

2001 Jr2 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB1)

Received: **03/12/2002**

Received By: **malaigm**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-7044**

By/Representing: **Arsenault**

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

Drafter: **malaigm**

May Contact:

Addl. Drafters:

Subject: **Health - tobacco**

Extra Copies:

Submit via email: **NO**

Pre Topic:

LFB:.....Arsenault -

Topic:

Underage tobacco enforcement

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> |
|--------------|-----------------------|-----------------------|------------------------|----------------|----------------------------|-----------------|-----------------|
| /? | malaigm 03/13/2002 | gilfokm 03/13/2002 | | _____ | | | |
| /1 | | | rschluet 03/13/2002 | _____ | lrb_docadmin 03/13/2002 | | |

FE Sent For:

<END>

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|--------------|----------------|----------------------------|--------------------|-------------------------------|------------------|-----------------|-----------------|
| /? | malaigm | 3/13 <i>[Signature]</i> | <i>[Signature]</i> | <i>[Signature]</i> 3-13-02 | | | |

FE Sent For:

<END>

WORKING GROUP

Underage Tobacco Enforcement

Direct the Department of Health and Family Services (DHFS) to identify \$3,011,300 available in DHFS appropriations to fund underage tobacco enforcement activities to meet the compliance requirements under the federal Synar Amendment and authorize DHFS to expend these funds in accordance with a negotiated agreement with the U.S. Department of Health and Human Services (DHHS), such that legislative intent will not be changed as a result of such an action. Require DHFS to report to the Joint Committee on Finance by June 30, 2002, on the funding plan and the status of the discussions with DHHS regarding the resolution of the Synar penalty.

Malaise, Gordon

From: Arsenaault, Yvonne
Sent: Monday, March 11, 2002 8:28 AM
To: Malaise, Gordon
Subject: RE: ARC drafting instructions

Gordon -

ARC didn't want DHFS to take money out of a program that would undermine the program and thus, legislative intent. However, if there are surplus funds from a grant program that for some reason weren't expended, but legislative intent for those funds was carried through, DHFS can take those funds. Essentially, we didn't want to give DHFS the authority to pull the funds from anywhere they chose, thus the legislative intent clause. My understanding is that this language was used in Engrossed SB55 (and was deleted by the Gov so isn't in Act 16) for BadgerCare, if that helps.

The action that the phrase refers to is finding the \$3 million to reduce the Synar penalty.

If I haven't explained this well enough, please call me and I'll try again!

Yvonne

-----Original Message-----

From: Malaise, Gordon
Sent: Saturday, March 09, 2002 1:01 PM
To: Arsenaault, Yvonne
Subject: RE: ARC drafting instructions

Yvonne:

I understand the request for the most part, but do not understand the part about "such that legislative intent will not be changed as a result of such an action." What legislative intent is this phrase referring to? What action is this phrase referring to?

Gordon

-----Original Message-----

From: Arsenaault, Yvonne
Sent: Saturday, March 09, 2002 1:28 PM
To: Malaise, Gordon
Subject: ARC drafting instructions

= spending \$3M
for underage
enforcement activities

Gordon -

Per ARC's actions, the following needs to be drafted as change to JFC, non-state language.

Direct DHFS to identify \$3,011,300 available in DHFS appropriations to fund underage tobacco enforcement activities to meet the compliance requirements under the federal Synar Amendment and authorize DHFS to expend these funds in accordance with a negotiated agreement with the U.S. Department of Health and Human Services (DHHS), such that legislative intent will not be changed as a result of such an action. Require DHFS to report to the Joint Committee on Finance by June 30, 2002, on the funding plan and the status of the discussions with DHHS regarding the resolution of the Synar penalty.

Thanks. Please let me know if you have any questions.

