

1999 ASSEMBLY BILL 196

March 12, 1999 – Introduced by Representatives SCHNEIDER, LA FAVE, MILLER, HANDRICK, BOYLE and BERCEAU, cosponsored by Senator RISSER. Referred to Committee on State Affairs.

1 **AN ACT** *to amend* 101.123 (4) (a) 2., 101.123 (8) (a), 165.755 (1) (b), 165.87 (2) (a),
2 302.46 (1) (a) and 814.63 (1) (c); and *to create* 101.123 (1) (dj) and 101.123 (2)
3 (br) of the statutes; **relating to:** banning smoking in buildings on
4 post-secondary school campuses and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law, with some exceptions, prohibits smoking in public conveyances, inpatient health care facilities, indoor movie theaters, offices and passenger elevators, retail establishments, public waiting rooms, enclosed indoor areas of buildings owned by local or state units of government, motor buses, hospitals, physicians' offices, day care centers, educational facilities that offer state-approved or state-licensed instruction for training and any restaurant whose seating capacity exceeds 50 persons and whose receipts from the sale of beer or liquor, or both, amount to 50% or less of the restaurant's receipts. In some instances, however, a person in charge of an area in which smoking is prohibited, or his or her agent, may designate smoking areas within the area over which the person has charge.

This bill expands coverage of existing law to prohibit smoking in buildings on college, university, and other post-secondary school campuses. The bill also provides that no person may designate smoking areas in buildings on these campuses.

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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.** 101.123 (1) (dj) of the statutes is created to read:

2 101.123 (1) (dj) “Post–secondary school facility” means a building that is used
3 primarily by students, employes, or agents of an educational institution, if the
4 educational institution does any of the following:

- 5 1. Awards a bachelor’s or higher degree pursuant to an educational program.
- 6 2. Provides an educational program that another educational institution
7 accepts for full credit toward a bachelor’s or higher degree.
- 8 3. Provides a program of training to prepare students who have obtained a high
9 school diploma or its equivalent for employment in a specific occupation.

10 **SECTION 2.** 101.123 (2) (br) of the statutes is created to read:

11 101.123 (2) (br) Notwithstanding par. (a) and sub. (3), no person may smoke
12 in a post–secondary school facility.

13 **SECTION 3.** 101.123 (4) (a) 2. of the statutes is amended to read:

14 101.123 (4) (a) 2. A person in charge or his or her agent may not designate an
15 entire building as a smoking area or designate any smoking areas in a motor bus,
16 hospital or physician’s office or, on the premises, indoors or outdoors, of a day care
17 center when children who are receiving day care services are present, or in a
18 post–secondary school facility, except that in a hospital or a unit of a hospital that
19 has as its primary purpose the care and treatment of mental illness, alcoholism or
20 drug abuse a person in charge or his or her agent may designate one or more enclosed
21 rooms with outside ventilation as smoking areas for the use of adult patients who

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1 have the written permission of a physician. Subject to this subdivision and sub. (3)
2 (b), a person in charge or his or her agent may not designate an entire room as a
3 smoking area.

4 **SECTION 4.** 101.123 (8) (a) of the statutes is amended to read:

5 101.123 **(8)** (a) Any person who wilfully violates sub. (2) (a), (am) 1. ~~or (bm)~~,
6 (bm) or (br) after being advised by an employe of the facility that smoking in the area
7 is prohibited or any person in charge or his or her agent who wilfully fails to comply
8 with sub. (5) shall forfeit not more than \$10.

9 **SECTION 5.** 165.755 (1) (b) of the statutes is amended to read:

10 165.755 **(1)** (b) A court may not impose the crime laboratories and drug law
11 enforcement assessment under par. (a) for a violation of s. 101.123 (2) (a), (am) 1. ~~or~~,
12 (bm) or (br) or (5) (b) or for a violation of a state law or municipal or county ordinance
13 involving a nonmoving traffic violation or a safety belt use violation under s. 347.48
14 (2m).

15 **SECTION 6.** 165.87 (2) (a) of the statutes is amended to read:

16 165.87 **(2)** (a) Whenever a court imposes a fine or forfeiture for a violation of
17 state law or for a violation of a municipal or county ordinance except for a violation
18 of s. 101.123 (2) (a), (am) 1. ~~or~~, (bm) or (br) or (5) or state laws or municipal or county
19 ordinances involving nonmoving traffic violations or safety belt use violations under
20 s. 347.48 (2m), there shall be imposed in addition a penalty assessment in an amount
21 of 23% of the fine or forfeiture imposed. If multiple offenses are involved, the penalty
22 assessment shall be based upon the total fine or forfeiture for all offenses. When a
23 fine or forfeiture is suspended in whole or in part, the penalty assessment shall be
24 reduced in proportion to the suspension.

25 **SECTION 7.** 302.46 (1) (a) of the statutes is amended to read:

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1 302.46 (1) (a) On or after October 1, 1987, if a court imposes a fine or forfeiture
2 for a violation of state law or for a violation of a municipal or county ordinance except
3 for a violation of s. 101.123 (2) (a), (am) 1. ~~or~~ (bm) or (br) or (5) or state laws or
4 municipal or county ordinances involving nonmoving traffic violations or safety belt
5 use violations under s. 347.48 (2m), the court, in addition, shall impose a jail
6 assessment in an amount of 1% of the fine or forfeiture imposed or \$10, whichever
7 is greater. If multiple offenses are involved, the court shall determine the jail
8 assessment on the basis of each fine or forfeiture. If a fine or forfeiture is suspended
9 in whole or in part, the court shall reduce the jail assessment in proportion to the
10 suspension.

11 **SECTION 8.** 814.63 (1) (c) of the statutes is amended to read:

12 814.63 (1) (c) This subsection does not apply to an action for a violation of s.
13 101.123 (2) (a), (am) 1. ~~or~~ (bm) or (br) or (5) or a safety belt use violation under s.
14 347.48 (2m).

15 **(END)**