

**1999 DRAFTING REQUEST**

**Bill**

Received: 09/22/98

Received By: mlief

Wanted: As time permits

Identical to LRB:

For: Fred Risser (608) 266-1627

By/Representing: himself

This file may be shown to any legislator: NO

Drafter: mlief

May Contact:

Alt. Drafters:

Subject: Buildings/Safety - clean ind air

Extra Copies: RCT

**Pre Topic:**

No specific pre topic given

**Topic:**

Prohibiting smoking in the state capitol building and on the state capitol grounds

**Instructions:**

See Attached

**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>
/?	mlief 09/23/98	jgeller 09/23/98		_____			State
/1			ismith 09/23/98	_____	lrb_docadmin 09/23/98		State
/2	rmarchan 03/16/99	jgeller 03/16/99	lpaasch 03/17/99	_____	lrb_docadmin 03/17/99	lrb_docadmin 04/27/99	

FE Sent For:

↪ 05-05-99

<END>

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/?	mlief 09/23/98	jgeller 09/23/98		_____			State
/1		<i>12/3/98 jg</i> ismith 09/23/98		_____	lrb_docadmin 09/23/98		

FE Sent For:

*3-17-L.P. 3-17-L.P.  
ch*

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1?	mlief	1-9-23-98 JLG	IS 9/23	IS/JF 9/23			

FE Sent For:

<END>

Received 9/22/98

**FRED A. RISSER**

**State Senator**

September 14, 1998



Madelon J. Lief  
Legislative Reference Bureau - Legal Section  
100 North Hamilton - 3<sup>rd</sup> Floor  
Madison, Wi. 53703

Dear Madelon:

I'm writing to request that 1997 Senate Bill 98 relating to prohibiting smoking in the state capitol building and on the state capitol grounds be redrafted for introduction during the upcoming 1999-2001 legislative session.

If you have any questions relative to this request, please feel free to contact me.

Thank you.

Most sincerely,

  
FRED A. RISSER  
State Senator

FAR:ca

## ~~1997 SENATE BILL 98~~

~~February 26, 1997 - Introduced by Senators CLAUSING, RISSER, ROSENZWEIG and WIRCH, cosponsored by Representatives WALKER, HANDRICK, BOCK, DOBYNS, KREIBICH and L. YOUNG. Referred to Committee on Health, Human Services, Aging, Corrections, Veterans and Military Affairs.~~

Regen

1 AN ACT *to amend* 101.123 (4) (a) 2. and 101.123 (8) (a); and *to create* 101.123  
2 (1) (hm) and 101.123 (2) (ar) of the statutes; **relating to:** prohibiting smoking  
3 in the state capitol building and on the state capitol grounds and providing a  
4 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 in either ~~the~~ capitol building or on the grounds surrounding the capitol building.

**SENATE BILL 98**

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)<sup>X</sup> of the statutes is created to read:

2           101.123 (1) (hm) "State capitol grounds"<sup>✓</sup> means the area surrounding the state  
3 capitol building on the capitol park side of the 4<sup>✓</sup> streets surrounding the state capitol  
4 park.

5           **SECTION 2.** 101.123 (2) (ar)<sup>X</sup> of the statutes is created to read:

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

8           **SECTION 3.** 101.123 (4) (a) 2.<sup>X</sup> 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<sup>✓</sup> 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) (a)<sup>X</sup> of the statutes is amended to read:

PROOF W/FOLIO

**SENATE BILL 98**

PROOF  
W/FOLIO

1  
2  
3  
4  
5

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

(END)



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-02816<sup>2</sup>  
~~MR: jlg~~  
RJM: jlg

1999 BILL

RMR

DNOTE

re-gen. cont.

1 AN ACT to amend ~~101.123 (4) (a) 2. and 101.123 (8) (a); and to create 101.123~~  
2 ~~10 (hm) and 101.123 (2) (ar)~~ of the statutes; relating to: prohibiting smoking  
3 in the state capitol building and on the state capitol grounds and providing a  
4 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. ✓*

**BILL**

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) (a) of the statutes is amended to read:

Insert 2-20 ✓

**BILL**

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

5

(END)

INSERT 3-5

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0281/2ins  
RJM:.....

2-20

SECTION 1. 101.123 (8) (b) <sup>x</sup> of the statutes is created to read:

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

3-5

SECTION 2. 165.755 (1) (b) <sup>x</sup> of the statutes is amended to read:

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

SECTION 3. 165.87 (2) (a) <sup>x</sup> of the statutes is amended to read:

165.87 (2) (a) Whenever a court imposes a fine or forfeiture for a violation of state law or for a violation of a municipal or county ordinance except for a violation of s. 101.123 (2) (a), (am) 1. ~~or~~ <sup>✓</sup> (ar) <sup>✓</sup> or (bm) or (5) or state laws or municipal or county ordinances involving nonmoving traffic violations or safety belt use violations under s. 347.48 (2m), there shall be imposed in addition a penalty assessment in an amount of 23% of the fine or forfeiture imposed. If multiple offenses are involved, the penalty

assessment shall be based upon the total fine or forfeiture for all offenses. When a fine or forfeiture is suspended in whole or in part, the penalty assessment shall be reduced in proportion to the suspension.

**SECTION 4.** 302.46 (1) (a) <sup>✓</sup> of the statutes is amended to read:

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

**SECTION 5.** 814.63 (1) (c) <sup>✓</sup> of the statutes is amended to read:

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

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

LRB-0281/2dn

RJM:.....

Jg

1. The attached draft creates a \$50 forfeiture for anyone who smokes in the capitol or on capitol grounds after being advised that smoking is prohibited. A person in charge of the state capitol who fails to post no smoking signs as required under s. 101.123(5), state, would still be subject to the current \$10 forfeiture. Please contact me if these penalties are not consistent with your intent.

This draft corrects a number of cross-references to clarify that certain penalty assessments do not apply to a person convicted of violating the proposed s. 101.123 (2) (ar). These ~~provisions~~ generally do not apply to violations of anti-smoking statutes. Please let me know if these provisions are inconsistent with your intent.

assessments

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: Robert.Marchant@legis.state.wi.us

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

LRB-0281/2dn  
RJM:jlg:lp

March 17, 1999

This draft corrects a number of cross-references to clarify that certain penalty assessments do not apply to a person convicted of violating the proposed s. 101.123 (2) (ar). These assessments generally do not apply to violations of antismoking statutes. Please let me know if these provisions are inconsistent with your intent.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: Robert.Marchant@legis.state.wi.us

**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:** 3/17/99

**To:** Senator Risser

**Relating to LRB drafting number:** LRB-0281

**Topic**

Prohibiting smoking in the state capitol building and on the state capitol grounds

**Subject(s)**

Buildings/Safety - clean ind air

1. **JACKET** the draft for introduction \_\_\_\_\_

*Sen Risser*

in the **Senate**  or the **Assembly** \_\_\_\_\_ (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.

Madelon J. Lief, Legislative Attorney  
Telephone: (608) 267-7380