

1999 DRAFTING REQUEST

Bill

Received: **03/10/99**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pettis (608) 267-2365**

By/Representing: **Himself**

This file may be shown to any legislator: **NO**

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Children - miscellaneous**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Purchase or possession of tobacco products by minor; penalty

Instructions:

Provide for a \$200 forfeiture for a minor who purchases or possesses cigarettes or tobacco products.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1			lpaasch 03/19/99	_____	lrb_docadmin 03/19/99		
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*Not
Needed*

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3 4/9 WLJ 4/14 *CH/SF 4/14*

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Instructions:

Provide for a \$200 forfeiture for a minor who purchases or possesses cigarettes or tobacco products. Increase proportionally (quadruple) forfeitures for a minor who possesses a controlled substance.

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FE Sent For:

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State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2465/1

...GMM:/.....

Wlj

Dvsta

SOON

Gen Cat

1 AN ACT ^{Gen Cat} relating to: the amount of a forfeiture that may be imposed on a
2 person under 18 years of age who possesses cigarettes or tobacco products and
3 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, no person under 18 years of age may buy or attempt to buy any tobacco product, falsely represent his or her age for the purpose of receiving any tobacco product or possess any tobacco product. Currently, a person under 18 years of age who commits any of those acts may be ordered to pay a forfeiture of not more than \$50, placed in a teen court program, ordered to participate in a supervised work program or other community service work or ordered to undergo any combination of those dispositions. In addition, the parent of such a person may also be ordered to pay the forfeiture. This bill increases the maximum amount of a forfeiture that may be imposed on a person under 18 years of age who commits any of those acts and on the parent of such a person to \$200.

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

4 SECTION 1. 778.25 (1) (a) 1. [✓] of the statutes is amended to read:
5 778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983 [✓]
6 961.573 (2), 961.574 (2) or 961.575 (2) or under a local ordinance strictly conforming

1 to one of those statutes brought against an adult in circuit court or against a minor
2 in the court assigned to exercise jurisdiction under chs. 48 and 938.

3 **SECTION 2.** 778.25 (1) (a) 4. of the statutes is repealed.

4 **SECTION 3.** 895.035 (6) of the statutes is amended to read:

5 895.035 (6) Any recovery of restitution under this section shall be reduced by
6 the amount recovered as restitution for the same act under s. 938.245, 938.32, 938.34
7 (5), 938.343 (4) or 938.45 (1r) (a). Any recovery of a forfeiture under this section shall
8 be reduced by the amount recovered as a forfeiture for the same act under s. 938.34
9 (8), 938.343 (2), 938.344 (2r) (a) or 938.45 (1r) (b). Any recovery of a surcharge under
10 this section shall be reduced by the amount recovered as a surcharge under s. 938.34
11 (8d).

12 **SECTION 4.** 938.17 (2) (c) of the statutes is amended to read:

13 938.17 (2) (c) The citation procedures described in ch. 800 shall govern
14 proceedings involving juveniles in municipal court, except that this chapter shall
15 govern the taking and holding of a juvenile in custody and par. (cg) shall govern the
16 issuing of a summons to the juvenile's parent, guardian or legal custodian. When a
17 juvenile is before the court assigned to exercise jurisdiction under this chapter and
18 ch. 48 upon a citation alleging the juvenile to have violated a civil law or municipal
19 ordinance, the procedures specified in s. 938.237 shall apply. If a citation is issued
20 to a juvenile, the issuing agency shall notify the juvenile's parent, guardian and legal
21 custodian within 7 days. The agency issuing a citation to a juvenile who is 12 to 15
22 years of age for a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
23 961.573 (2), 961.574 (2) or 961.575 (2) or an ordinance conforming to one of those
24 statutes shall send a copy to an intake worker under s. 938.24 for informational
25 purposes only.

1 **SECTION 5.** 938.17 (2) (d)[✓] of the statutes is amended to read:

2 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
3 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
4 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983[✓], 961.573 (2),
5 961.574 (2) or 961.575 (2), the court shall enter any of the dispositional orders
6 permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails
7 to pay the forfeiture imposed by the municipal court, the court may not impose a jail
8 sentence but may suspend any license issued under ch. 29 for not less than 30 days
9 nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s.
10 340.01 (40), for not less than 30 days nor more than 5 years. If a court suspends a
11 license or privilege under this section, the court shall immediately take possession
12 of the applicable license and forward it to the department that issued the license,
13 together with the notice of suspension clearly stating that the suspension is for
14 failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the
15 period of suspension, the court shall immediately notify the department, which shall
16 thereupon return the license to the person.

17 **SECTION 6.** 938.17 (2) (d)[✓] of the statutes, as affected by 1999 Wisconsin Act
18 (this act), is repealed and recreated to read:

19 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
20 ordinance other than an ordinance enacted under s. 118:163[✓] or an ordinance that
21 conforms to s. 125.07 (4) (a)[✓] or (b)[✓], 125.085 (3) (b)[✓], 125.09 (2)[✓], 938.983[✓], 961.573 (2)[✓],
22 961.574 (2)[✓] or 961.575 (2)[✓], the court shall enter any of the dispositional orders
23 permitted under s. 938.343[✓] that are authorized under par. (cm)[✓]. If a juvenile fails
24 to pay the forfeiture imposed by the municipal court, the court may not impose a jail
25 sentence but may suspend any license issued under ch. 29[✓] for not more than 2 years,[✓]

1 or suspend the juvenile's operating privilege, as defined in s. 340.01 (40)[✓], for not less
2 than 30 days nor more than 5 years. If a court suspends a license or privilege under
3 this section, the court shall immediately take possession of the applicable license and
4 forward it to the department that issued the license, together with the notice of
5 suspension clearly stating that the suspension is for failure to pay a forfeiture
6 imposed by the court. If the forfeiture is paid during the period of suspension, the
7 court shall immediately notify the department, which shall thereupon return the
8 license to the person.

9 SECTION 7. 938.17 (2) (e)[✓] of the statutes is amended to read:

10 938.17 (2) (e) If a municipal court finds that a juvenile violated a municipal
11 ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983[✓],
12 961.573 (2), 961.574 (2) or 961.575 (2), the court shall enter a dispositional order
13 under s. 938.344 that is authorized under par. (cm).

14 SECTION 8. 938.344 (title)[✓] of the statutes is amended to read:

15 **938.344 (title) Disposition; certain intoxicating liquor, beer, tobacco**
16 **and drug violations.**

17 SECTION 9. 938.344 (2r)[✓] of the statutes is created to read:

18 938.344 (2r) If a court finds that a juvenile has committed a violation of s.
19 938.983 (2) or a local ordinance enacted under s. 938.983 (5), the court, in addition
20 to counseling the person and his or her parent or guardian, shall order the person to
21 do any one or more of the following: (a) Pay a forfeiture not to exceed \$200. Any such
22 order shall include a finding that the person alone is financially able to pay and shall
23 allow up to 12 months for the payment. If a person fails to pay the forfeiture, the court
24 may suspend any license issued under ch. 29 or suspend the person's operating
25 privilege, as defined in s. 340.01 (40)[✓], for not less than 30 days nor more than 5 years.

1 The court shall immediately take possession of the suspended license and forward
2 it to the department that issued the license, together with the notice of suspension
3 clearly stating that the suspension is for failure to pay a forfeiture imposed by the
4 court. If the forfeiture is paid during the period of suspension, the court shall
5 immediately notify the department, which will thereupon return the license to the
6 person. Any recovery under this subsection shall be reduced by the amount
7 recovered as a forfeiture under s. 938.45 (1r) (b).[✓]

8 (b) Participate in a teen court program if all of the following conditions apply:

9 1. The chief judge of the judicial administrative district has approved a teen
10 court program established in the person's county of residence and the judge
11 determines that participation in the teen court program will likely benefit the person
12 and the community.

