

## 1999 ASSEMBLY BILL 675

January 25, 2000 – Introduced by Representatives STASKUNAS, HUEBSCH, HUTCHISON, BRANDEMUEHL, URBAN, ALBERS, JESKEWITZ, SYKORA, AINSWORTH and HUNDERTMARK, cosponsored by Senators BURKE, ROSENZWEIG, DARLING and HUELSMAN. Referred to Committee on State Affairs.

1     **AN ACT** *to repeal* 125.07 (4) (b) and 125.07 (4) (c); and *to amend* 48.24 (2m) (a)  
2           2., 110.07 (1) (a) 1., 125.07 (1) (a) 4., 125.07 (4) (a) 2., 125.07 (4) (cd), 125.07 (4)  
3           (cg) 1., 125.07 (4) (cm), 125.07 (4) (e) 1., 125.07 (4) (e) 2. (intro.), 125.07 (4) (e)  
4           4., 125.07 (4) (e) 5., 125.09 (2) (d), 125.10 (2), 343.30 (6) (a), 343.30 (6) (b) (intro.),  
5           778.25 (1) (a) 1., 938.17 (2) (c), 938.17 (2) (d), 938.17 (2) (e), 938.24 (2m) (a) 2.  
6           and 938.344 (2) (intro.) of the statutes; **relating to:** underage persons  
7           possessing or consuming alcohol beverages and providing a penalty.

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### ***Analysis by the Legislative Reference Bureau***

Current law establishes penalties for an underage person who unlawfully possesses or consumes alcohol beverages that differ based on where the offense is committed. If the offense is committed on premises licensed to sell alcohol beverages, the violator may be required to pay a forfeiture of not less than \$250 nor more than \$500 for a first offense; for a second or subsequent offense committed within one year, the amount of the forfeiture is increased to not less than \$300 nor more than \$1,000, depending on the number of prior offenses within the previous year. If the offense is committed anywhere other than on licensed premises, the penalties are generally lower: a violator may be required to pay a forfeiture of not less than \$100 nor more than \$200 for a first offense; for a second or subsequent offense committed within one year the amount of the forfeiture is increased to not less than \$200 nor more than

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\$1,000 depending on the number of prior offenses within the previous year. Additional penalties may apply to either offense, including suspension of the violator's operating privilege or required participation in a supervised work program or other community service work.

This bill eliminates the difference in penalties based on the locations where offenses of underage persons possessing or consuming alcohol beverages occur. Under the bill, an underage person who unlawfully possesses or consumes alcohol beverages is subject to the penalties that currently apply to those offenses committed on premises licensed to sell alcohol beverages, regardless of where the offense is committed: for a first offense, a forfeiture of not less than \$250 nor more than \$500; for the second offense within one year, a forfeiture of not less than \$300 nor more than \$500; for a third offense within one year, a forfeiture of not less than \$500 nor more than \$750; for a fourth or subsequent offense within one year, a forfeiture of not less than \$750 nor more than \$1,000. Additional penalties may apply to any offense, including suspension of the violator's operating privilege or required participation in a supervised work program or other community service work.

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

1           **SECTION 1.** 48.24 (2m) (a) 2. of the statutes is amended to read:

2           48.24 **(2m)** (a) 2. Any child alleged to be in need of protection and services who  
3 has at least 2 prior adjudications for a violation of s. 125.07 (4) (a) ~~or~~ 125.07 (4) (b)  
4 , 1997 stats., 125.085 (3) (b) or 125.09 (2) or a local ordinance that strictly conforms  
5 to any of those sections.

6           **SECTION 2.** 110.07 (1) (a) 1. of the statutes is amended to read:

7           110.07 **(1)** (a) 1. Enforce and assist in the administration of this chapter and  
8 chs. 166, 194, 218, 341 to 349 and 351, and ss. 23.33, 125.07 (4) ~~(b)~~ (a) 2., 125.085 (3)  
9 (b), 167.31 (2) (b) to (d) and 287.81 and ch. 350 where applicable to highways, or  
10 orders or rules issued pursuant thereto.

11           **SECTION 3.** 125.07 (1) (a) 4. of the statutes is amended to read:

12           125.07 **(1)** (a) 4. No adult may intentionally encourage or contribute to a  
13 violation of sub. (4) (a) ~~or (b)~~.

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1           **SECTION 4.** 125.07 (4) (a) 2. of the statutes is amended to read:

2           125.07 (4) (a) 2. Unless accompanied by a parent, guardian or spouse who has  
3 attained the legal drinking age, possesses or consumes alcohol beverages on licensed  
4 premises.

5           **SECTION 5.** 125.07 (4) (b) of the statutes is repealed.

6           **SECTION 6.** 125.07 (4) (c) of the statutes is repealed.

7           **SECTION 7.** 125.07 (4) (cd) of the statutes is amended to read:

8           125.07 (4) (cd) For purposes of par. (bs) ~~or (e)~~, all violations arising out of the  
9 same incident or occurrence shall be counted as a single violation.

10          **SECTION 8.** 125.07 (4) (cg) 1. of the statutes is amended to read:

11          125.07 (4) (cg) 1. A supervised work program ordered under par. (bs) ~~or (e)~~ shall  
12 be administered by the county department under s. 46.215 or 46.22 or by a  
13 community agency approved by the court. The court shall set standards for the  
14 supervised work program within the budgetary limits established by the county  
15 board of supervisors. The supervised work program may provide the person with  
16 reasonable compensation reflecting the market value of the work performed or it  
17 may consist of uncompensated community service work. Community service work  
18 ordered under par. (bs) ~~or (e)~~, other than community service work performed under  
19 a supervised work program, shall be administered by a public agency or nonprofit  
20 charitable organization approved by the court. The court may use any available  
21 resources, including any community service work program, in ordering the person  
22 to perform community service work under par. (bs) ~~or (e)~~.

23          **SECTION 9.** 125.07 (4) (cm) of the statutes is amended to read:

24          125.07 (4) (cm) When a court revokes or suspends a person's operating privilege  
25 under par. (bs) ~~or (e)~~, the department of transportation may not disclose information

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1 concerning or relating to the revocation or suspension to any person other than a  
2 court, district attorney, county corporation counsel, city, village or town attorney, law  
3 enforcement agency or the person whose operating privilege is revoked or suspended.  
4 A person entitled to receive information under this paragraph may not disclose the  
5 information to any other person or agency.

6 **SECTION 10.** 125.07 (4) (e) 1. of the statutes is amended to read:

7 125.07 (4) (e) 1. In this paragraph, “defendant” means a person found guilty  
8 of violating par. (a) ~~or (b)~~ who is 17, 18, 19 or 20 years of age.

9 **SECTION 11.** 125.07 (4) (e) 2. (intro.) of the statutes is amended to read:

10 125.07 (4) (e) 2. (intro.) After ordering a penalty under par. (bs) ~~or (c)~~, the court,  
11 with the agreement of the defendant, may enter an additional order staying the  
12 execution of the penalty order and suspending or modifying the penalty imposed.  
13 The order under this subdivision shall require the defendant to do any of the  
14 following:

15 **SECTION 12.** 125.07 (4) (e) 4. of the statutes is amended to read:

16 125.07 (4) (e) 4. If the defendant completes the alcohol abuse treatment  
17 program or court-approved alcohol abuse education program, the approved  
18 treatment facility or court-approved alcohol abuse education program shall, with  
19 the written informed consent of the defendant, notify the agency primarily  
20 responsible for providing services to the defendant that the defendant has complied  
21 with the order and the court shall notify the defendant of whether or not the penalty  
22 will be reinstated. If the court had ordered the suspension of the defendant’s  
23 operating privilege under par. (bs) ~~or (c)~~, the court may order the secretary of  
24 transportation to reinstate the operating privilege of the defendant if he or she

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1 completes the alcohol abuse treatment program or court–approved alcohol abuse  
2 education program.

3 **SECTION 13.** 125.07 (4) (e) 5. of the statutes is amended to read:

4 125.07 **(4)** (e) 5. If an approved treatment facility or court–approved alcohol  
5 abuse education program, with the written informed consent of the defendant,  
6 notifies the agency primarily responsible for providing services to the defendant that  
7 the defendant is not participating in the program or that the defendant has not  
8 satisfactorily completed a recommended alcohol abuse treatment program or an  
9 education program, the court shall hold a hearing to determine whether the  
10 penalties under par. (bs) ~~or (e)~~ should be imposed.

11 **SECTION 14.** 125.09 (2) (d) of the statutes is amended to read:

12 125.09 **(2)** (d) A person who violates this subsection is subject to a forfeiture of  
13 not more than \$200, except that ss. 125.07 (4) ~~(e)~~ and (d) and 938.344 provide the  
14 penalties applicable to underage persons.

15 **SECTION 15.** 125.10 (2) of the statutes is amended to read:

16 125.10 **(2)** REGULATION OF UNDERAGE PERSONS. A municipality or a county may  
17 enact an ordinance regulating conduct regulated by s. 125.07 (1) or (4) (a), ~~(b)~~ or (bm),  
18 125.085 (3) (b) or 125.09 (2) only if it strictly conforms to the statutory subsection.  
19 A county ordinance enacted under this subsection does not apply within any  
20 municipality that has enacted or enacts an ordinance under this subsection.

