



State of Wisconsin
1997 - 1998 LEGISLATURE

LRBa1218/1
GMM:kmg:ijs

**SENATE AMENDMENT 12,
TO 1997 SENATE BILL 313**

November 19, 1997 - Offered by Senator SHIBILSKI.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 6: after “products” insert “, imposing joint and several liability
3 on the parent of an underage person who purchases or possesses cigarettes or tobacco
4 products and providing a penalty”.

5 **2.** Page 5, line 7: after that line insert:

6 “**SECTION 8k.** 895.035 (2m) (b) of the statutes, as affected by 1997 Wisconsin
7 Act 27, is amended to read:

8 895.035 (2m) (b) If a child or a parent fails to pay a forfeiture ~~or surcharge~~ as
9 ordered by a court assigned to exercise jurisdiction under chs. 48 and 938 or a
10 ~~forfeiture as ordered by a municipal court, if a child fails to pay a surcharge as~~
11 ordered by a court assigned to exercise jurisdiction under chs. 48 and 938 or if it
12 appears likely that the child or parent will not pay the forfeiture or surcharge as
13 ordered, the representative of the public interest under s. 938.09, the agency, as

1 defined in s. 938.38 (1) (a), supervising the child or the law enforcement agency that
2 issued the citation to the child may petition the court assigned to exercise jurisdiction
3 under chs. 48 and 938 to order that the amount of the forfeiture or surcharge unpaid
4 by the child be entered and docketed as a judgment against the child and the parent
5 with custody of the child and in favor of the county or appropriate municipality. A
6 petition under this paragraph may be filed after the expiration of the dispositional
7 order or sentence under which the forfeiture or surcharge is payable, but no later
8 than one year after the expiration of the dispositional order or sentence or any
9 extension of the dispositional order or sentence.

10 **SECTION 8L.** 895.035 (6) of the statutes is amended to read:

11 895.035 (6) Any recovery of restitution under this section shall be reduced by
12 the amount recovered as restitution for the same act under s. 938.245, 938.32, 938.34
13 (5) or 938.343 (4). Any recovery of a forfeiture under this section shall be reduced by
14 the amount recovered as a forfeiture for the same act under s. 938.343 (2) or 938.45
15 (1r). Any recovery of a surcharge under this section shall be reduced by the amount
16 recovered as a surcharge under s. 938.34 (8d).

17 **SECTION 8r.** 938.343 (2) of the statutes is amended to read:

18 938.343 (2) Impose a forfeiture not to exceed the maximum forfeiture that may
19 be imposed on an adult for committing that violation or, if the violation is only
20 applicable to a person under 18 years of age, \$50. Any such order shall include a
21 finding that the juvenile alone is financially able to pay and shall allow up to 12
22 months for the payment. If a juvenile fails to pay the forfeiture, the court may
23 suspend any license issued under ch. 29 or suspend the juvenile's operating privilege
24 as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years. The court
25 shall immediately take possession of the suspended license and forward it to the

1 department which issued the license, together with the notice of suspension clearly
2 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
3 the forfeiture is paid during the period of suspension, the court shall immediately
4 notify the department, which will thereupon return the license to the person. Any
5 recovery under this subsection shall be reduced by the amount recovered as a
6 forfeiture for the same act under s. 938.45 (1r).”.

7 **3.** Page 5, line 12: after that line insert:

8 “**SECTION 9g.** 938.45 (1r) of the statutes is created to read:

9 938.45 (1r) In a proceeding on a violation of s. 938.983 (2) or an ordinance
10 enacted under s. 938.983 (5) in which the court has determined under s. 938.343 (2)
11 that the imposition of a forfeiture would be in the best interest of the juvenile and
12 in aid of rehabilitation, the court may order a parent who has custody, as defined in
13 s. 895.035 (1), of the juvenile to pay the forfeiture. Any order under this subsection
14 shall include a finding that the parent who has custody of the juvenile is financially
15 able to pay the amount ordered and shall allow up to 12 months after the date of the
16 order for the payment. Any recovery under this subsection shall be reduced by the
17 amount recovered as a forfeiture for the same act under s. 938.343 (2).

18 **SECTION 9k.** 938.45 (2) of the statutes is amended to read:

19 938.45 (2) No order under sub. (1) (a) ~~or~~ (1m) (a) or (1r) may be entered until
20 the person who is the subject of the contemplated order is given an opportunity to be
21 heard on the contemplated order. The court shall cause notice of the time, place and
22 purpose of the hearing to be served on the person personally at least 10 days before
23 the date of hearing. The procedure in these cases shall, as far as practicable, be the
24 same as in other cases in the court. At the hearing the person may be represented

1 by counsel and may produce and cross-examine witnesses. Any person who fails to
2 comply with any order issued by a court under sub. (1) (a) ~~or~~, (1m) (a) or (1r) may be
3 proceeded against for contempt of court. If the person’s conduct involves a crime, the
4 person may be proceeded against under the criminal law.”.

5 **4.** Page 5, line 20: after “(5)” insert “and an order under s. 938.45 (1r) applies
6 to the parents of those persons”.

7 **5.** Page 7, line 3: delete “938.343 (11)” and substitute “895.035 (2m) (b) and (6),
8 938.343 (2) and (11), 938.45 (1r) and (2)”.

9 **(END)**