



2005 SENATE BILL 398

October 21, 2005 - Introduced by Senators ROBSON, BROWN, RISSER and HANSEN, cosponsored by Representatives MOLEPSKE, KREIBICH, BERCEAU, SHERIDAN, WASSERMAN, FIELDS and BENEDICT, by request of Professional Firefighters of Wisconsin; Brad Liggett, City of Beloit Fire Chief; Larry Grorud, City of Janesville Fire Chief; City of Two Rivers Fire Department; Manitowoc County Tobacco Control Coalition; Association of Local Health Departments and Boards (WALHDAB); American Heart Association, Greater Midwest Affiliate; and American Lung Association of Wisconsin. Referred to Committee on Job Creation, Economic Development and Consumer Affairs.

1 **AN ACT** *to amend* 20.143 (3) (j); and *to create* 101.19 (1) (k), 165.25 (4) (ag) and
2 167.35 of the statutes; **relating to:** establishing fire safety standards for
3 cigarettes, granting rule-making authority, making an appropriation, and
4 providing a penalty.

Analysis by the Legislative Reference Bureau

Current law does not require cigarettes to meet any standards with regard to fire safety. This bill requires the Department of Commerce (department), by rule, to establish fire safety standards that all cigarettes sold or offered for sale in this state must meet. In particular, the fire safety standards must require cigarettes to stop burning within a specified period of time if the cigarettes are not smoked and must require cigarettes to meet performance standards with regard to reducing the risk of certain household fires.

Under the bill, every cigarette manufacturer that seeks to permit cigarettes it manufactures to be sold or offered for sale in this state must certify to the department that the cigarettes meet all applicable fire safety standards. The manufacturer must also provide a copy of this certification to each wholesaler that is authorized to sell cigarettes in this state and that purchases the cigarettes from the manufacturer. With certain limited exceptions, the bill prohibits the sale of uncertified cigarettes in this state.

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For further information see the *state* 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:

1 **SECTION 1.** 20.143 (3) (j) of the statutes is amended to read:

2 20.143 (3) (j) *Safety and building operations.* The amounts in the schedule for
3 the purposes of chs. 101, 145, and 168 and ss. 167.35, 236.12 (2) (a), 236.13 (1) (d) and
4 (2m), and 236.335. All moneys received under ch. 145, ss. 101.177 (4) (a) 4., 101.178,
5 101.19, 101.63 (9), 101.654 (3), 101.73 (12), 101.82 (4), 101.9205 (3), 101.9208 (1) (b),
6 101.9213 (8), 101.935, 101.951 (2), 101.952 (2), 101.955 (2), 101.973 (7), and 236.12
7 (7), and 2001 Wisconsin Act 16, section 9110 (3z), shall be credited to this
8 appropriation.

9 **SECTION 2.** 101.19 (1) (k) of the statutes is created to read:

10 101.19 (1) (k) Processing certifications filed by cigarette manufacturers under
11 s. 167.35 (3) (a).

12 **SECTION 3.** 165.25 (4) (ag) of the statutes is created to read:

13 165.25 (4) (ag) The department of justice shall furnish legal services upon
14 request of the department of commerce under s. 167.35 (6).

15 **SECTION 4.** 167.35 of the statutes is created to read:

16 **167.35 Fire safety standards for cigarettes. (1) DEFINITIONS.** In this
17 section:

18 (a) "Cigarette" means any roll of tobacco wrapped in paper or any substance
19 other than tobacco.

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1 (b) "Cigarette vending machine" means any mechanical device that
2 automatically dispenses cigarettes when money or tokens are deposited in the device
3 in payment for the cigarettes.

4 (c) "Cigarette vending machine operator" means a person who acquires
5 cigarettes and sells them through the use of cigarette vending machines that the
6 person owns, operates, or services and that are located on premises that are owned
7 or under the control of other persons.

8 (d) "Department" means the department of commerce.

9 (e) "Wholesaler" means a person who has a permit authorizing the person to
10 sell cigarettes at wholesale in this state to any of the following:

- 11 1. A person who sells cigarettes at retail.
- 12 2. A cigarette vending machine operator.
- 13 3. Another person who sells cigarettes at wholesale.

