



1997 ASSEMBLY BILL 670

December 23, 1997 - Introduced by Representatives F. LASEE, MUSSER, KREIBICH, STASKUNAS, LADWIG, OTT, WASSERMAN, RYBA, ROBSON and POWERS, cosponsored by Senators DRZEWIECKI, DARLING, CLAUSING and ROESSLER. Referred to Committee on Small Business and Economic Development.

1 **AN ACT to repeal** 134.66 (2) (d); **to amend** 134.66 (2) (a), 134.66 (3) (title) and
2 134.66 (4) (a) 1.; and **to create** 134.66 (2) (dm) and 134.66 (3m) of the statutes;
3 **relating to:** dispensing or giving cigarettes or tobacco products to, or procuring
4 cigarettes or tobacco products for, persons under the age of 18 and providing a
5 penalty.

Analysis by the Legislative Reference Bureau

Under current law, no manufacturer, distributor or seller of tobacco products may give tobacco products to a person under the age of 18 (minor). This bill expands the prohibition against tobacco products being given to minors by manufacturers, distributors, or sellers to all other persons except that a minor may be given tobacco products by, or while being accompanied by, his or her parent, guardian or spouse if the spouse is over the age of 18. This exception is basically the same to the current law regulating the sale of alcohol beverages, which allows persons to furnish alcohol beverages to any underage person who is accompanied by his or her parent, guardian or spouse who is at least 21 years of age.

For violating the prohibition created in the bill, there is imposed a forfeiture of not more than \$500 for the first violation within 12 months and a forfeiture of not less than \$200 but not more than \$500 if a person has committed a previous violation within 12 months of the current violation. These forfeitures are the same that apply under current law to manufacturers, distributors and retailers of tobacco products.

Under the bill, a person has a defense against being prosecuted for violating the prohibition created in the bill if the person can prove that the minor falsely represented that he or she was over 18 years old and produced a picture identification card, that an ordinary and prudent person would believe the minor was over 18 years

old based on his or her appearance, that the person reasonably relied on the identification card and appearance and that the person acted in good faith.

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

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

2 134.66 (2) (a) No retailer, manufacturer or distributor may sell or give
3 cigarettes or tobacco products to any person under the age of 18, except as provided
4 in s. 938.983 (3). A vending machine operator is not liable under this paragraph for
5 the purchase of cigarettes or tobacco products from his or her vending machine by
6 a person under the age of 18 if the vending machine operator was unaware of the
7 purchase.

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

9 **SECTION 3.** 134.66 (2) (dm) of the statutes is created to read:

10 134.66 (2) (dm) Except as provided in s. 938.983 (3), no person may, for nominal
11 or no consideration, give any cigarettes or tobacco products to, or procure any
12 cigarettes or tobacco products for, any person under the age of 18 unless all of the
13 following apply:

14 1. The person giving or procuring the cigarettes or tobacco products is a person
15 other than a retailer, manufacturer, distributor, jobber or subjobber or an agent of
16 a retailer, manufacturer, distributor, jobber or subjobber.

17 2. The person under the age of 18 receives or is to receive the cigarettes or
18 tobacco products from his or her parent, guardian or spouse who has attained the age
19 of 18 or is accompanied by his or her parent, guardian or spouse who has attained
20 the age of 18.

21 **SECTION 4.** 134.66 (3) (title) of the statutes is amended to read:

