.79 without first obtaining a license from the clerk of the city,  
21 village or town wherein such privilege is sought to be exercised.

22           **SECTION 5.** 134.65 (1a) of the statutes is created to read:  
23           **134.65 (1a)** In this section:

**ASSEMBLY BILL 889**

1 (a) "Cigarette" has the meaning given in s. 139.30 (1m).

2 (b) "Tobacco products" has the meaning given in s. 139.75 (12).

3 (c) "Vapor product" has the meaning given in s. 139.75 (14).

4 (d) "Vending machine" has the meaning given in s. 139.30 (14).

5 **SECTION 6.** 134.65 (1m) of the statutes is amended to read:

6 134.65 (1m) A city, village, or town clerk may not issue a license under sub. (1)  
7 (1d) unless the applicant specifies in the license application whether the applicant  
8 will sell, exchange, barter, dispose of, or give away the cigarette, vapor products, or  
9 tobacco products over the counter or in a vending machine, or both.

10 **SECTION 7.** 134.65 (1r) of the statutes is amended to read:

11 134.65 (1r) A city, village, or town clerk may not require an applicant's  
12 signature on an application for a cigarette, vapor products, and tobacco products  
13 retailer license to be notarized. If a city, village, town, or any department of this state  
14 prepares an application form for a cigarette, vapor products, and tobacco products  
15 retailer license, the form may not require an applicant's signature on the form to be  
16 notarized.

17 **SECTION 8.** 134.65 (4) of the statutes is amended to read:

18 134.65 (4) Every licensed retailer shall keep complete and accurate records of  
19 all purchases and receipts of cigarettes, vapor products, and tobacco products. Such  
20 records shall be preserved on the licensed premises for 2 years in such a manner as  
21 to insure permanency and accessibility for inspection and shall be subject to  
22 inspection at all reasonable hours by authorized state and local law enforcement  
23 officials.

24 **SECTION 9.** 134.65 (5m) of the statutes is amended to read:

**ASSEMBLY BILL 889**

1           134.65 (5m) Any person who knowingly provides materially false information  
2 in an application for a cigarette, vapor products, and tobacco products retailer license  
3 under this section may be required to forfeit not more than \$1,000.

4           **SECTION 10.** 134.65 (8) of the statutes is amended to read:

5           134.65 (8) The uniform licensing of cigarette, vapor products, and tobacco  
6 products retailers is a matter of statewide concern. A city, village, or town may adopt  
7 an ordinance regulating the issuance, suspension, revocation, or renewal of a license  
8 under this section only if the ordinance strictly conforms to this section. If a city,  
9 village, or town has in effect on May 1, 2016, an ordinance that does not strictly  
10 conform to this section, the ordinance does not apply and may not be enforced.

11           **SECTION 11. Nonstatutory provisions.**

12           (1) VAPOR PRODUCTS ENFORCEMENT. The authorized FTE positions for the  
13 department of revenue are increased by 2.0 GPR positions on January 1, 2020, to be  
14 funded from the appropriation under s. 20.566 (1) (am) for the purpose of  
15 administering and enforcing the taxes imposed on the sale of vapor products.

16           **SECTION 12. Fiscal changes.**

17           (1) INVESTIGATORS; RETAIL SALES. In the schedule under s. 20.005 (3) for the  
18 appropriation to the department of agriculture, trade and consumer protection  
19 under s. 20.115 (1) (a), the dollar amount for fiscal year 2020-21 is increased by  
20 \$164,800 to increase the authorized FTE positions for the department by 2.0 GPR  
21 positions to conduct investigations of retail sales. In the schedule under s. 20.005 (3)  
22 for the appropriation to the department of agriculture, trade and consumer  
23 protection under s. 20.115 (1) (a), the dollar amount for fiscal year 2020-21 is  
24 increased by \$40,000 to provide supplies and services for the positions authorized  
25 under this subsection.

**ASSEMBLY BILL 889**

1           **SECTION 13. Effective date.**

2           (1) This act takes effect on the 90th day after the day of publication.

3   **(END)**