Yvonne

Malaise, Gordon

From: Arsenaault, Yvonne
Sent: Wednesday, March 13, 2002 1:54 PM
To: Malaise, Gordon
Subject: RE: Synar draft

Gordon -

Thanks for the rough draft. Here are a couple of changes that I think need to be made:

1. It should be all accounts, not just GPR accounts.

2. We think that the appropriation should be 20.435(7)(kz) since it is the Division of Supportive Living that will be in charge of the use of the funds. We are checking with DHFS to confirm that they agree with this and I will let you know what they say. But, I'm pretty sure that it should be in (7)(kz).

3. I think the more appropriate federal reference to negotiating with the feds is P.L 107-116, Section 214, instead of 42 USC 300x 26 (c). I can send you this language if you don't have it but essentially it is language from the federal Health and Human Services appropriations bill that allows states who are not in compliance with the Synar Amendment to negotiate with DHHS to avoid the SAPT penalty and provide additional state funds to do so. The formula determining the level of new funding is also in there.

4. I don't think we need the language regarding the passive review process because the purpose of the report is informational, not for approval. This is primarily because of timing issues.

Otherwise, the draft looks really good. I didn't think about sum sufficients! Glad you did.

Thanks,
Yvonne

-----Original Message-----

From: Malaise, Gordon
Sent: Wednesday, March 13, 2002 1:29 PM
To: Arsenaault, Yvonne
Subject: RE: Synar draft

Yvonne:

I was just writing an e-mail to you. I have roughed out a draft that I would like to share with you before putting it into editing so that we can have it all worked out without having to do a redraft. Specifically:

"(3x) Underage Tobacco Enforcement. (a) The department of health and family services shall identify \$3,011,300 in appropriated moneys in the appropriation accounts (all accounts or only GPR?) of that department, other than sum sufficient appropriation accounts, for transfer to the appropriation account under section 20.435 (1) (k) of the statutes (is this the correct appropriation? I know that it has to be a "k" because the moneys are moneys transferred from the dept. to the dept) to fund activities under section 254.916 of the statutes to achieve compliance with the requirements under 42 USC 300x-26 (a) and (b) that the states enact and enforce laws prohibiting the sale or distribution of cigarettes and tobacco products to persons under 18 years of age and with the agreement under 42 USC 300x-26 (c) that the department is required to negotiate with the federal department of health and human services. In identifying appropriated moneys for transfer, the department may not identify any appropriated moneys for transfer if the transfer would change legislative intent with respect to the program funded by those appropriated moneys.

(b) By June 30, 2002, the department shall submit a plan to the joint committee on finance for funding the activities described in paragraph (a) and a report on the status of the negotiations that the department is conducting with the federal department . . . (Then finish up with the 14-day passive review language)."

I am going out to lunch now. Let me know how this looks to you.

Gordon

-----Original Message-----

From: Arsenaault, Yvonne

Sent: Wednesday, March 13, 2002 1:18 PM
To: Malaise, Gordon
Subject: Synar draft

Gordon -

Do you have any idea when I might receive the Synar draft? I'm just looking for a timeline.

Thanks,
Yvonne

Yvonne M. Arsenault
Legislative Fiscal Bureau
(608) 266-3847
Yvonne.Arsenault@legis.state.wi.us

1990 (Public Law 101-167) is amended--

(1) in section 599D (8 U.S.C. 1157 note)--

(A) in subsection (b)(3), by striking '1997, 1998, 1999, 2000, and 2001' and inserting '1997, 1998, 1999, 2000, 2001, and 2002'; and

(B) in subsection (e), by striking 'October 1, 2001' each place it appears and inserting 'October 1, 2002'; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking 'September 30, 2001' and inserting 'September 30, 2002'

SEC. 214. (a) Except as provided by subsection (e) none of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x-26) if such State certifies to the Secretary of Health and Human Services by May 1, 2002 that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) The amount of funds to be committed by a State under subsection (a) shall be equal to 1 percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act.

