2001 DRAFTING REQUEST

Assembly Amendment (AA-AB805)

Received: 02/22/2002					Received By: malaigm			
Wanted: 02/25/2002 For: Mark Miller (608) 266-5342					Identical to LRB: By/Representing: Himself			
May Contact:					Addl. Drafters:			
Subject: Health - tobacco					Extra Copies:			
Submit	via email: YES				^			
Request	er's email:	Rep.Miller	·@legis.sta	te.wi.us				
Carbon	copy (CC:) to:							
Pre To	pic:						· · · · · · · · · · · · · · · · · · ·	
No spec	ific pre topic gi	ven						
Topic:								
Possess	ion of cigarettes	s by minor; per	mit local or	dinances strict	er than state statute	;		
Instruc	tions:							
See Atta	achedpermit lothat are stricter	ocal governmer than state statu	its to enact te.	ordinances reg	gulating the possess	ion of cigaret	tes by	
Draftin	g History:				<u> </u>			
Vers.	<u>Drafted</u>	Reviewed	Typed	Proofed	<u>Submitted</u>	Jacketed	Required	
/?	malaigm 02/22/2002	gilfokm 02/22/2002					•	
/1			jfrantze 02/25/20	02	lrb_docadmin 02/25/2002	lrb_docadmin 02/25/2002		

02/25/2002 09:14:36 AM Page 2

FE Sent For:

<END>

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Assembly Amendment (AA-AB805)

Received: 02/22/2002

Received By: malaigm

Wanted: 02/25/2002

Identical to LRB:

For: Mark Miller (608) 266-5342

By/Representing: Himself

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Addl. Drafters:

Subject:

Health - tobacco

Extra Copies: KMA

Submit via email: YES

Requester's email:

Rep.Miller@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Possession of cigarettes by minor; permit local ordinances stricter than state statute

Instructions:

See Attached--permit local governments to enact ordinances regulating the possession of cigarettes by minors that are stricter than state statute.

Drafting History:

Vers.

Drafted

Reviewed

Submitted

Jacketed

Required

/?

malaigm

FE Sent For:

<END>

Malaise, Gordon

From:

Miller, Mark

Sent:

Thursday, February 21, 2002 6:14 PM

To:

Malaise, Gordon

Cc:

'jhausbeck@ci.madison.wi.us'; Sen.Robson; Rep.Lippert

Subject:

AB 805 amendments

Please draft the following as independent amendments to AB805/2

1. Delete 134.66 (2m) (c) on page 6, line 17 through page 7, line 3. The intent of this amendment is to remove the penalty for an employee, agent, etc, who sells tobacco products to a minor. Include any other changes needed to accomplish this result.

2. Page 9, line 11, replace "twice" with "four times"

3. Delete sentence that begins on page 10, line 24 and ends on page 11, line 5, to wit: "A person who is

investigated...hearing under ch.227 to make that determination."

4. Page 11 line 11, assuming that "strictly" means that a local ordinance can not be any more strict or less strict than state law, change language to require the local ordinance must be at least as strict as state law. The purpose is assure that all local ordinances, if enacted and enforced, will not only accomplish enforcement of state law, but also allow local jurisdictions to adopt stricter ordinances.

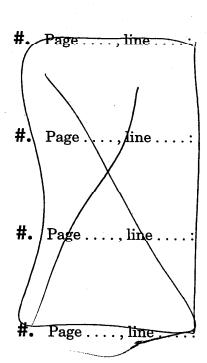
Mark Miller

48th Assembly District P.O. Box 8953 Madison, WI 53708 Phone 608.266.5342, FAX 608.282.3648 rep.miller@legis.state.wi.us

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2001 AMENDN	Date (time) needed	Mon MM Floor Trus)		LRBa_13	28 ,_ : Knug:
See form AMEN	DMENTS — co	MPONENTS & IT			,
T-0)		
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TO 2001	SB SJR SR	AB AJR AR	805	_ (LR B=	X
		1			

#. Page ..., line delete that live and substitute;

(fill ONLY if "engrossed" or "as shown by")



