

1999 ASSEMBLY BILL 308

April 27, 1999 – Introduced by Representatives OWENS, SUDER, BOCK, HANDRICK, JOHNSRUD, KELSO, LADWIG, MILLER, RICHARDS, SPILLNER, URBAN, VRAKAS, WALKER, WASSERMAN and YOUNG, cosponsored by Senators RISSER, CLAUSING, COWLES, DARLING and LAZICH. Referred to Committee on Public Health.

1 **AN ACT** *to amend* 101.123 (4) (a) 2., 165.755 (1) (b), 165.87 (2) (a), 302.46 (1) (a)
 2 and 814.63 (1) (c); and *to create* 101.123 (1) (hm), 101.123 (2) (ar) and 101.123
 3 (8) (b) of the statutes; **relating to:** prohibiting smoking in the state capitol
 4 building and on the state capitol grounds 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 the existing law to prohibit smoking in the state capitol building and on the grounds surrounding the capitol building. The bill also provides that no smoking areas may be designated either in the capitol building or on the grounds surrounding the capitol building. A person who violates this bill after being advised that smoking is prohibited must forfeit up to \$50.

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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) (hm) of the statutes is created to read:

2 101.123 (1) (hm) “State capitol grounds” means the area surrounding the state
3 capitol building on the capitol park side of the 4 streets surrounding the state capitol
4 park.

5 **SECTION 2.** 101.123 (2) (ar) of the statutes is created to read:

6 101.123 (2) (ar) Notwithstanding par. (a) and sub. (3), no person may smoke
7 in the state capitol building or on the state capitol grounds.

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

9 101.123 (4) (a) 2. A person in charge or his or her agent may not designate an
10 entire building as a smoking area or designate any smoking areas in the state capitol
11 building or on the state capitol grounds. in a motor bus, hospital or physician’s office
12 or on the premises, indoors or outdoors, of a day care center when children who are
13 receiving day care services are present, except that in a hospital or a unit of a hospital
14 that has as its primary purpose the care and treatment of mental illness, alcoholism
15 or drug abuse a person in charge or his or her agent may designate one or more
16 enclosed rooms with outside ventilation as smoking areas for the use of adult
17 patients who have the written permission of a physician. Subject to this subdivision
18 and sub. (3) (b), a person in charge or his or her agent may not designate an entire
19 room as a smoking area.

20 **SECTION 4.** 101.123 (8) (b) of the statutes is created to read:

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1 101.123 **(8)** (b) Any person who wilfully violates sub. (2) (ar) after being advised
2 by an employe of the facility that smoking in the area is prohibited shall forfeit not
3 more than \$50.

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

5 165.755 **(1)** (b) A court may not impose the crime laboratories and drug law
6 enforcement assessment under par. (a) for a violation of s. 101.123 (2) (a), (am) 1. ~~or~~
7 (ar) or (bm) or (5) (b) or for a violation of a state law or municipal or county ordinance
8 involving a nonmoving traffic violation or a safety belt use violation under s. 347.48
9 (2m).

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

11 165.87 **(2)** (a) Whenever a court imposes a fine or forfeiture for a violation of
12 state law or for a violation of a municipal or county ordinance except for a violation
13 of s. 101.123 (2) (a), (am) 1. ~~or~~ (ar) or (bm) or (5) or state laws or municipal or county
14 ordinances involving nonmoving traffic violations or safety belt use violations under
15 s. 347.48 (2m), there shall be imposed in addition a penalty assessment in an amount
16 of 23% of the fine or forfeiture imposed. If multiple offenses are involved, the penalty
17 assessment shall be based upon the total fine or forfeiture for all offenses. When a
18 fine or forfeiture is suspended in whole or in part, the penalty assessment shall be
19 reduced in proportion to the suspension.

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

21 302.46 **(1)** (a) On or after October 1, 1987, if a court imposes a fine or forfeiture
22 for a violation of state law or for a violation of a municipal or county ordinance except
23 for a violation of s. 101.123 (2) (a), (am) 1. ~~or~~ (ar) or (bm) or (5) or state laws or
24 municipal or county ordinances involving nonmoving traffic violations or safety belt
25 use violations under s. 347.48 (2m), the court, in addition, shall impose a jail

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1 assessment in an amount of 1% of the fine or forfeiture imposed or \$10, whichever
2 is greater. If multiple offenses are involved, the court shall determine the jail
3 assessment on the basis of each fine or forfeiture. If a fine or forfeiture is suspended
4 in whole or in part, the court shall reduce the jail assessment in proportion to the
5 suspension.

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

7 814.63 (1) (c) This subsection does not apply to an action for a violation of s.
8 101.123 (2) (a), (am) 1. ~~or~~ (ar) or (bm) or (5) or a safety belt use violation under s.
9 347.48 (2m).

10 (END)