13 2. The person admits or pleads no contest in open court, with the person's
14 parent, guardian or legal custodian present, to the allegations that the person
15 violated s. 938.983 (2).[✓] or the ordinance enacted under s. 938.983 (5).[✓]

16 3. The person has not successfully completed participation in a teen court
17 program during the 2 years before the date of the alleged violation of s. 938.983 (2).[✓]
18 or the ordinance enacted under s. 938.983 (5).[✓]

19 (c) Participate in a supervised work program or other community service work
20 under s. 938.983 (2t).[✓]

21 **SECTION 10.** 938.344 (2r) (a).[✓] of the statutes, as created by 1999 Wisconsin Act
22 (this act), is amended to read:

23 938.344 (2r) (a) Pay a forfeiture not to exceed \$200. Any such order shall
24 include a finding that the person alone is financially able to pay and shall allow up
25 to 12 months for the payment. If a person fails to pay the forfeiture, the court may

1 suspend any license issued under ch. 29[✓] or suspend the person's operating privilege,
 2 as defined in s. 340.01 (40)[✓], for not less than 30 days nor more than 5 2 years. The
 3 court shall immediately take possession of the suspended license and forward it to
 4 the department that issued the license, together with the notice of suspension clearly
 5 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
 6 the forfeiture is paid during the period of suspension, the court shall immediately
 7 notify the department, which will thereupon return the license to the person. Any
 8 recovery under this subsection shall be reduced by the amount recovered as a
 9 forfeiture under s. 938.45 (1r) (b)[✓].

10 **SECTION 11.** 938.344 (3)[✓] of the statutes is amended to read:

11 938.344 (3) If ~~the~~ a juvenile who is alleged to have committed ~~the~~ a violation
 12 of s. 125.07 (4) (a)[✓] or (b)[✓], 125.085 (3) (b)[✓], 125.09 (2)[✓] or 938.983[✓], or of a local ordinance
 13 that strictly conforms to one of those statutes, is within 3 months of his or her 17th
 14 birthday, the court assigned to exercise jurisdiction under this chapter and ch. 48
 15 may, at the request of the district attorney or on its own motion, dismiss the citation
 16 without prejudice and refer the matter to the district attorney for prosecution under
 17 s. 125.07 (4) (a)[✓] or (b)[✓], 125.085 (3) (b)[✓], 125.09 (2)[✓] or 938.983[✓] or a local ordinance that
 18 strictly conforms to one of those statutes. The juvenile is entitled to a hearing only
 19 on the issue of his or her age. This subsection does not apply to violations under s.
 20 961.573 (2), 961.574 (2) or 961.575 (2) or a local ordinance that strictly conforms to
 21 one of those statutes.

22 **SECTION 12.** 938.45 (1r) (b)[✓] of the statutes is amended to read:

23 938.45 (1r) (b) In a proceeding in which the court has determined under s.
 24 938.34 (8) ~~or~~, 938.343 (2) or 938.344 (2r) (a) that the imposition of a forfeiture would
 25 be in the best interest of the juvenile and in aid of rehabilitation, the court may order

1 a parent who has custody, as defined in s. 895.035 (1), of the juvenile to pay the
2 forfeiture. The amount of any forfeiture ordered under this paragraph may not
3 exceed the amount specified in s. 799.01 (1)(d). Any order under this paragraph shall
4 include a finding that the parent who has custody of the juvenile is financially able
5 to pay the amount ordered and shall allow up to 12 months after the date of the order
6 for the payment. Any recovery under this paragraph shall be reduced by the amount
7 recovered as a forfeiture for the same act under s. 938.34 (8) ~~or~~, 938.343 (2) or 938.344
8 (2r) (a).

9 **SECTION 13.** 938.983 (2r)[✓] of the statutes is created to read:

10 938.983 (2r) Subject to sub. (2v)[✓], any person who violates sub. (2)[✓] is subject to
11 counseling by the court and to any one or more of the following dispositions:

12 (a) A forfeiture not to exceed \$200. Any such order shall include a finding that
13 the person alone is financially able to pay and shall allow up to 12 months for the
14 payment. If a person fails to pay the forfeiture, the court may suspend any license
15 issued under ch. 29 or suspend the person's operating privilege, as defined in s.
16 340.01 (40)[✓], for not less than 30 days nor more than 5 years. The court shall
17 immediately take possession of the suspended license and forward it to the
18 department that issued the license, together with the notice of suspension clearly
19 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
20 the forfeiture is paid during the period of suspension, the court shall immediately
21 notify the department, which will thereupon return the license to the person. Any
22 recovery under this paragraph[✓] shall be reduced by the amount recovered as a
23 forfeiture under s. 938.45 (1r) (b)[✓].

24 (b) Placement in a teen court program if all of the following conditions apply:

1 1. The chief judge of the judicial administrative district has approved a teen
2 court program established in the person's county of residence and the judge
3 determines that participation in the teen court program will likely benefit the person
4 and the community.

5 2. The person admits or pleads no contest in open court, with the person's
6 parent, guardian or legal custodian present, to the allegations that the person
7 violated sub. (2)[✓] or the ordinance enacted under sub. (5)[✓].

8 3. The person has not successfully completed participation in a teen court
9 program during the 2 years before the date of the alleged violation of sub. (2)[✓] or the
10 ordinance enacted under sub. (5)[✓].

11 (c) Participation in a supervised work program administered by the county
12 department or a community agency approved by the court or other community
13 service work administered by a public agency or nonprofit charitable organization
14 approved by the court as described in sub. (2t)[✓].

15 **SECTION 14. 938.983 (2r) (a)**[✓] of the statutes, as created by 1999 Wisconsin Act
16 (this act), is amended to read:

17 938.983 (2r) (a) A forfeiture not to exceed \$200. Any such order shall include
18 a finding that the person alone is financially able to pay and shall allow up to 12
19 months for the payment. If a person fails to pay the forfeiture, the court may suspend
20 any license issued under ch. 29 or suspend the person's operating privilege, as
21 defined in s. 340.01 (40), for not less than 30 days nor more than 5 2 years. The court
22 shall immediately take possession of the suspended license and forward it to the
23 department that issued the license, together with the notice of suspension clearly
24 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
25 the forfeiture is paid during the period of suspension, the court shall immediately

1 notify the department, which will thereupon return the license to the person. Any
2 recovery under this paragraph shall be reduced by the amount recovered as a
3 forfeiture under s. 938.45 (1r) (b).

4 **Section 15.** 938.983 (2t) of the statutes is created to read:

5 938.983 (2t) (a) The court shall set standards for the supervised work program
6 under sub. (2r) (c) within the budgetary limits established by the county board of
7 supervisors. The supervised work program may provide the person with reasonable
8 compensation reflecting a reasonable market value of the work performed or it may
9 consist of uncompensated community service work. The court may use any available
10 resources, including any community service work program, in ordering the person
11 to perform community service work under sub. (2r).

12 (b) The supervised work program or other community service work shall be of
13 a constructive nature designed to promote the person's rehabilitation, shall be
14 appropriate to the person's age level and physical ability and shall be combined with
15 counseling from a member of the staff of the county department, community agency,
16 public agency or nonprofit charitable organization or other qualified person. The
17 supervised work program or other community service work may not conflict with the
18 person's regular attendance at school. The amount of work required shall be
19 reasonably related to the seriousness of the person's offense.

20 **Section 16.** 938.983 (2v) of the statutes is created to read:

21 938.983 (2v) A person who is under 17 years of age on the date of disposition
22 is subject to s. 938.344 unless proceedings have been instituted against the person
23 in a court of civil or criminal jurisdiction after dismissal of the citation under s.
24 938.344 (3).

25 **SECTION 17. Initial applicability.**

A.R. "A"

1 (1) (a) The treatment of sections 778.25 (1) (a) 1. and 4., 895.035 (6), 938.17 (2)
 2 (c) and (e), 938.344 (title) and (3), 938.45 (1r) (b) and 938.983 (2t) and (2v) of the
 3 statutes, the amendment of section 938.17 (2) (d) of the statutes and the creation of
 4 sections 938.344 (2r) and 938.983 (2r) of the statutes first apply to a violation of
 5 section 938.983 (2) of the statutes occurring on the effective date this paragraph.

