

**2001 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-SB360)**

Received: **02/05/2002**

Received By: **malaigm**

Wanted: **02/05/2002**

Identical to LRB:

For: **Carol Roessler (608) 266-5300**

By/Representing: **Sarah**

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

Drafter: **malaigm**

May Contact:

Addl. Drafters:

Subject: **Health - tobacco**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Tobacco retailer compliance checks; appeals process

---

**Instructions:**

Provide for ch. 68 appeal process under s. 254.916 (11) if check is contracted for by local governmental authority and for ch. 227 contested case appeal process if check is contracted for by state agency.

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**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>
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/1			jfrantze 02/05/2002	_____	lrb_docadmin 02/05/2002	lrb_docadmin 02/05/2002	

FE Sent For:

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1/?	malaigm	1 cjs 2/5 02	6/2/02	bph 2/5			

FE Sent For:

<END>

2001

Date (time) needed

now!!!

LRBa 1240, 1

AMENDMENT

floor today!!!

GMM : gs :

See form AMENDMENTS — COMPONENTS & ITEMS.

(S) \* [AMENDMENT]

TO S A AMENDMENT \_\_\_\_\_ (LRBa \_\_\_\_\_),

TO (S) \* [SUBSTITUTE AMENDMENT] 1 (LRBs \_\_\_\_\_),

TO 2001 (SB) ~~SR SR AB AJR AR~~ 360 (LRB \_\_\_\_\_)

At the locations indicated, amend the substitute amendment as follows:  
(fill ONLY if "engrossed ...." or "as shown by .....")

#. Page 4..., line 17...: delete "employee or" and substitute "employee of".

#. Page 7..., line 24...: alter that line insert:

#. Page ..., line ...:

#. Page ..., line ...:

#. Page ..., line ...:

**BILL**

1 of the following information shall be reported to the retailer within 10 days after the  
2 conduct of an investigation under this section:

3 **SECTION 16.** 254.916 (4) of the statutes is repealed.

4 **SECTION 17.** 254.916 (5) of the statutes is amended to read:

5 ~~254.916 (5) No evidence obtained during or otherwise arising from the course  
6 of an investigation under this section that is used to prosecute a person for a violation  
7 of s. 134.66 (2) (a) or (am) or a local ordinance adopted under s. 134.66 (5) may be used  
8 in the prosecution of an alleged violation of s. 125.07 (3).~~

9 **SECTION 18.** 254.916 (8) of the statutes is amended to read:

10 ~~254.916 (8) A governmental regulatory agency that conducts an investigation  
11 under this section shall meet the requirements of sub. (3) (a) to (f) and the standards  
12 established by the department of health and family services. The department shall  
13 annually evaluate the investigation program of each governmental regulatory  
14 authority. If, at any time, a governmental regulatory authority fails to meet the  
15 standards, the department of health and family services may terminate the contract  
16 under sub. (1)~~

(18g) ← hand number

17 **SECTION 19.** 254.916 (11) of the statutes is amended to read:

18 ~~254.916 (11) The department shall hold a hearing under ch. 227 if any  
19 interested person, in lieu of proceeding under ch. 68, appeals to the department  
20 alleging that the A person making conducting an investigation of the appellant has  
21 under this section may not have a financial interest in a regulated cigarette and  
22 tobacco product retailer, a tobacco vending machine operator, a tobacco vending  
23 machine premises or, or a tobacco vending machine that may interfere with his or her  
24 ability to properly take that action conduct that investigation. A person who is  
25 investigated under this section may request the local health department or local law~~



**BILL**

1 enforcement agency that contracted for the investigation to conduct a review under  
2 ch. 68 to determine whether the person conducting the investigation is in compliance  
3 with this subsection or, if applicable, may request the state agency or state law  
4 enforcement agency that contracted for the investigation to conduct a contested case  
5 hearing under ch. 227 to make that determination. The results of an investigation  
6 that is conducted by a person who is not in compliance with this subsection may not  
7 be used to prosecute a violation of s. 134.66 (2) (a) or (am) or a local ordinance adopted  
8 under s. 134.66 (5). "

9 ~~SECTION 20. 254.92 (4) of the statutes is created to read:~~

10 ~~254.92 (4) A county, town, village, or city may enact an ordinance regulating~~  
11 ~~the conduct regulated by this section only if the ordinance strictly conforms to this~~  
12 ~~section. A county ordinance enacted under this subsection does not apply within a~~  
13 ~~town, village, or city that has enacted or enacts an ordinance under this subsection.~~

14 ~~SECTION 21. 778.25 (1)(a) 4. of the statutes is created to read:~~

15 ~~778.25 (1) (a) 4. Under s. 254.92 or under a local ordinance strictly conforming~~  
16 ~~to s. 254.92 brought against an adult in circuit court or against a minor in the court~~  
17 ~~assigned to exercise jurisdiction under chs. 48 and 938.~~

18 ~~SECTION 22. Nonstatutory provisions.~~

19 ~~(1) COMPLIANCE TRAINING PROGRAM DEVELOPMENT. By the first day of the 3rd~~  
20 ~~month beginning after the effective date of this subsection, the department of health~~  
21 ~~and family services shall develop or approve the training program, and shall develop~~  
22 ~~the form, required under section 134.66 (2m) (a) of the statutes, as created by this~~  
23 ~~act. Notwithstanding section 227.10 (1) of the statutes, the department of health and~~  
24 ~~family services is not required to promulgate that training program or form as rules.~~

( E n d )