At the locations indicated, amend the ____

[rev: 8/28/00 2001DF04(fm)]

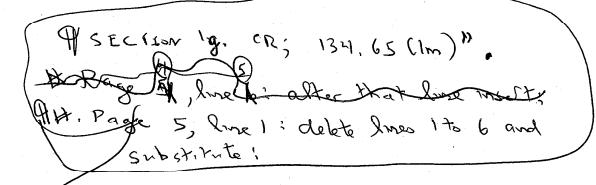
as follows:



State of Misconsin 2001 - 2002 LEGISLATURE

LRBs0335/1 GMM/kmg:pg

ASSEMBLY SUBSTITUTE AMENDMENT, TO 2001 ASSEMBLY BILL 805



1	AN ACT to repeat 134.66 (2) (d); to amend 111.35 (2) (d), 134.66 (2) (a), 134.66
2	(2) (b) 1., 134.66 (2) (b) 2., 134.66 (4) (a) 1., 134.66 (5), 254.916 (1) (a), 254.916
3	(1) (c), 254.916 (5) and 938.343 (2); and to create 254.92 (4) and 778.25 (1) (a)
4	4. of the statutes; relating to: the authority of counties, town, villages, and
5	cities to enact ordinances regulating the purchase, possession, receipt, sale, or
, \(\)	provision for nominal or no consideration of cigarettes and tobacco products
7 \	that are at least as strict as the state statutes regulating those actions.
	The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:
8	SECTION 1. 111.35 (2) (d) of the statutes is amended to read:
9	111.35 (2) (d) Constitutes a violation of s. 254.92 (2) or of a local ordinance that
10 <u>i</u>	s at least as strict as s. 254.92.
(in)	SECTION 2 134.66 (2) (a) of the statutes is amended to read:

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134.66 (2) (a) No retailer, manufacturer, distributor, jobber, or subjobber, no agent, employee, or independent contractor of a retailer, manufacturer, distributor, jobber, or subjobber, and no agent or employee of an independent contractor may sell or provide for nominal or no consideration cigarettes or tobacco products to any person under the age of 18, except as provided in s. 254.92 (2) (a) or a local ordinance that is at least as strict as s. 254.92. A vending machine operator is not liable under this paragraph for the purchase of cigarettes or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.

SECTION 3. 134.66 (2) (b) 1. of the statutes is amended to read:

134.66 (2) (b) 1. A retailer shall post a sign in areas within his or her premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of 18 is unlawful under this section and s. 254.92.

SECTION 134.66 (2) (b) 2. of the statutes is amended to read:

134.66 (2) (b) 2. A vending machine operator shall attach a notice in a conspicuous place on the front of his or her vending machines stating that the purchase of any cigarette or tobacco product by a person under the age of 18 is unlawful under s. 254.92 or under a local ordinance that is at least as strict as s. 254.92 and that the purchaser is subject to a forfeiture of not to exceed \$25 \$50 or the amount specified in the ordinance.

SECTION 5. 134.66 (2) (d) of the statutes is repealed

SECTION 4 134.66 (4) (a) 1. of the statutes is amended to read:

VIX Page 7, hore 11: delete lives 11 to 14 and subjiktite:

1	134.66 (4) (a) 1. In this paragraph, "violation" means a violation of sub. (2) (a),
2	$\frac{\sqrt{\text{(am), (cm), (d)}}}{\sqrt{\text{(am), (cm), (d)}}}$ or (e) or a local ordinance which strictly conforms to sub. (2) (a), (cm),
3	(d) or (e).
4	SECTION 7. 134.66 (5) of the statutes is amended to read:
.5	134.66 (5) Local ordinance. A county, town, village, or city may adopt enact
6	an ordinance regulating the conduct regulated by this section only if it strictly
7	conforms to this section sale or provision for nominal or no consideration of cigarettes
8	and tobacco products to persons under 18 years of age, the places where cigarettes
9	or tobacco products may be provided for nominal or no consideration, and the
10	placement of vending machines, if the ordinance is at least as strict as this section.
11 -	This section does not preclude a county, town, village, or city from enacting an
12	ordinance regulating the sale or provision for nominal or no consideration of
13	cigarettes and tobacco products to persons 18 years of age or over. A county ordinance
14	adopted enacted under this subsection does not apply within any town, village, or city
15	that has adopted or adopts enacted or enacts an ordinance under this subsection.
16	SECTION 8. 254.916 (1) (a) of the statutes is amended to read:
17	254.916 (1) (a) In the administration of this subchapter, the department may
18	contract with local health departments, as agents of the department, with a state
19	agency, or with law enforcement agencies of the state, or of a county, city, village, or
20	town, to cause unannounced investigations to be conducted at least annually at retail
21	outlets, including sites of tobacco vending machines, to survey overall levels of
22	compliance with s. 134.66 (2) (a) and (am) or a local ordinance that is at least as strict
23	as s. 134.66 (2) (a) or (am). A person with whom the department contracts under this
24	paragraph may contract with another person to conduct the investigations. Except

any survey conducted under 21 CFR part 897, the The survey under this subsection

(22)

HPage 11, line 9: delete lines 9 to 17 and substitute.

whall cover a range of retail outlets that are not preselected on the basis of prior violations, in order to measure overall levels of compliance as well as to identify violations. The survey shall be conducted so as to provide a sample of retail outlets that reflects the distribution of minors throughout the state and the distribution of the retail outlets throughout the state where minors are likely to attempt to purchase cigarettes. The survey shall include all types of retail outlets that are required to comply with s. 134.66 (2) (a) and (am) or a local ordinance that is at least as strict as s. 134.66 (2) (a) or (am). The department shall use statistically sound sampling techniques in designing the annual surveys so as to measure overall levels of compliance and shall stratify the sample so as to measure compliance by type of retail outlet, including a private place of business other than a retail establishment.

SECTION 9. 254.916 (1) (c) of the statutes is amended to read:

254.916 (1) (c) No retailer may be subject to unannounced investigations more than twice annually unless the retailer is found to have violated s. 134.66 (2) (a) or (am) or a local ordinance that is at least as strict as s. 134.66 (2) (a) or (am) during each investigation.

SECTION 10. 254.916 (5) of the statutes is amended to read:

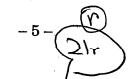
254.916 (5) No evidence obtained during or otherwise arising from the course of an investigation under this section that is used to prosecute a person for a violation of s. 134.66 (2) (a) or (am) or a local ordinance that is at least as strict as s. 134.66

(2) (a) or (am) may be used in the prosecution of an alleged violation of s. 125.07 (3)

SECTION 14. 254.92 (4) of the statutes is created to read:

254.92 (4) A county, town, village, or city may enact an ordinance regulating the purchase, attempted purchase, or possession of, and the false representation of age for the purpose of receiving, cigarettes or tobacco products by a person under 18

(8)



LRBs0335/1 GMM:kmg:pg SECTION 11

years of age, if the ordinance is at least as strict as this section. A county ordinance enacted under this subsection does not apply within a town, village, or city that has enacted or enacts an ordinance under this subsection.

SECTION 12. 778.25 (1) (a) 4. of the statutes is created to read:

778.25 (1) (a) 4. Under s. 254.92 or under a local ordinance that is at least as strict as s. 254.92 brought against an adult in circuit court or against a minor in the court assigned to exercise jurisdiction under chs. 48 and 938.

SECTION 14. 938.343 (2) of the statutes, as affected by 2001 Wisconsin Act 16, is amended to read:

be imposed on an adult for committing that violation or, if the violation is only applicable to a person under 18 years of age, \$50 or, if the violation is of an ordinance that is at least as strict as s. 254.92, the amount specified in the ordinance. Any such order shall include a finding that the juvenile alone is financially able to pay and shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture, the court may suspend any license issued under ch. 29 or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court shall immediately take possession of the suspended license and forward it to the department which issued the license, together with the notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the court shall immediately notify the department, which will thereupon return the license to the person. Any recovery under this subsection shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b).