6 (b) The amendment of sections 938.344 (2r) (a) and 938.983 (2r) (a) of the
 7 statutes and the repeal and recreation of section 938.17 (2) (d) of the statutes first
 8 apply to a violation of section 938.983 (2) of the statutes occurring on the effective
 9 date of this paragraph.

10 **SECTION 18. Effective dates.** This act takes effect on the day after publication,
 11 except as follows:

12 (1) The amendment of sections 938.344 (2r) (a) and 938.983 (2r) (a) of the
 13 statutes, the repeal and recreation of section 938.17 (2) (d) of the statutes and
 14 SECTION 17 (1) (b) of this act take effect on May 1, 2000, or on the date stated in the
 15 notice published by the secretary of transportation in the Wisconsin Administrative
 16 Register under section 85.515 of the statutes, whichever is earlier.

17 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2465/1dn
GMM...|.....

Wlj

At first glance the attached draft might appear to be a bit involved for a draft whose only substantive effect is to raise the forfeiture for a person under 18 years of age who possesses tobacco to \$200. The length of the draft is attributable to all of the following:

1. Moving the dispositions for underage tobacco possession, including all of the dispositions under current law, *e.g.*, teen court, supervised work and counseling by the court, from s. 938.343, which pertains to civil law and ordinance violations in general, to s. 938.344, which currently pertains to alcohol violations. This removal also necessitated amending several related provisions to insert a cross reference to s. 938.983, which is the statute that prohibits underage tobacco possession.

2. Replicating in s. 938.983 the dispositions set forth in s. 938.344 for underage tobacco possession. This replication is necessary to bring 18-year-olds within the scope of the law as "juvenile" is defined for purposes of s. 938.344 as a person under 17 years of age.

3. Conforming the draft to 1997 Wisconsin Act 84, which as of May 1, 2000, provides for a uniform maximum driver's license suspension of 2 years for nonpayment of a forfeiture.

If you have any questions about this draft, please do not hesitate to contact me directly.

Gordon M. Malaise
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2465/1dn
GMM:wjl:lp

March 19, 1999

At first glance the attached draft might appear to be a bit involved for a draft whose only substantive effect is to raise the forfeiture for a person under 18 years of age who possesses tobacco to \$200. The length of the draft is attributable to all of the following:

1. Moving the dispositions for underage tobacco possession, including all of the dispositions under current law, *e.g.*, teen court, supervised work and counseling by the court, from s. 938.343, which pertains to civil law and ordinance violations in general, to s. 938.344, which currently pertains to alcohol violations. This removal also necessitated amending several related provisions to insert a cross reference to s. 938.983, which is the statute that prohibits underage tobacco possession.

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3. Conforming the draft to 1997 Wisconsin Act 84, which as of May 1, 2000, provides for a uniform maximum driver's license suspension of 2 years for nonpayment of a forfeiture.

If you have any questions about this draft, please do not hesitate to contact me directly.

Gordon M. Malaise
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WFO: Analysis insert
is out of order.

1999 BILL

, the amount of a forfeiture that may be imposed on
a juvenile who possesses a controlled substance,
a controlled substance analog or drug
paraphernalia

1 **AN ACT** ^{Reger} **to repeal** 778.25 (1) (a) 4.; **to amend** 778.25 (1) (a) 1., 895.035 (6), 938.17

2 (2) (c), 938.17 (2) (d), 938.17 (2) (e), 938.344 (title), 938.344 (2r) (a), 938.344 (3),

3 938.45 (1r) (b) and 938.983 (2r) (a); **to repeal and recreate** 938.17 (2) (d); and

4 **to create** 938.344 (2r), 938.983 (2r), 938.983 (2t) and 938.983 (2v) of the

5 statutes; **relating to:** the amount of a forfeiture that may be imposed on a

6 person under 18 years of age who possesses cigarettes or tobacco products and

7 providing ~~penalties~~ ^{penalties}

Analysis by the Legislative Reference Bureau

Under current law, no person under 18 years of age may buy or attempt to buy any tobacco product, falsely represent his or her age for the purpose of receiving any tobacco product or possess any tobacco product. Currently, a person under 18 years of age who commits any of those acts may be ordered to pay a forfeiture of not more than \$50, placed in a teen court program, ordered to participate in a supervised work program or other community service work or ordered to undergo any combination of those dispositions. In addition, the parent of such a person may also be ordered to pay the forfeiture. This bill increases the maximum amount of a forfeiture that may

BILL

be imposed on a person under 18 years of age who commits any of those acts and on the parent of such a person to \$200.

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

SECTION 1. 778.25 (1) (a) 1. of the statutes is amended to read:

778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983, 961.573 (2), 961.574 (2) or 961.575 (2) or under a local ordinance strictly conforming to one of those statutes brought against an adult in circuit court or against a minor in the court assigned to exercise jurisdiction under chs. 48 and 938.

SECTION 2. 778.25 (1) (a) 4. of the statutes is repealed.

SECTION 3. 895.035 (6) of the statutes is amended to read:

895.035 (6) Any recovery of restitution under this section shall be reduced by the amount recovered as restitution for the same act under s. 938.245, 938.32, 938.34 (5), 938.343 (4) or 938.45 (1r) (a). Any recovery of a forfeiture under this section shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.34 (8), 938.343 (2), 938.344 (2r) (a) or 938.45 (1r) (b). Any recovery of a surcharge under this section shall be reduced by the amount recovered as a surcharge under s. 938.34 (8d).

SECTION 4. 938.17 (2) (c) of the statutes is amended to read:

938.17 (2) (c) The citation procedures described in ch. 800 shall govern proceedings involving juveniles in municipal court, except that this chapter shall govern the taking and holding of a juvenile in custody and par. (cg) shall govern the issuing of a summons to the juvenile's parent, guardian or legal custodian. When a juvenile is before the court assigned to exercise jurisdiction under this chapter and ch. 48 upon a citation alleging the juvenile to have violated a civil law or municipal

BILL

1 ordinance, the procedures specified in s. 938.237 shall apply. If a citation is issued
2 to a juvenile, the issuing agency shall notify the juvenile's parent, guardian and legal
3 custodian within 7 days. The agency issuing a citation to a juvenile who is 12 to 15
4 years of age for a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
5 961.573 (2), 961.574 (2) or 961.575 (2) or an ordinance conforming to one of those
6 statutes shall send a copy to an intake worker under s. 938.24 for informational
7 purposes only.

8 **SECTION 5.** 938.17 (2) (d) of the statutes is amended to read:

9 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
10 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
11 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983, 961.573 (2),
12 961.574 (2) or 961.575 (2), the court shall enter any of the dispositional orders
13 permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails
14 to pay the forfeiture imposed by the municipal court, the court may not impose a jail
15 sentence but may suspend any license issued under ch. 29 for not less than 30 days
16 nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s.
17 340.01 (40), for not less than 30 days nor more than 5 years. If a court suspends a
18 license or privilege under this section, the court shall immediately take possession
19 of the applicable license and forward it to the department that issued the license,
20 together with the notice of suspension clearly stating that the suspension is for
21 failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the
22 period of suspension, the court shall immediately notify the department, which shall
23 thereupon return the license to the person.

24 **SECTION 6.** 938.17 (2) (d) of the statutes, as affected by 1999 Wisconsin Act ...
25 (this act), is repealed and recreated to read:

BILL

SECTION 6

1 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
 2 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
 3 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983, 961.573 (2),
 4 961.574 (2) or 961.575 (2), the court shall enter any of the dispositional orders
 5 permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails
 6 to pay the forfeiture imposed by the municipal court, the court may not impose a jail
 7 sentence but may suspend any license issued under ch. 29 for not more than 2 years,
 8 or suspend the juvenile’s operating privilege, as defined in s. 340.01 (40), for not less
 9 than 30 days nor more than 5 years. If a court suspends a license or privilege under
 10 this section, the court shall immediately take possession of the applicable license and
 11 forward it to the department that issued the license, together with the notice of
 12 suspension clearly stating that the suspension is for failure to pay a forfeiture
 13 imposed by the court. If the forfeiture is paid during the period of suspension, the
 14 court shall immediately notify the department, which shall thereupon return the
 15 license to the person.