14 **(2) FIRE SAFETY STANDARDS.** The department shall promulgate rules
15 establishing fire safety standards for all cigarettes sold or offered for sale in this
16 state. The rules shall establish standards that reduce the risk of fire caused by
17 cigarettes. In promulgating the rules, the department shall consult with the
18 department of health and family services to ensure that the rules do not establish
19 fire safety standards that result in increased health risks to individuals who smoke
20 cigarettes. The rules shall establish at least one of the following fire safety standards
21 for all cigarettes sold or offered for sale in this state, in addition to other fire safety
22 standards that the department of commerce determines are appropriate:

23 (a) A standard that the cigarettes, if ignited, stop burning within a time period
24 specified in the rules if no individual inhales through the cigarettes during that
25 period.

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1 (b) A standard that the cigarettes meet performance standards specified in the
2 rules that are established for the purpose of limiting the risk that the cigarettes will
3 ignite upholstered furniture, mattresses, or other household furnishings.

4 **(3) CERTIFICATION FILED BY CIGARETTE MANUFACTURER.** (a) Each cigarette
5 manufacturer that seeks to permit cigarettes it manufactures to be sold or offered
6 for sale in this state shall file a written certification with the department, certifying
7 that the cigarettes meet all applicable fire safety standards contained in the rules
8 promulgated under sub. (2). Upon filing a certification under this subsection, a
9 cigarette manufacturer shall provide a copy of the certification to every wholesaler
10 that purchases the cigarettes that are the subject of the certification from the
11 cigarette manufacturer.

12 (b) The department shall promptly forward a copy of each certification it
13 receives under par. (a) to the attorney general. The department shall establish a
14 procedure by which persons who sell cigarettes at retail in this state and cigarette
15 vending machine operators in this state may obtain notification of which cigarettes
16 are the subject of a certification filed under par. (a).

17 (c) The department shall establish a fee under s. 101.19 (1) (k) for processing
18 certifications filed under par. (a).

19 **(4) SALE OF UNCERTIFIED CIGARETTES PROHIBITED.** (a) Except as provided in par.
20 (b), no person may sell cigarettes in this state, unless the cigarettes are the subject
21 of a certification filed under sub. (3) (a).

22 (b) Paragraph (a) does not prohibit any person from selling cigarettes or
23 offering to sell cigarettes that are not the subject of a certification filed under sub.
24 (3) (a), if the cigarettes are to be sold in another state or outside of the United States.

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1 **(5) PENALTIES.** (a) Any wholesaler who knowingly sells cigarettes at wholesale
2 in violation of sub. (4) (a) may be required to forfeit not more than \$10,000 for each
3 sale.

4 (b) Any person other than a wholesaler who knowingly sells cigarettes in
5 violation of sub. (4) (a) may be required to forfeit:

6 1. Not more than \$500 for each sale of not more than 1,000 cigarettes.

7 2. Not more than \$1,000 for each sale of more than 1,000 cigarettes.

8 (c) Any cigarette manufacturer that knowingly files a false certification under
9 sub. (3) (a) may be required to forfeit not more than \$10,000. Each false certification
10 constitutes a separate offense.

11 **(6) ENFORCEMENT.** The attorney general shall take all necessary action, upon
12 the request of the department, to enforce compliance with subs. (3) and (4) and rules
13 promulgated under sub. (2).

14 **SECTION 5. Nonstatutory provisions.**

15 (1) PROMULGATION OF FIRE SAFETY STANDARDS. Not later than the first day of the
16 12th month beginning after the effective date of this subsection, the department of
17 commerce shall submit in proposed form the rules required under section 167.35 (2)
18 of the statutes, as created by this act, to the legislative council staff under section
19 227.15 (1) of the statutes.

20 **SECTION 6. Effective dates.** This act takes effect on the first day of the 18th
21 month beginning after publication, except as follows:

22 (1) PROMULGATION OF FIRE SAFETY STANDARDS. SECTION 5 (1) of this act takes effect
23 on the day after publication.

24

(END)