AN ACT to amend 778.25 (title) and 778.25 (2) (e); and to create 48.983, 134.66 and 778.25 (1) (a) 4 of the statutes, relating to prohibiting cigarette and tobacco products sales to and purchase by certain persons, distribution of cigarettes and tobacco products for nominal or no consideration to certain persons, cigarette vending machine locations and providing a penalty.

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

SECTION 1. 48.983 of the statutes is created to read:

48.983 Use of cigarettes and tobacco products prohibited. (1) In this section:
(a) “Cigarette” has the meaning given in s. 139.30 (1).
(b) “Law enforcement officer” has the meaning given in s. 30.50 (4s).
(c) “Tobacco products” has the meaning given in s. 139.75 (12).

(2) Except as provided in sub. (3), no child may do any of the following:
(a) Buy or attempt to buy any cigarette or tobacco product.
(b) Falsely represent his or her age for the purpose of receiving any cigarette or tobacco product.
(3) A child may purchase cigarettes or tobacco products for the sole purpose of resale in the course of

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employment during his or her working hours if
employed by a retailer licensed under s. 134.65 (1).

(4) A law enforcement officer shall seize any ciga-
rette or tobacco product involved in any violation of
sub. (2) committed in his or her presence.

(5) A county, town, village or city may adopt an
ordinance regulating the conduct regulated by this
section only if it strictly conforms to this section. A
county ordinance adopted under this section does not
apply within any town, village or city that has adopted
or adopts an ordinance under this subsection.

SECTION 2. 134.66 of the statutes is created to
read:

134.66 Restrictions on sale or gift of cigarettes or
tobacco products. (1) Definitions. In this section:
(a) “Cigarette” has the meaning given in s. 139.30
(1).

(b) “Distributor” means any of the following:
1. A person specified under s. 139.30 (3).
2. A person specified under s. 139.75 (4).

(c) “Identification card” means any of the follow-
ing:
1. A license containing a photograph issued under
ch. 343.
2. An identification card issued under s. 343.50.
3. An identification card issued under s. 125.08.
(d) “Jobber” has the meaning given in s. 139.30 (6).
(e) “Manufacturer” means any of the following:
1. A person specified under s. 139.30 (7).
2. A person specified under s. 139.75 (5).

(f) “Place of business” means any place where ciga-
rettes or tobacco products are sold, manufactured,
or stored for the purpose of sale or consumption, includ-
ing any vessel, vehicle, airplane, train or vending
machine.

(g) “Retailer” means any person licensed under s.
134.65 (1).

(h) “School” has the meaning given in s. 118.257 (1)
(c).

(i) “Subjobber” has the meaning given in s. 139.75
(11).

(j) “Tobacco products” has the meaning given in s.
139.75 (12).

(k) “Vending machine” has the meaning given in s.
139.30 (14).

(l) “Vending machine operator” has the meaning
given in s. 139.30 (15).

(2) Restrictions. (a) No retailer may sell or give
cigarettes or tobacco products to any person under the
age of 18, except as provided in s. 48.983 (3). A vend-
ing machine operator is not liable under this para-
graph for the purchase of cigarettes or tobacco
products from his or her vending machine by a person
under the age of 18 if the vending machine operator
was unaware of the purchase.

(b) 1. A retailer shall post a sign in areas within his
or her premises where cigarettes or tobacco products
are sold to consumers stating that the sale of any ciga-
rette or tobacco product to a person under the age of
18 is unlawful under this section and s. 48.983.

2. A vending machine operator shall attach a notice
in a conspicuous place on the front of his or her vend-
ing machines stating that the purchase of any cigarette
or tobacco product by a person under the age of 18 is
unlawful under s. 48.983 and that the purchaser is sub-
ject to a forfeiture of not to exceed $25.

(c) 1. No person may place a vending machine
within 500 feet of a school.

2. Except as provided in subd. 3, a vending machine
operator shall remove all of his or her vending
machines which are located within 500 feet of a school
by the first day of the 2nd month beginning after the
effective date of this subdivision .... [revisor inserts
date].

3. Notwithstanding subd. 2, if a written agreement
binding on a vending machine operator governs the
location of his or her vending machine which is
located within 500 feet of a school, the vending
machine owner shall remove the vending machine on
the date that the written agreement expires or would
be extended or renewed.

(d) No manufacturer, distributor, jobber, subjob-
ber or retailer, or their employees or agents, may pro-
vide cigarettes or tobacco products for nominal or no
consideration to any person under the age of 18.

(3) Defense of retailer. Proof of all of the follow-
ing facts by a retailer who sells cigarettes or tobacco
products to a person under the age of 18 is a defense to
any prosecution for a violation of sub. (2) (a):

(a) That the purchaser falsely represented that he or
she had attained the age of 18 and presented an identi-
fication card.

(b) That the appearance of the purchaser was such
that an ordinary and prudent person would believe
that the purchaser had attained the age of 18.

(c) That the sale was made in good faith, in reason-
able reliance on the identification card and appear-
ance of the purchaser and in the belief that the
purchaser had attained the age of 18.

(4) Penalties. (a) 1. In this paragraph, “violation”
means a violation of sub. (2) (a), (c) or (d) or a local
ordinance which strictly conforms to sub. (2) (a), (c)
or (d).

2. A person who commits a violation is subject to a
forfeiture of:

a. Not more than $500 if the person has not com-
mited a previous violation within 12 months of the
violation; or

b. Not less than $200 nor more than $500 if the person
has committed a previous violation within 12
months of the violation.

3. A court shall suspend any license or permit
issued under s. 134.65, 139.34 or 139.79 to a person
for:
a. Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation;

b. Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or

c. Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing 3 or more other violations.

4. The court shall promptly mail notice of a suspension under subd. 3 to the department of revenue and to the clerk of each municipality which has issued a license or permit to the person.

(b) Whoever violates sub. (2) (b) shall forfeit not more than $25.

(5) LOCAL ORDINANCE. A county, town, village or city may adopt an ordinance regulating the conduct regulated by this section only if it strictly conforms to this section. A county ordinance adopted under this subsection does not apply within any town, village or city that has adopted or adopts an ordinance under this subsection.

SECTION 3. 778.25 (title) of the statutes is amended to read:

778.25 (title) Citation procedure; certain alcohol beverages, tobacco, harassment and safety violations.

SECTION 4. 778.25 (1) (a) 4 of the statutes is created to read:

778.25 (1) (a) 4. Under s. 48.983 brought against a minor in the court assigned to exercise jurisdiction under ch. 48.

SECTION 5. 778.25 (2) (e) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

778.25 (2) (e) The maximum forfeiture, penalty assessment and jail assessment for which the defendant might be found liable and other penalties which may be imposed including, for a violation of a statute or ordinance specified under sub. (1) (a) 1, suspension or revocation under s. 343.30 (6). Suspension or revocation under s. 343.30 (6) is not an option for violation of a statute or ordinance specified under sub. (1) (a) 2 or 3.

SECTION 6. Effective date. This act takes effect on July 1, 1989.