16 **SECTION 7.** 938.17 (2) (e) of the statutes is amended to read:

17 938.17 (2) (e) If a municipal court finds that a juvenile violated a municipal
 18 ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
 961.573 (2), 961.574 (2) or 961.575 (2), the court shall enter a dispositional order
 under s. 938.344 that is authorized under par. (cm).

19
 Insert
 4-20
 20

21 **SECTION 8.** 938.344 (title) of the statutes is amended to read:

22 **938.344 (title) Disposition; certain intoxicating liquor, beer, tobacco**
 23 **and drug violations.**

23
 Insert
 4-23
 24

24 **SECTION 9.** 938.344 (2r) of the statutes is created to read:

BILL

1 938.344 (2r) If a court finds that a juvenile has committed a violation of s.
2 938.983 (2) or a local ordinance enacted under s. 938.983 (5), the court, in addition
3 to counseling the person and his or her parent or guardian, shall order the person to
4 do any one or more of the following:

5 (a) Pay a forfeiture not to exceed \$200. Any such order shall include a finding
6 that the person alone is financially able to pay and shall allow up to 12 months for
7 the payment. If a person fails to pay the forfeiture, the court may suspend any license
8 issued under ch. 29 or suspend the person's operating privilege, as defined in s.
9 340.01 (40), for not less than 30 days nor more than 5 years. The court shall
10 immediately take possession of the suspended license and forward it to the
11 department that issued the license, together with the notice of suspension clearly
12 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
13 the forfeiture is paid during the period of suspension, the court shall immediately
14 notify the department, which will thereupon return the license to the person. Any
15 recovery under this subsection shall be reduced by the amount recovered as a
16 forfeiture under s. 938.45 (1r) (b).

17 (b) Participate in a teen court program if all of the following conditions apply:

18 1. The chief judge of the judicial administrative district has approved a teen
19 court program established in the person's county of residence and the judge
20 determines that participation in the teen court program will likely benefit the person
21 and the community.

22 2. The person admits or pleads no contest in open court, with the person's
23 parent, guardian or legal custodian present, to the allegations that the person
24 violated s. 938.983 (2) or the ordinance enacted under s. 938.983 (5).

BILL**SECTION 9**

1 3. The person has not successfully completed participation in a teen court
2 program during the 2 years before the date of the alleged violation of s. 938.983 (2)
3 or the ordinance enacted under s. 938.983 (5).

4 (c) Participate in a supervised work program or other community service work
5 under s. 938.983 (2t).

6 **SECTION 10.** 938.344 (2r) (a) of the statutes, as created by 1999 Wisconsin Act
7 (this act), is amended to read:

8 938.344 (2r) (a) Pay a forfeiture not to exceed \$200. Any such order shall
9 include a finding that the person alone is financially able to pay and shall allow up
10 to 12 months for the payment. If a person fails to pay the forfeiture, the court may
11 suspend any license issued under ch. 29 or suspend the person's operating privilege,
12 as defined in s. 340.01 (40), for not less than 30 days nor more than 5 2 years. The
13 court shall immediately take possession of the suspended license and forward it to
14 the department that issued the license, together with the notice of suspension clearly
15 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
16 the forfeiture is paid during the period of suspension, the court shall immediately
17 notify the department, which will thereupon return the license to the person. Any
18 recovery under this subsection shall be reduced by the amount recovered as a
19 forfeiture under s. 938.45 (1r) (b).

20 **SECTION 11.** 938.344 (3) of the statutes is amended to read:

21 938.344 (3) If ~~the a juvenile who is~~ alleged to have committed ~~the a violation~~
22 of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983, or of a local ordinance
23 that strictly conforms to one of those statutes, is within 3 months of his or her 17th
24 birthday, the court assigned to exercise jurisdiction under this chapter and ch. 48
25 may, at the request of the district attorney or on its own motion, dismiss the citation

BILL

1 without prejudice and refer the matter to the district attorney for prosecution under
2 s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983, or a local ordinance that
3 strictly conforms to one of those statutes. The juvenile is entitled to a hearing only
4 on the issue of his or her age. This subsection does not apply to violations under s.
5 961.573 (2), 961.574 (2) or 961.575 (2) or a local ordinance that strictly conforms to
6 one of those statutes.

7 **SECTION 12.** 938.45 (1r) (b) of the statutes is amended to read:

8 938.45 (1r) (b) In a proceeding in which the court has determined under s.
9 938.34 (8) or, 938.343 (2) or 938.344 (2r) (a) that the imposition of a forfeiture would
10 be in the best interest of the juvenile and in aid of rehabilitation, the court may order
11 a parent who has custody, as defined in s. 895.035 (1), of the juvenile to pay the
12 forfeiture. The amount of any forfeiture ordered under this paragraph may not
13 exceed the amount specified in s. 799.01 (1)(d). Any order under this paragraph shall
14 include a finding that the parent who has custody of the juvenile is financially able
15 to pay the amount ordered and shall allow up to 12 months after the date of the order
16 for the payment. Any recovery under this paragraph shall be reduced by the amount
17 recovered as a forfeiture for the same act under s. 938.34 (8) ~~or~~, 938.343 (2) or 938.344
18 (2r) (a).

19 **SECTION 13.** 938.983 (2r) of the statutes is created to read:

20 938.983 (2r) Subject to sub. (2v), any person who violates sub. (2) is subject to
21 counseling by the court and to any one or more of the following dispositions:

22 (a) A forfeiture not to exceed \$200. Any such order shall include a finding that
23 the person alone is financially able to pay and shall allow up to 12 months for the
24 payment. If a person fails to pay the forfeiture, the court may suspend any license
25 issued under ch. 29 or suspend the person's operating privilege, as defined in s.

BILL

1 340.01 (40), for not less than 30 days nor more than 5 years. The court shall
2 immediately take possession of the suspended license and forward it to the
3 department that issued the license, together with the notice of suspension clearly
4 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
5 the forfeiture is paid during the period of suspension, the court shall immediately
6 notify the department, which will thereupon return the license to the person. Any
7 recovery under this paragraph shall be reduced by the amount recovered as a
8 forfeiture under s. 938.45 (1r) (b).

9 (b) Placement in a teen court program if all of the following conditions apply:

10 1. The chief judge of the judicial administrative district has approved a teen
11 court program established in the person's county of residence and the judge
12 determines that participation in the teen court program will likely benefit the person
13 and the community.

14 2. The person admits or pleads no contest in open court, with the person's
15 parent, guardian or legal custodian present, to the allegations that the person
16 violated sub. (2) or the ordinance enacted under sub. (5).

17 3. The person has not successfully completed participation in a teen court
18 program during the 2 years before the date of the alleged violation of sub. (2) or the
19 ordinance enacted under sub. (5).

20 (c) Participation in a supervised work program administered by the county
21 department or a community agency approved by the court or other community
22 service work administered by a public agency or nonprofit charitable organization
23 approved by the court as described in sub. (2t).

24 **SECTION 14.** 938.983 (2r) (a) of the statutes, as created by 1999 Wisconsin Act
25 (this act), is amended to read:

BILL

1 938.983 (2r) (a) A forfeiture not to exceed \$200. Any such order shall include
2 a finding that the person alone is financially able to pay and shall allow up to 12
3 months for the payment. If a person fails to pay the forfeiture, the court may suspend
4 any license issued under ch. 29 or suspend the person's operating privilege, as
5 defined in s. 340.01 (40), for not less than ~~30 days~~ nor more than ~~5~~ 2 years. The court
6 shall immediately take possession of the suspended license and forward it to the
7 department that issued the license, together with the notice of suspension clearly
8 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
9 the forfeiture is paid during the period of suspension, the court shall immediately
10 notify the department, which will thereupon return the license to the person. Any
11 recovery under this paragraph shall be reduced by the amount recovered as a
12 forfeiture under s. 938.45 (1r) (b).