21 **SECTION 16.** 343.30 (6) (a) of the statutes is amended to read:

22 343.30 **(6)** (a) In this subsection, “violation” means a violation of s. 125.07 (4)  
23 (a) ~~or (b)~~, 125.085 (3) (b) or 125.09 (2) or a local ordinance that strictly conforms to  
24 one of those statutes or a law of a federally recognized American Indian tribe or band  
25 in this state that strictly conforms to one of those statutes.

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1           **SECTION 17.** 343.30 (6) (b) (intro.) of the statutes is amended to read:

2           343.30 **(6)** (b) (intro.) If a court imposes suspension or revocation of a person's  
3 operating privilege under s. ~~125.07 (4) (c)~~ or 938.344 (2), (2b) or (2d), the suspension  
4 or revocation imposed shall be one of the following:

5           **SECTION 18.** 778.25 (1) (a) 1. of the statutes is amended to read:

6           778.25 **(1)** (a) 1. Under s. 125.07 (4) (a) ~~or (b)~~, 125.085 (3) (b), 125.09 (2), 961.573  
7 (2), 961.574 (2) or 961.575 (2) or under a local ordinance strictly conforming to one  
8 of those statutes brought against an adult in circuit court or against a minor in the  
9 court assigned to exercise jurisdiction under chs. 48 and 938.

10          **SECTION 19.** 938.17 (2) (c) of the statutes is amended to read:

11          938.17 **(2)** (c) The citation procedures described in ch. 800 shall govern  
12 proceedings involving juveniles in municipal court, except that this chapter shall  
13 govern the taking and holding of a juvenile in custody and par. (cg) shall govern the  
14 issuing of a summons to the juvenile's parent, guardian or legal custodian. When a  
15 juvenile is before the court assigned to exercise jurisdiction under this chapter and  
16 ch. 48 upon a citation alleging the juvenile to have violated a civil law or municipal  
17 ordinance, the procedures specified in s. 938.237 shall apply. If a citation is issued  
18 to a juvenile, the issuing agency shall notify the juvenile's parent, guardian and legal  
19 custodian within 7 days. The agency issuing a citation to a juvenile who is 12 to 15  
20 years of age for a violation of s. 125.07 (4) (a) ~~or (b)~~, 125.085 (3) (b), 125.09 (2), 961.573  
21 (2), 961.574 (2) or 961.575 (2) or an ordinance conforming to one of those statutes  
22 shall send a copy to an intake worker under s. 938.24 for informational purposes only.

23          **SECTION 20.** 938.17 (2) (d) of the statutes, as affected by 1999 Wisconsin Act 9,  
24 is amended 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), 961.573 (2), 961.574 (2)  
4 or 961.575 (2), the court shall enter any of the dispositional orders permitted under  
5 s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture  
6 imposed by the municipal court, the court may not impose a jail sentence but may  
7 suspend any license issued under ch. 29 for not less than 30 days nor more than 5  
8 years, or, unless the forfeiture was imposed for violating an ordinance unrelated to  
9 the juvenile's operation of a motor vehicle, may suspend the juvenile's operating  
10 privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years.  
11 If a court suspends a license or privilege under this section, the court shall  
12 immediately take possession of the applicable 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 shall thereupon return the license to the person.

17           **SECTION 21.** 938.17 (2) (e) of the statutes is amended to read:

18           938.17 (2) (e) If a municipal court finds that a juvenile violated a municipal  
19 ordinance that conforms to s. 125.07 (4) (a) ~~or (b)~~, 125.085 (3) (b), 125.09 (2), 961.573  
20 (2), 961.574 (2) or 961.575 (2), the court shall enter a dispositional order under s.  
21 938.344 that is authorized under par. (cm).

22           **SECTION 22.** 938.24 (2m) (a) 2. of the statutes is amended to read:

23           938.24 (2m) (a) 2. Any juvenile alleged to be delinquent or in need of protection  
24 and services who has at least 2 prior adjudications for a violation of s. 125.07 (4) (a)

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1 or 125.07 (4) (b, 1997 stats., 125.085 (3) (b) or 125.09 (2) or a local ordinance that  
2 strictly conforms to any of those sections.

3 **SECTION 23.** 938.344 (2) (intro.) of the statutes is amended to read:

4 938.344 (2) (intro.) If a court finds a juvenile committed a violation under s.  
5 ~~125.07 (4) (b) or~~ 125.09 (2), or a local ordinance that strictly conforms to one of those  
6 statutes, the court shall order one or any combination of the following penalties:

7 **SECTION 24. Initial applicability.**

8 (1) This act first applies to alcohol beverages possessed or consumed on July  
9 1, 2000, or on the first day of the 4th month beginning after publication, whichever  
10 is later.

11 (END)