(c) The State is to maintain State expenditures in fiscal year 2002 for tobacco prevention programs and for compliance activities at a level that is not less than the level of such expenditures maintained by the State for fiscal year 2001, and adding to that level the additional funds for tobacco compliance activities required under subsection (a). The State is to submit a report to the Secretary on all fiscal year 2001 State expenditures and all fiscal year 2002 obligations for tobacco prevention and compliance activities by program activity by July 31, 2002.

(d) The Secretary shall exercise discretion in enforcing the timing of the State obligation of the additional funds required by the certification described in subsection (a) as late as July 31, 2002.

(e) None of the funds appropriated by this Act may be used to withhold substance abuse funding pursuant to section 1926 from a territory that receives less than \$1,000,000.

SEC. 215. In order for the Centers for Disease Control and Prevention to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2002, the Secretary of Health and Human Services is authorized to--

(1) utilize the authorities contained in subsection 2(e) of the State Department Basic Authorities Act of 1956, as amended; and

(2) utilize the authorities contained in 22 U.S.C. 291 and 292 and directly or through contract or cooperative agreement to lease, alter or renovate facilities in foreign countries, to carry out programs supported by this appropriation notwithstanding PHS Act section 307.



State of Wisconsin
 2001 - 2002 LEGISLATURE
 January 2002 Special Session

LRBb2489/1
 GMM.....

King

LFB:.....Arsenault – Underage tobacco enforcement

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2

✓ 1. Page 35⁽⁶⁾, line 13⁽⁴⁾: after that line insert:

3

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“(1) UNDERAGE TOBACCO ENFORCEMENT. The department of health and family services shall identify \$3,011,300 in appropriated moneys in the appropriation accounts of that department, other than sum sufficient appropriation accounts, for transfer to the appropriation account under section 20.435 (7) (kz) of the statutes to fund activities conducted under section 254.916 of the statutes to achieve compliance with the requirements under 42 USC 300x-26 (a) and (b) that the state enact and enforce a law prohibiting the sale or distribution of tobacco products to persons under 18 years of age and with the certification required under P.L. 107-116, section 214,

subsection

1 that the state commit additional state funds to enforce that law. In identifying
2 appropriated moneys for transfer as described in this ~~paragraph~~, the department
3 may not identify any appropriated moneys for transfer if the transfer would change
4 legislative intent with respect to the program funded by those appropriated moneys.
5 By June 30, 2002, the department shall submit a plan to the joint committee on
6 finance for funding the activities described in this ~~paragraph~~ and a report on the
7 status of the negotiations that the department is conducting with the federal
8 department of health and human services relating to the certification required under
9 P. L. 107-116, section 214.”

10

(END)

subsection



State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb2489/1
GMM:kmg:rs

LFB:.....Arsenault – Underage tobacco enforcement

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 356, line 4: after that line insert:

3 “(1x) UNDERAGE TOBACCO ENFORCEMENT. The department of health and family
4 services shall identify \$3,011,300 in appropriated moneys in the appropriation
5 accounts of that department, other than sum sufficient appropriation accounts, for
6 transfer to the appropriation account under section 20.435 (7) (kz) of the statutes to
7 fund activities conducted under section 254.916 of the statutes to achieve compliance
8 with the requirements under 42 USC 300x-26 (a) and (b) that the state enact and
9 enforce a law prohibiting the sale or distribution of tobacco products to persons under
10 18 years of age and with the certification required under P.L. 107-116, section 214,

1 that the state commit additional state funds to enforce that law. In identifying
2 appropriated moneys for transfer as described in this subsection, the department
3 may not identify any appropriated moneys for transfer if the transfer would change
4 legislative intent with respect to the program funded by those appropriated moneys.
5 By June 30, 2002, the department shall submit a plan to the joint committee on
6 finance for funding the activities described in this subsection and a report on the
7 status of the negotiations that the department is conducting with the federal
8 department of health and human services relating to the certification required under
9 P. L. 107-116, section 214.”

10

(END)