13 **SECTION 15.** 938.983 (2t) of the statutes is created to read:

14 938.983 (2t) (a) The court shall set standards for the supervised work program
15 under sub. (2r) (c) within the budgetary limits established by the county board of
16 supervisors. The supervised work program may provide the person with reasonable
17 compensation reflecting a reasonable market value of the work performed or it may
18 consist of uncompensated community service work. The court may use any available
19 resources, including any community service work program, in ordering the person
20 to perform community service work under sub. (2r).

21 (b) The supervised work program or other community service work shall be of
22 a constructive nature designed to promote the person's rehabilitation, shall be
23 appropriate to the person's age level and physical ability and shall be combined with
24 counseling from a member of the staff of the county department, community agency,
25 public agency or nonprofit charitable organization or other qualified person. The

BILL

1 supervised work program or other community service work may not conflict with the
2 person's regular attendance at school. The amount of work required shall be
3 reasonably related to the seriousness of the person's offense.

4 **SECTION 16.** 938.983 (2v) of the statutes is created to read:

5 938.983 (2v) A person who is under 17 years of age on the date of disposition
6 is subject to s. 938.344 unless proceedings have been instituted against the person
7 in a court of civil or criminal jurisdiction after dismissal of the citation under s.
8 938.344 (3). (b) POSSESSION OF CIGARETTES OR TOBACCO PRODUCTS.

9 **SECTION 17. Initial applicability.**

10 (1)(a) The treatment of sections 778.25 (1) (a) 1. and 4., 895.035 (6), 938.17 (2)
11 (c) and (e), 938.344 (title) and (3), 938.45 (1r) (b) and 938.983 (2t) and (2v) of the
12 statutes, the amendment of section 938.17 (2) (d) of the statutes and the creation of
13 sections 938.344 (2r) and 938.983 (2r) of the statutes first apply to a violation of
14 section 938.983 (2) of the statutes occurring on the effective date this paragraph.

15 (b) The amendment of sections 938.344 (2r) (a) and 938.983 (2r) (a) of the
16 statutes and the repeal and recreation of section 938.17 (2) (d) of the statutes first
apply to a violation of section 938.983 (2) of the statutes occurring on the effective
date of this paragraph.

19 **SECTION 18. Effective dates.** This act takes effect on the day after publication,

20 except as follows: (b) POSSESSION OF CIGARETTES OR TOBACCO PRODUCTS.

21 (1) The amendment of sections 938.344 (2r) (a) and 938.983 (2r) (a) of the
22 statutes, the repeal and recreation of section 938.17 (2) (d) of the statutes and
23 SECTION 17 (1) (b) of this act take effect on May 1, 2000, or on the date stated in the

Insert
17
10-18 18

BILL

1 notice published by the secretary of transportation in the Wisconsin Administrative
2 Register under section 85.515 of the statutes, whichever is earlier.

3 (END)

Insert 4-20

Section #. 938.34 (14s) (a) 1. of the statutes is amended to read:

\$200

938.34 (14s) (a) 1. For a first violation, a forfeiture of not more than ~~\$500~~

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; s. 13.93 (2) (c).



Insert 4-20

Section #. 938.34 (14s) (a) 2. of the statutes is amended to read:

\$400

938.34 (14s) (a) 2. For a violation committed within 12 months of a previous violation, a forfeiture of not more than ~~\$100~~.

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; s. 13.93 (2) (c).

↙

Insert 4-20

Section #. 938.34 (14s) (a) 3. of the statutes is amended to read:

\$2,000

938.34 (14s) (a) 3. For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than ~~\$500~~.

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; s. 13.93 (2) (c).



Insert 4-20

Section #. 938.34 (14s) (am) 1. of the statutes is amended to read:

\$1,000

\$2,000

938.34 (14s) (am) 1. For a first violation, a forfeiture of not less than ~~\$250~~ nor more than ~~\$500~~.

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; s. 13.93 (2) (c).



Insert 4-20

Section #. 938.34 (14s) (am) 2. of the statutes is amended to read:

\$1200

938.34 (14s) (am) 2. For a violation committed within 12 months of a previous violation, a forfeiture of not less than ~~\$300~~.

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; s. 13.93 (2) (c).



Consent 4-20

Section #. 938.34 (14s) (am) 3. of the statutes is amended to read:

\$2000

938.34 (14s) (am) 3. For a violation committed within 12 months of 2 or more previous violations, a forfeiture of \$500.

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; s. 13.93 (2) (c).

(end of text)

Amend 4-23

Section #. 938.344 (2e) (a) 1. of the statutes is amended to read:

\$200

938.344 (2e) (a) 1. For a first violation, a forfeiture of not more than ~~\$50~~ or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g) or both.

History: 1995 a. 77, 448; 1997 a. 84.

✓

Insert 4-23

Section #. 938.344 (2e) (a) 2. of the statutes is amended to read:

\$400

938.344 (2e) (a) 2. For a violation committed within 12 months of a previous violation, a forfeiture of not more than ~~\$100~~ or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g) or both.

History: 1995 a. 77, 448; 1997 a. 84.

U

Insert 4-23

Section #. 938.344 (2e) (a) 3. of the statutes is amended to read:

\$2,000

938.344 (2e) (a) 3. For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than ~~\$500~~ or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g) or both.

History: 1995 a. 77, 448; 1997 a. 84.

(end insert)

Insert 10-18

(2) (b) POSSESSION OF CONTROLLED SUBSTANCES, CONTROLLED
SUBSTANCE ANALOGS OR DRUG PARAPHERNALIA. The treatment
of sections 939.34 (14s) (a) 1, 2, and 3, and (am) 1, 2,
and 3, and 939.344(2e) (a) 1, 2, and 3, of the statutes
first applies to a violation of section 961.41 (1), (1m),
or (3g), 961.573 (2), ~~961.574~~ 961.574 (2) or 961.575
(2) of the statutes occurring on the effective date of
this subsection, but does not preclude the counting of
other violations as prior violations for purposes of
imposing a disposition on a juvenile.

End of insert

Insert A

¶ Under current law, a juvenile who possesses a controlled substance or a controlled substance analog, in addition to any other disposition that may be imposed under the code juvenile justice, is subject to a forfeiture of not more than \$50 for a first violation, a forfeiture of not more than \$120 for a violation committed within 12 months of a previous violation and a forfeiture of not more than \$500 for a violation committed within 12 months of ^{two} ~~one~~ or more previous violations. ¶ A juvenile who manufactures, distributes or delivers, or who possesses with intent to manufacture, distribute or deliver, a controlled substance or a controlled substance analog, in addition to any other disposition that may be imposed under the juvenile justice code, is subject to a forfeiture of not less than \$250 nor more than \$500 for a first violation, a forfeiture of not less than \$300 for a violation committed within 12 months of a previous violation and a forfeiture of \$500 for a violation

Insert A

committed within 12 months of ^{two} ~~A~~ or more previous
violations. A juvenile who uses ^{or} possesses with the
primary intent to use, or who delivers, possesses with
intent to deliver or manufactures with intent to deliver,
drug paraphernalia is subject to suspension or revocation
of the juvenile's ^{operating} privilege for not less than ^{six} ~~4~~ months
or more than ^{five} ~~10~~ years and to a forfeiture of not
more than \$50 or participation in a supervised work
program, or both, for a first violation, a forfeiture of not
more than ^{\$100} \$100 or participation in a supervised work
program, or both, for a violation committed within 12
months of a previous violation and a forfeiture of not
more than \$500 ~~for a violation~~ or participation in a
supervised work program, or both, for a violation committed
within 12 months of ^{two} ~~10~~ or more previous violations.
§ (This bill) increases the ^{maximum} amount of the forfeiture

Insert A

that may be imposed on a juvenile who possesses a controlled substance ^{or} a controlled substance analog to ^{\$200} \$200 for a first violation, ^{\$400} \$400 for a violation committed within 12 months of a previous violation and ^{\$2,000} \$2,000 for a violation committed within 12 months of ^{two} ~~one~~ or more previous violations.

