

2001 DRAFTING REQUEST

Bill

Received: 10/30/2000

Received By: gibsom

Wanted: As time permits

Identical to LRB:

For: Marlin Schneider (608) 266-0215

By/Representing:

This file may be shown to any legislator: NO

Drafter: gibsom

May Contact:

Alt. Drafters:

Subject: Trade Regulation - cigs/tobacco

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Tobacco free school zones

Instructions:

Same as 99-0379/1

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>
/?	gibsom 11/27/2000	gilfokm 12/07/2000		_____			
/1			jfrantze 12/12/2000	_____	lrb_docadmin 12/12/2000	lrb_docadmin 01/17/2001	

FE Sent For:

<END>

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1/?	gibsom	1-12/17 King	12/12	To King 12/12			

FE Sent For:

<END>

D-Note

in 7
11/24/00

1999 ASSEMBLY BILL 16

January 14, 1999 - Introduced by Representatives SCHNEIDER, BOYLE, BERCEAU and PETTIS. Referred to Committee on State Affairs.

and

INSERT ANL

GEN. CAT.

1 AN ACT to create 101.123 (2) (br) and 118.115 of the statutes; relating to:
2 smoking ~~of~~ using tobacco products at or near a school and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, persons under the age of 18 may not possess cigarettes or other tobacco products. This bill bans the use of cigarettes and other tobacco products by anyone who has reason to believe that he or she is in a school zone. The bill defines a school zone to be the premises of a school or the area within 1,000 feet of the school premises. The bill exempts certain adults from this ban, including adults who are on private property that is not part of the school premises and adults who are in motor vehicles traveling through a school zone. The bill ~~also~~ authorizes the school administrator to authorize certain employees of the school to detain, for a reasonable length of time, any person whom they see violating the ban in order to turn the person over to a law enforcement officer or a parent or guardian.

In addition, the clean indoor air act, with certain exceptions, prohibits smoking in educational facilities and other ~~public~~ buildings that are open to the public.

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

3 SECTION 1. 101.123 (2) (br) of the statutes is created to read:
4 101.123 (2) (br) Notwithstanding par. (a) and sub. (3), no person may smoke
5 in an educational facility that is located in a school zone, as defined in s. 118.115 (1)
6 (f), except as provided in s. 118.115 (2) (b) 3. and 4.

← INSERT
1-6

ASSEMBLY BILL 16

SECTION 2

1 SECTION 2. 118.115 of the statutes is created to read:

2 **118.115 Tobacco-free school zones. (1) DEFINITIONS.** In this section:

3 (a) "Motor vehicle" has the meaning given in s. 340.01 (35). ✓

4 (b) "Peace officer" has the meaning given in s. 939.22 (22). ✓

5 (c) "School" has the meaning given in s. 948.61 (1) (b). ✓

← INSERT 2-5

6 (d) "School administrator" means a school district administrator or, for private
7 or parochial schools, the governing body of the school.

8 (e) "School premises" means any school building, grounds, recreation area, ✓
9 athletic field or any other property owned, used, ✓ or operated for the purpose of the
10 school.

11 (f) "School zone" means any of the following:

12 1. School premises.

13 2. Any area within 1,000 feet of the school premises.

14 (g) "Smoke" means to carry a lighted cigar, ✓ cigarette, pipe, ✓ or any other lighted
15 tobacco product or lighted smoking equipment.

16 (h) "Tobacco products" means ~~cigarettes, cigars,~~ ✓ smoking tobacco, snuff, ✓ and any
17 other kind or form of tobacco prepared in such a manner as to be suitable for use for
18 chewing, ✓ ~~or smoking or both.~~ ✓

19 (2) USE OF TOBACCO PRODUCTS IN SCHOOL ZONE. (a) No person may smoke or use
20 tobacco products at a place that the person knows, or has reasonable cause to believe,
21 is a school zone. *The prohibition under par.*

22 (b) Paragraph (a) does not apply to smoking or using tobacco products by any
23 of the following:

24 1. An adult on private property that is not part of the school premises.

25 2. An adult who is in a motor vehicle traveling through the school zone.

ASSEMBLY BILL 16

the applicable administrator

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3. An adult in a program approved by ~~a~~ school ~~(in the school zone.)~~

4. An adult ~~in accordance with a contract entered into between a school in the school zone and the person or an employer of the person.~~

← INSERT 3-3

(3) ENFORCEMENT. (a) A school administrator, or any person who is covered by a designation under par. (b), who has reasonable cause to believe that a person has violated sub. (2) (a) in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to his or her parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he or she shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the detained person. The school administrator, or any person covered by the designation under par. (b), may release the detained person before the arrival of a peace officer or parent or guardian. Any school administrator, or any person covered by the designation under par. (b), who acts in good faith under this subsection is immune from civil and criminal liability for those acts.

(b) A school administrator may designate individual employees, or classifications of employees, of a school to act under par. (a).

(4) PENALTY. A person who commits a violation of sub. (2) (a) is subject to a forfeiture of \$75.

(END)

Handwritten mark

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0838/4ins
MCG:.....

1 **Insert ANL**

~~No 89~~ This bill also exempts from this ban places that are regulated under the clean indoor air act, which prohibits smoking in places open to the public such as public conveyances, retail establishments and offices.

2 **Insert 1-6**

3 SECTION 1. 101.123 (1) (a) of the statutes is amended to read:

4 101.123 (1) (a) "Educational facility" means any building used principally for
5 educational purposes in which a school is located or a course of instruction or training
6 program is offered that has been approved or licensed by a state agency or board.
7 "Educational facility" does not include a school building that is subject to the
8 prohibition under s. 118.115 (2).

History: 1983 a. 211; 1985 a. 332 s. 253; 1987 a. 161 s. 13m; 1987 a. 403 s. 256; 1989 a. 97, 107, 251, 336; 1991 a. 28, 39, 130; 1993 a. 27, 313; 1995 a. 27 ss. 3661, 9126 (19); 1995 a. 77, 201, 404; 1999 a. 9, 72

9 **Insert 2-5**

10 (c) "School" means a public, parochial, ^{plain} private, or charter school which provides
11 an educational program for one or more grades between grades 1 and 12.

History: 1987 a. 332; 1991 a. 17; 1993 a. 336; 1995 a. 27, 77.

12 **Insert 3-3**

13 4. An adult who smokes or uses tobacco products on the school premises as
14 permitted under a contract entered into between the applicable school administrator
15 and the adult or the employer of the adult.

16 (c) The prohibition against smoking under par. (a) does not apply to a place that
17 is subject to regulation under s. 101.123.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0838/1¹dn

MGC: kmg

1. I have made several changes to this draft to make it clearer and more internally consistent. Please review the draft carefully.
2. I rewrote s. 118.115 (2) (b) 4. to make it clear that the contract must specifically approve smoking or the use of tobacco products.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

DRAFTER'S NOTE
FROM THE
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LRB-0838/1dn
MGG:kmg:jf

December 12, 2000

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STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

December 12, 2000

MEMORANDUM

To: Representative Schneider

From: Mary Gibson-Glass, Senior Legislative Attorney

Re: LRB-0838 Tobacco free school zones

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-3215 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.