



1995 SENATE BILL 338

September 19, 1995 - Introduced by Senators RISSER, CLAUSING and BURKE, cosponsored by Representatives BOCK, ROBSON, URBAN, RYBA, R. YOUNG, L. YOUNG, BELL, LA FAVE, MORRIS-TATUM, BOYLE and BALDWIN. Referred to Committee on State Government Operations and Corrections.

1 **AN ACT to repeal** 134.66 (1) (h), 134.66 (1) (L), 134.66 (2) (b) 2., 134.66 (2) (c),
2 134.66 (2) (cm), 139.30 (14), 139.30 (15) and 139.34 (10); **to renumber** 134.66
3 (2) (b) 1.; **to amend** 134.66 (1) (k), 134.66 (2) (a), 134.66 (4) (a) 1., 139.34 (1) (a),
4 139.34 (4), 139.34 (5), 139.34 (6), 139.38 (1) and 139.38 (2) (b); and **to create**
5 134.66 (2) (cr) of the statutes; **relating to:** use of vending machines for the sale
6 of cigarettes and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits the sale of cigarettes or other tobacco products to persons under the age of 18. Current law also regulates the use of vending machines to sell cigarettes by prohibiting the placement of cigarette vending machines in a public establishment that is open to persons under the age of 18 in a location where the vending machine cannot be seen or controlled by an employe of the establishment or where it is accessible to the public when the establishment is closed. Also, current law prohibits the placement of these vending machines within 500 feet of a school. This bill prohibits the use of vending machines to sell cigarettes.

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:

7 **SECTION 1.** 134.66 (1) (h) of the statutes is repealed.

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

1 134.66 (1) (k) “Vending machine” ~~has the meaning given in s. 139.30 (14) is any~~
2 mechanical device which automatically dispenses cigarettes upon the deposit in the
3 device of specified coins in payment for the cigarettes.

4 **SECTION 3.** 134.66 (1) (L) of the statutes is repealed.

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

6 134.66 (2) (a) No retailer, manufacturer or distributor may sell or give
7 cigarettes or tobacco products to any person under the age of 18, except as provided
8 in s. 48.983 (3). ~~A vending machine operator is not liable under this paragraph for~~
9 ~~the purchase of cigarettes or tobacco products from his or her vending machine by~~
10 ~~a person under the age of 18 if the vending machine operator was unaware of the~~
11 ~~purchase.~~

12 **SECTION 5.** 134.66 (2) (b) 1. of the statutes is renumbered 134.66 (2) (b).

13 **SECTION 6.** 134.66 (2) (b) 2. of the statutes is repealed.

14 **SECTION 7.** 134.66 (2) (c) of the statutes is repealed.

15 **SECTION 8.** 134.66 (2) (cm) of the statutes is repealed.

16 **SECTION 9.** 134.66 (2) (cr) of the statutes is created to read:

17 134.66 (2) (cr) No person may set up for operation or operate a vending
18 machine.

19 **SECTION 10.** 134.66 (4) (a) 1. of the statutes is amended to read:

20 134.66 (4) (a) 1. In this paragraph, “violation” means a violation of sub. (2) (a),
21 ~~(e), (em) (cr),~~ (d) or (e) or a local ordinance which strictly conforms to sub. (2) (a), (c),
22 ~~(em) (cr),~~ (d) or (e).

23 **SECTION 11.** 139.30 (14) of the statutes is repealed.

24 **SECTION 12.** 139.30 (15) of the statutes is repealed.

25 **SECTION 13.** 139.34 (1) (a) of the statutes is amended to read:

1 139.34 (1) (a) It is unlawful for any person to manufacture cigarettes in this
2 state or sell cigarettes in this state as a distributor, jobber, ~~vending machine operator~~
3 or multiple retailer and no person shall operate a warehouse in this state for the
4 storage of cigarettes for another person without first obtaining the proper permit to
5 perform such operations from the department of revenue. The application for a
6 permit and the permit shall be in the form prescribed by the department and the
7 application form shall require such information as is necessary to administer this
8 section.

9 **SECTION 14.** 139.34 (4) of the statutes is amended to read:

10 139.34 (4) A separate permit shall be required of and issued to each class of
11 permittee and the holder of any permit shall perform only the operations thereby
12 authorized. Such permit shall not be transferable from one person to another or from
13 one premises to another. A separate permit shall be required for each place where
14 cigarettes are stamped or where cigarettes are stored for sale at wholesale or through
15 ~~vending machines or multiple retail outlets.~~

16 **SECTION 15.** 139.34 (5) of the statutes is amended to read:

17 139.34 (5) The ownership and operation of any retail outlet does not preclude
18 a person from receiving a permit as a distributor or jobber, if more than 50% of that
19 person's sales of cigarettes are at wholesale to retailers, ~~vending machine operators~~
20 or multiple retailers neither owned, controlled nor operated by that person.

21 **SECTION 16.** 139.34 (6) of the statutes is amended to read:

22 139.34 (6) A ~~vending machine operator or a multiple retailer~~ may acquire
23 unstamped cigarettes from the manufacturers thereof and affix the stamps to
24 packages or other containers only if the ~~vending machine operator or multiple~~
25 retailer also holds a permit as a distributor.

1 **SECTION 17.** 139.34 (10) of the statutes is repealed.

2 **SECTION 18.** 139.38 (1) of the statutes is amended to read:

3 139.38 (1) Every manufacturer located out of the state shall keep records of all
4 sales of cigarettes shipped into this state. Every manufacturer located in the state
5 shall keep records of production, sales and withdrawals of cigarettes. Every
6 distributor shall keep records of purchases and sales of cigarettes. Every
7 manufacturer and distributor holding a permit from the secretary with the right to
8 purchase and apply stamps shall also keep records of purchases and disposition of
9 stamps. Every jobber, and multiple retailer ~~and vending machine operator~~ shall
10 keep records of all purchases and disposition of cigarettes. Every warehouse
11 operator shall keep records of receipts and withdrawals of cigarettes. All such
12 records shall be accurate and complete and be kept in a manner prescribed by the
13 secretary. These records shall be preserved on the premises described in the permit
14 or license in such a manner as to ensure permanency and accessibility for inspection
15 at reasonable hours by authorized personnel of the department.

16 **SECTION 19.** 139.38 (2) (b) of the statutes is amended to read:

17 139.38 (2) (b) The department may allow any jobber, or multiple retailer ~~or~~
18 ~~vending machine operator~~ permittee who does not sell cigarettes, except for those on
19 which the tax under this chapter is paid, to file a quarterly report. The quarterly
20 report shall be filed on or before the 15th day of the next month following the close
21 of each calendar quarter. The report shall specify the number of cigarettes purchased
22 and sold during the preceding calendar quarter.

23 **SECTION 20. Effective date.**

24 (1) This act takes effect on July 1, 1997.

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(END)