The bill also increases the forfeitures that may be imposed on a juvenile who manufactures, distributes or delivers, or who possesses with intent to manufacture, distribute or deliver, a controlled substance or a controlled substance analog to not less than ^{\$1,000} \$1,000 nor more than ^{\$2,000} \$2,000 for a first violation, not less than ^{\$1,200} \$1,200 for a violation committed within 12 months of a previous violation and ^{\$2,000} \$2,000 for a violation committed within 12 months of ^{two} ~~one~~ or more previous violations.

Finally, the bill increases the maximum amount of a forfeiture that may be imposed on a juvenile who uses or possesses with the primary intent to use, or who delivers, possesses

Insert A

with intent to deliver or manufactures with intent to
deliver, drug paraphernalia to ^{\$200} \$200 for a first violation,
^{\$400} \$400 for a violation committed within 12 months of a
^{\$2,000} previous violation and \$2,000 for a violation committed
within 12 months of ^{two} ~~one~~ or more previous violations.

(end of insert)



1999 BILL

1 **AN ACT** ^{Regen} ~~to repeal~~ 778.25 (1) (a) 4.; **to amend** 778.25 (1) (a) 1., 895.035 (6), 938.17
2 (2) (c), 938.17 (2) (d), 938.17 (2) (e), 938.34 (14s) (a) 1., 938.34 (14s) (a) 2., 938.34
3 (14s) (a) 3., 938.34 (14s) (am) 1., 938.34 (14s) (am) 2., 938.34 (14s) (am) 3.,
4 938.344 (title), 938.344 (2e) (a) 1., 938.344 (2e) (a) 2., 938.344 (2e) (a) 3., 938.344
5 (2r) (a), 938.344 (3), 938.45 (1r) (b) and 938.983 (2r) (a); **to repeal and recreate**
6 938.17 (2) (d); and **to create** 938.344 (2r), 938.983 (2r), 938.983 (2t) and 938.983
7 (2v) of the statutes; **relating to:** the amount of a forfeiture that may be imposed
8 on a person under 18 years of age who possesses cigarettes or tobacco products,
9 ~~the amount of a forfeiture that may be imposed on a juvenile who possesses a~~
10 ~~controlled substance, a controlled substance analog or drug paraphernalia and~~
11 ~~providing penalties.~~ ^{penalty}

Repeal

Analysis by the Legislative Reference Bureau

Under current law, no person under 18 years of age may buy or attempt to buy any tobacco product, falsely represent his or her age for the purpose of receiving any tobacco product or possess any tobacco product. Currently, a person under 18 years of age who commits any of those acts may be ordered to pay a forfeiture of not more

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than \$50, placed in a teen court program, ordered to participate in a supervised work program or other community service work or ordered to undergo any combination of those dispositions. In addition, the parent of such a person may also be ordered to pay the forfeiture. This bill increases the maximum amount of a forfeiture that may be imposed on a person under 18 years of age who commits any of those acts and on the parent of such a person to \$200.

~~Under current law, a juvenile who possesses a controlled substance or a controlled substance analog, in addition to any other disposition that may be imposed under the juvenile justice code, is subject to a forfeiture of not more than \$50 for a first violation, a forfeiture of not more than \$100 for a violation committed within 12 months of a previous violation and a forfeiture of not more than \$500 for a violation committed within 12 months of two or more previous violations. A juvenile who manufactures, distributes or delivers, or who possesses with intent to manufacture, distribute or deliver, a controlled substance or a controlled substance analog, in addition to any other disposition that may be imposed under the juvenile justice code, is subject to a forfeiture of not less than \$250 nor more than \$500 for a first violation, a forfeiture of not less than \$300 for a violation committed within 12 months of a previous violation and a forfeiture of \$500 for a violation committed within 12 months of two or more previous violations. A juvenile who uses or possesses with the primary intent to use, or who delivers, possesses with intent to deliver or manufactures with intent to deliver, drug paraphernalia is subject to suspension or revocation of the juvenile's operating privilege for not less than six months nor more than five years and to a forfeiture of not more than \$50 or participation in a supervised work program, or both, for a first violation, a forfeiture of not more than \$100 or participation in a supervised work program, or both, for a violation committed within 12 months of a previous violation and a forfeiture of not more than \$500 or participation in a supervised work program, or both, for a violation committed within 12 months of two or more previous violations.~~

This bill increases the maximum amount of a forfeiture that may be imposed on a juvenile who possesses a controlled substance or a controlled substance analog to \$200 for a first violation, \$400 for a violation committed within 12 months of a previous violation and \$2,000 for a violation committed within 12 months of two or more previous violations. The bill also increases the forfeitures that may be imposed on a juvenile who manufactures, distributes or delivers, or who possesses with intent to manufacture, distribute or deliver, a controlled substance or a controlled substance analog to not less than \$1,000 nor more than \$2,000 for a first violation, not less than \$1,200 for a violation committed within 12 months of a previous violation and \$2,000 for a violation committed within 12 months of two or more previous violations. Finally, the bill increases the maximum amount of a forfeiture that may be imposed on a juvenile who uses or possesses with the primary intent to use, or who delivers, possesses with intent to deliver or manufactures with intent to deliver, drug paraphernalia to \$200 for a first violation, \$400 for a violation

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~~committed within 12 months of a previous violation and \$2,000 for a violation committed within 12 months of two or more previous violations.~~

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

1 **SECTION 1.** 778.25 (1) (a) 1. of the statutes is amended to read:

2 778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
3 961.573 (2), 961.574 (2) or 961.575 (2) or under a local ordinance strictly conforming
4 to one of those statutes brought against an adult in circuit court or against a minor
5 in the court assigned to exercise jurisdiction under chs. 48 and 938.

6 **SECTION 2.** 778.25 (1) (a) 4. of the statutes is repealed.

7 **SECTION 3.** 895.035 (6) of the statutes is amended to read:

8 895.035 (6) Any recovery of restitution under this section shall be reduced by
9 the amount recovered as restitution for the same act under s. 938.245, 938.32, 938.34
10 (5), 938.343 (4) or 938.45 (1r) (a). Any recovery of a forfeiture under this section shall
11 be reduced by the amount recovered as a forfeiture for the same act under s. 938.34
12 (8), 938.343 (2), 938.344 (2r) (a) or 938.45 (1r) (b). Any recovery of a surcharge under
13 this section shall be reduced by the amount recovered as a surcharge under s. 938.34
14 (8d).

15 **SECTION 4.** 938.17 (2) (c) of the statutes is amended to read:

16 938.17 (2) (c) The citation procedures described in ch. 800 shall govern
17 proceedings involving juveniles in municipal court, except that this chapter shall
18 govern the taking and holding of a juvenile in custody and par. (cg) shall govern the
19 issuing of a summons to the juvenile's parent, guardian or legal custodian. When a
20 juvenile is before the court assigned to exercise jurisdiction under this chapter and
21 ch. 48 upon a citation alleging the juvenile to have violated a civil law or municipal

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1 ordinance, the procedures specified in s. 938.237 shall apply. If a citation is issued
2 to a juvenile, the issuing agency shall notify the juvenile's parent, guardian and legal
3 custodian within 7 days. The agency issuing a citation to a juvenile who is 12 to 15
4 years of age for a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
5 961.573 (2), 961.574 (2) or 961.575 (2) or an ordinance conforming to one of those
6 statutes shall send a copy to an intake worker under s. 938.24 for informational
7 purposes only.

8 **SECTION 5.** 938.17 (2) (d) of the statutes is amended to read:

9 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
10 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
11 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983, 961.573 (2),
12 961.574 (2) or 961.575 (2), the court shall enter any of the dispositional orders
13 permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails
14 to pay the forfeiture imposed by the municipal court, the court may not impose a jail
15 sentence but may suspend any license issued under ch. 29 for not less than 30 days
16 nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s.
17 340.01 (40), for not less than 30 days nor more than 5 years. If a court suspends a
18 license or privilege under this section, the court shall immediately take possession
19 of the applicable license and forward it to the department that issued the license,
20 together with the notice of suspension clearly stating that the suspension is for
21 failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the
22 period of suspension, the court shall immediately notify the department, which shall
23 thereupon return the license to the person.

24 **SECTION 6.** 938.17 (2) (d) of the statutes, as affected by 1999 Wisconsin Act
25 (this act), is repealed and recreated to read:

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1 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
2 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
3 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983, 961.573 (2),
4 961.574 (2) or 961.575 (2), the court shall enter any of the dispositional orders
5 permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails
6 to pay the forfeiture imposed by the municipal court, the court may not impose a jail
7 sentence but may suspend any license issued under ch. 29 for not more than 2 years,
8 or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less
9 than 30 days nor more than 5 years. If a court suspends a license or privilege under
10 this section, the court shall immediately take possession of the applicable license and
11 forward it to the department that issued the license, together with the notice of
12 suspension clearly stating that the suspension is for failure to pay a forfeiture
13 imposed by the court. If the forfeiture is paid during the period of suspension, the
14 court shall immediately notify the department, which shall thereupon return the
15 license to the person.

16 **SECTION 7.** 938.17 (2) (e) of the statutes is amended to read:

17 938.17 (2) (e) If a municipal court finds that a juvenile violated a municipal
18 ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
19 961.573 (2), 961.574 (2) or 961.575 (2), the court shall enter a dispositional order
20 under s. 938.344 that is authorized under par. (cm).

21 ~~**SECTION 8.** 938.34 (14s) (a) 1. of the statutes is amended to read:~~

22 ~~938.34 (14s) (a) 1. For a first violation, a forfeiture of not more than \$50 \$200.~~

23 ~~**SECTION 9.** 938.34 (14s) (a) 2. of the statutes is amended to read:~~

24 ~~938.34 (14s) (a) 2. For a violation committed within 12 months of a previous~~
25 ~~violation, a forfeiture of not more than \$100 \$400.~~

BILL**SECTION 10**

1 **SECTION 10.** 938.34 (14s) (a) 3. of the statutes is amended to read:

2 938.34 (14s) (a) 3. For a violation committed within 12 months of 2 or more
3 previous violations, a forfeiture of not more than ~~\$500~~ \$2,000.

4 **SECTION 11.** 938.34 (14s) (am) 1. of the statutes is amended to read:

5 938.34 (14s) (am) 1. For a first violation, a forfeiture of not less than ~~\$250~~
6 \$1,000 nor more than ~~\$500~~ \$2,000.

7 **SECTION 12.** 938.34 (14s) (am) 2. of the statutes is amended to read:

8 938.34 (14s) (am) 2. For a violation committed within 12 months of a previous
9 violation, a forfeiture of not less than ~~\$300~~ \$1,200.

10 **SECTION 13.** 938.34 (14s) (am) 3. of the statutes is amended to read:

11 938.34 (14s) (am) 3. For a violation committed within 12 months of 2 or more
12 previous violations, a forfeiture of ~~\$500~~ \$2,000.

13 **SECTION 14.** 938.344 (title) of the statutes is amended to read:

14 **938.344 (title) Disposition; certain intoxicating liquor, beer, tobacco**
15 **and drug violations.**

16 ~~**SECTION 15.** 938.344 (2e) (a) 1. of the statutes is amended to read:~~

17 938.344 (2e) (a) 1. For a first violation, a forfeiture of not more than ~~\$50~~ \$200
18 or the juvenile's participation in a supervised work program or other community
19 service work under s. 938.34 (5g) or both.

20 ~~**SECTION 16.** 938.344 (2e) (a) 2. of the statutes is amended to read:~~

21 938.344 (2e) (a) 2. For a violation committed within 12 months of a previous
22 violation, a forfeiture of not more than ~~\$100~~ \$400 or the juvenile's participation in
23 a supervised work program or other community service work under s. 938.34 (5g) or
24 both.

25 ~~**SECTION 17.** 938.344 (2e) (a) 3. of the statutes is amended to read:~~

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1 ~~938.344 (2e) (a) 3. For a violation committed within 12 months of 2 or more~~
2 ~~previous violations, a forfeiture of not more than \$500 \$2,000 or the juvenile's~~
3 ~~participation in a supervised work program or other community service work under~~
4 ~~s. 938.34 (5g) or both.~~

5 **SECTION 18.** 938.344 (2r) of the statutes is created to read:

6 938.344 (2r) If a court finds that a juvenile has committed a violation of s.
7 938.983 (2) or a local ordinance enacted under s. 938.983 (5), the court, in addition
8 to counseling the person and his or her parent or guardian, shall order the person to
9 do any one or more of the following:

10 (a) Pay a forfeiture not to exceed \$200. Any such order shall include a finding
11 that the person alone is financially able to pay and shall allow up to 12 months for
12 the payment. If a person fails to pay the forfeiture, the court may suspend any license
13 issued under ch. 29 or suspend the person's operating privilege, as defined in s.
14 340.01 (40), for not less than 30 days nor more than 5 years. The court shall
15 immediately take possession of the suspended license and forward it to the
16 department that issued the license, together with the notice of suspension clearly
17 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
18 the forfeiture is paid during the period of suspension, the court shall immediately
19 notify the department, which will thereupon return the license to the person. Any
20 recovery under this subsection shall be reduced by the amount recovered as a
21 forfeiture under s. 938.45 (1r) (b).

22 (b) Participate in a teen court program if all of the following conditions apply:

23 1. The chief judge of the judicial administrative district has approved a teen
24 court program established in the person's county of residence and the judge

BILL**SECTION 18**

1 determines that participation in the teen court program will likely benefit the person
2 and the community.

3 2. The person admits or pleads no contest in open court, with the person's
4 parent, guardian or legal custodian present, to the allegations that the person
5 violated s. 938.983 (2) or the ordinance enacted under s. 938.983 (5).

6 3. The person has not successfully completed participation in a teen court
7 program during the 2 years before the date of the alleged violation of s. 938.983 (2)
8 or the ordinance enacted under s. 938.983 (5).

9 (c) Participate in a supervised work program or other community service work
10 under s. 938.983 (2t).

11 **SECTION 19.** 938.344 (2r) (a) of the statutes, as created by 1999 Wisconsin Act
12 ... (this act), is amended to read:

13 938.344 (2r) (a) Pay a forfeiture not to exceed \$200. Any such order shall
14 include a finding that the person alone is financially able to pay and shall allow up
15 to 12 months for the payment. If a person fails to pay the forfeiture, the court may
16 suspend any license issued under ch. 29 or suspend the person's operating privilege,
17 as defined in s. 340.01 (40), for not less than 30 days nor more than 5 2 years. The
18 court shall immediately take possession of the suspended license and forward it to
19 the department that issued the license, together with the notice of suspension clearly
20 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
21 the forfeiture is paid during the period of suspension, the court shall immediately
22 notify the department, which will thereupon return the license to the person. Any
23 recovery under this subsection shall be reduced by the amount recovered as a
24 forfeiture under s. 938.45 (1r) (b).

25 **SECTION 20.** 938.344 (3) of the statutes is amended to read:

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1 938.344 (3) If ~~the~~ a juvenile who is alleged to have committed ~~the~~ a violation
2 of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983, or of a local ordinance
3 that strictly conforms to one of those statutes, is within 3 months of his or her 17th
4 birthday, the court assigned to exercise jurisdiction under this chapter and ch. 48
5 may, at the request of the district attorney or on its own motion, dismiss the citation
6 without prejudice and refer the matter to the district attorney for prosecution under
7 s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983, or a local ordinance that
8 strictly conforms to one of those statutes. The juvenile is entitled to a hearing only
9 on the issue of his or her age. This subsection does not apply to violations under s.
10 961.573 (2), 961.574 (2) or 961.575 (2) or a local ordinance that strictly conforms to
11 one of those statutes.

12 **SECTION 21.** 938.45 (1r) (b) of the statutes is amended to read:

13 938.45 (1r) (b) In a proceeding in which the court has determined under s.
14 938.34 (8) ~~or~~, 938.343 (2) or 938.344 (2r) (a) that the imposition of a forfeiture would
15 be in the best interest of the juvenile and in aid of rehabilitation, the court may order
16 a parent who has custody, as defined in s. 895.035 (1), of the juvenile to pay the
17 forfeiture. The amount of any forfeiture ordered under this paragraph may not
18 exceed the amount specified in s. 799.01 (1)(d). Any order under this paragraph shall
19 include a finding that the parent who has custody of the juvenile is financially able
20 to pay the amount ordered and shall allow up to 12 months after the date of the order
21 for the payment. Any recovery under this paragraph shall be reduced by the amount
22 recovered as a forfeiture for the same act under s. 938.34 (8) ~~or~~, 938.343 (2) or 938.344
23 (2r) (a).

24 **SECTION 22.** 938.983 (2r) of the statutes is created to read:

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1 938.983 (2r) Subject to sub. (2v), any person who violates sub. (2) is subject to
2 counseling by the court and to any one or more of the following dispositions:

3 (a) A forfeiture not to exceed \$200. Any such order shall include a finding that
4 the person alone is financially able to pay and shall allow up to 12 months for the
5 payment. If a person fails to pay the forfeiture, the court may suspend any license
6 issued under ch. 29 or suspend the person's operating privilege, as defined in s.
7 340.01 (40), for not less than 30 days nor more than 5 years. The court shall
8 immediately take possession of the suspended license and forward it to the
9 department that issued the license, together with the notice of suspension clearly
10 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
11 the forfeiture is paid during the period of suspension, the court shall immediately
12 notify the department, which will thereupon return the license to the person. Any
13 recovery under this paragraph shall be reduced by the amount recovered as a
14 forfeiture under s. 938.45 (1r) (b).

15 (b) Placement in a teen court program if all of the following conditions apply:

16 1. The chief judge of the judicial administrative district has approved a teen
17 court program established in the person's county of residence and the judge
18 determines that participation in the teen court program will likely benefit the person
19 and the community.

20 2. The person admits or pleads no contest in open court, with the person's
21 parent, guardian or legal custodian present, to the allegations that the person
22 violated sub. (2) or the ordinance enacted under sub. (5).

23 3. The person has not successfully completed participation in a teen court
24 program during the 2 years before the date of the alleged violation of sub. (2) or the
25 ordinance enacted under sub. (5).

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1 (c) Participation in a supervised work program administered by the county
2 department or a community agency approved by the court or other community
3 service work administered by a public agency or nonprofit charitable organization
4 approved by the court as described in sub. (2t).

5 **SECTION 23.** 938.983 (2r) (a) of the statutes, as created by 1999 Wisconsin Act
6 ... (this act), is amended to read:

7 938.983 (2r) (a) A forfeiture not to exceed \$200. Any such order shall include
8 a finding that the person alone is financially able to pay and shall allow up to 12
9 months for the payment. If a person fails to pay the forfeiture, the court may suspend
10 any license issued under ch. 29 or suspend the person's operating privilege, as
11 defined in s. 340.01 (40), for not less than 30 days nor more than 5 2 years. The court
12 shall immediately take possession of the suspended license and forward it to the
13 department that issued the license, together with the notice of suspension clearly
14 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
15 the forfeiture is paid during the period of suspension, the court shall immediately
16 notify the department, which will thereupon return the license to the person. Any
17 recovery under this paragraph shall be reduced by the amount recovered as a
18 forfeiture under s. 938.45 (1r) (b).

19 **SECTION 24.** 938.983 (2t) of the statutes is created to read:

20 938.983 (2t) (a) The court shall set standards for the supervised work program
21 under sub. (2r) (c) within the budgetary limits established by the county board of
22 supervisors. The supervised work program may provide the person with reasonable
23 compensation reflecting a reasonable market value of the work performed or it may
24 consist of uncompensated community service work. The court may use any available

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1 resources, including any community service work program, in ordering the person
2 to perform community service work under sub. (2r).

3 (b) The supervised work program or other community service work shall be of
4 a constructive nature designed to promote the person's rehabilitation, shall be
5 appropriate to the person's age level and physical ability and shall be combined with
6 counseling from a member of the staff of the county department, community agency,
7 public agency or nonprofit charitable organization or other qualified person. The
8 supervised work program or other community service work may not conflict with the
9 person's regular attendance at school. The amount of work required shall be
10 reasonably related to the seriousness of the person's offense.

11 **SECTION 25.** 938.983 (2v) of the statutes is created to read:

12 938.983 (2v) A person who is under 17 years of age on the date of disposition
13 is subject to s. 938.344 unless proceedings have been instituted against the person
14 in a court of civil or criminal jurisdiction after dismissal of the citation under s.
15 938.344 (3).

16 **SECTION 26. Initial applicability.**

17 (1) POSSESSION OF CIGARETTES OR TOBACCO PRODUCTS. (a) The treatment of
18 sections 778.25 (1) (a) 1. and 4., 895.035 (6), 938.17 (2) (c) and (e), 938.344 (title) and
19 (3), 938.45 (1r) (b) and 938.983 (2t) and (2v) of the statutes, the amendment of section
20 938.17 (2) (d) of the statutes and the creation of sections 938.344 (2r) and 938.983 (2r)
21 of the statutes first apply to a violation of section 938.983 (2) of the statutes occurring
22 on the effective date this paragraph.

23 (b) The amendment of sections 938.344 (2r) (a) and 938.983 (2r) (a) of the
24 statutes and the repeal and recreation of section 938.17 (2) (d) of the statutes first

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1 apply to a violation of section 938.983 (2) of the statutes occurring on the effective
2 date of this paragraph.

3 ~~(2) POSSESSION OF CONTROLLED SUBSTANCES, CONTROLLED SUBSTANCE ANALOGS OR~~
4 ~~DRUG PARAPHERNALIA. The treatment of sections 938.34 (14s) (a) 1., 2. and 3. and (am)~~
5 ~~1., 2. and 3. and 938.344 (2e) (a) 1., 2. and 3. of the statutes first applies to a violation~~
6 ~~of section 961.41 (1), (1m) or (3g), 961.573 (2), 961.574 (2) or 961.575 (2) of the~~
7 ~~statutes occurring on the effective date of this subsection, but does not preclude the~~
8 ~~counting of other violations as prior violations for purposes of imposing a disposition~~
9 ~~on a juvenile.~~

10 **SECTION 27. Effective dates.** This act takes effect on the day after publication,
11 except as follows:

12 (1) POSSESSION OF CIGARETTES OR TOBACCO PRODUCTS. The amendment of sections
13 938.344 (2r) (a) and 938.983 (2r) (a) of the statutes, the repeal and recreation of
14 section 938.17 (2) (d) of the statutes and SECTION 26 (1) (b) of this act take effect on
15 May 1, 2000, or on the date stated in the notice published by the secretary of
16 transportation in the Wisconsin Administrative Register under section 85.515 of the
17 statutes, whichever is earlier.

18 (END)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 4/14/99

To: Representative Pettis

Relating to LRB drafting number: LRB-2465

Topic

Purchase or possession of tobacco products by minor; penalty

Subject(s)

Children - miscellaneous

1. **JACKET** the draft for introduction X
in the **Senate** _____ or the **Assembly** X (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Gordon M. Malaise, Senior Legislative Attorney
Telephone: (608) 266-9738