

2003 DRAFTING REQUEST

Bill

Received: 03/18/2003

Received By: gmalaise

Wanted: As time permits

Identical to LRB:

For: Johnnie Morris (608) 266-3756

By/Representing: Neci

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Trade Regulation - cigs/tobacco

Extra Copies: MGG, RNK

Submit via email: YES

Requester's email: Rep.Morris@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Penalties for cigarettes to minors

Instructions:

See Attached--redraft 1999 AB 407

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>
/?	gmalaise 03/18/2003	chanaman 04/07/2003					
/1			rschluet 04/07/2003		lemery 04/07/2003	sbasford 04/23/2003 sbasford 04/23/2003	

<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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/2	gmalaise 04/29/2003	kfollett 04/29/2003	jfrantze 04/30/2003	_____	amentkow 04/30/2003	amentkow 04/30/2003	
		kfollett 04/30/2003		_____			

FE Sent For:

~~None needed~~
None needed

<END>

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/?	gmalaise 03/18/2003	chanaman 04/07/2003					
/1		12 kjf 4/30	rschluet 04/07/2003		lemery 04/07/2003	sbasford 04/23/2003 sbasford 04/23/2003	
			4/30	4/30			

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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/?	gmalaise	/1 cmh 4/7					
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Handwritten notes and signatures: 4-7-3, PG, and a signature.

FE Sent For:

<END>

Malaise, Gordon

From: Fast, Timothy
Sent: Tuesday, March 18, 2003 4:24 PM
To: Riley, Neci
Cc: Malaise, Gordon
Subject: RE: Draft request

Neci -- I believe it's a draft for Gordon Malaise. I'm forwarding this to him. You can have absolute confidence in Gordon - he's a good one! Best, Tim

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

From: Riley, Neci
Sent: Tuesday, March 18, 2003 2:56 PM
To: Fast, Timothy
Subject: Draft request

Hi Tim,

This really doesn't sound like your area, but I was given your name, so...

Rep. Morris would like to have 1999 AB 407 (LRB 3165/1), relating to the sale of cigarettes or tobacco products to minors and providing a penalty, re-drafted.

Please let me know if I should pass this request on to someone else.

Thanks,

Neci

Neci Riley
Office of State Rep. Johnnie E. Morris
118 North State Capitol
P.O. Box 8953
Madison, WI 53708

Phone: (608) 266-3756
Fax: (608) 282-3611

-2354/1

LRB-81857

PEN:aur

Gmm:cmh:

1999 ASSEMBLY BILL 407

LPS- please proof amended w/ section of folio

~~July 8, 1999 Introduced by Representatives MORRIS-TATUM, BLACK, WASSERMAN, TURNER and COGGS, cosponsored by Senators ROSENZWEIG and DARLING. Referred to Committee on Public Health.~~

see cut

1 AN ACT *to amend* 134.66 (4) (a) 1., 134.66 (4) (a) 2. (intro.), 134.66 (4) (a) 2. a.,
2 134.66 (4) (a) 2. b. and 134.66 (4) (a) 4.; *to repeal and recreate* 134.66 (4) (a)
3 3.; and *to create* 134.66 (4) (a) 3m. of the statutes; **relating to:** sale of cigarettes
4 or tobacco products to minors and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits, with certain exceptions, any person engaged in the business of manufacturing, distributing or selling cigarettes or tobacco products (cigarettes) from selling or giving cigarettes to any person under the age of 18. A court may require a person who violates this prohibition to forfeit up to \$500, and may suspend the violator's license or permit to manufacture, distribute, or sell cigarettes (license or permit) for a period of up to 30 days. Current law increases the minimum forfeiture amount, and the minimum and maximum duration of a license or permit suspension, based upon the number of violations committed within the previous 12 months.

This bill eliminates the time period for counting previous violations and changes the penalties that apply. Under the bill, the penalties for violations are as follows:

- 1) For a first violation, a mandatory forfeiture of not less than \$500 nor more than \$1,000.
- 2) For a second violation, a mandatory forfeiture of not less than \$1,000 nor more than \$2,000. In addition, the court must suspend the violator's license or permit for not less than 30 days nor more than 90 days.

ASSEMBLY BILL 407

3) For a third or subsequent violation, the court must revoke the violator's license or permit.

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

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

2 134.66 (4) (a) 1. In this paragraph, "violation" means a violation of sub. (2) (a),
3 ~~(c)~~ or (e) or a local ordinance ~~which~~ strictly conforms to sub. (2) (a), ~~(c)~~ or
4 (e). For the purpose of determining whether a previous violation has occurred, if
5 more than one violation occurs at the same time all violations occurring at that time
6 shall be counted as one violation.

7 SECTION 2. 134.66 (4) (a) 2. (intro.) of the statutes is amended to read:

8 134.66 (4) (a) 2. (intro.) A person who commits a violation ~~is subject to a~~
9 ~~forfeiture of~~ shall be:

10 SECTION 3. 134.66 (4) (a) 2. a. of the statutes is amended to read:

11 134.66 (4) (a) 2. a. ~~Not~~ Required to forfeit not less than \$500 nor more than \$500
12 \$1,000 if the person has not committed a previous violation ~~within 12 months of the~~
13 ~~violation; or.~~

14 SECTION 4. 134.66 (4) (a) 2. b. of the statutes is amended to read:

15 134.66 (4) (a) 2. b. ~~Not~~ Required to forfeit not less than \$200 \$1,000 nor more
16 than \$500 \$2,000 if the person has committed a previous violation ~~within 12 months~~
17 ~~of the violation.~~

18 SECTION 5. 134.66 (4) (a) 3. of the statutes is repealed and recreated to read:

19 134.66 (4) (a) 3. A court shall suspend any license or permit issued under s.
20 134.65, 139.34 or 139.79 to a person for not less than 30 days nor more than 90 days,
21 if the court finds that the person committed one previous violation.

ASSEMBLY BILL 407

1 SECTION 6. 134.66 (4) (a) 3m. of the statutes is created to read:

2 134.66 (4) (a) 3m. A court shall revoke any license or permit issued under s.
3 134.65, 139.34 or 139.79 to a person if the court finds that the person committed 2
4 or more previous violations.

5 SECTION 7. 134.66 (4) (a) 4. of the statutes is amended to read:

6 134.66 (4) (a) 4. The court shall promptly mail notice of a suspension under
7 subd. 3. or a revocation under subd. 3m. to the department of revenue and to the clerk
8 of each municipality which has issued a license or permit to the person.

9 SECTION 8. Initial applicability.

10 (1) This act first applies to violations committed on the effective date of this
11 subsection, but does not preclude the counting of ~~other violations as previous~~
12 ~~violations for sentencing a person.~~

13 (END)

as a previous violation

a violation committed before that effective date
for purposes of imposing a forfeiture on

~~or suspending~~

of the statutes,

under section 134.66 (4) (a) 2. b. (as affected
by this act, for purposes of
license or permit issued to ^a ~~the~~ person under
section 134.66 (4) (a) 3. ^{or} 3m. ~~of~~ ^{of}
of the statutes, as affected by this act

Basford, Sarah

From: Riley, Neci
Sent: Tuesday, April 22, 2003 6:56 PM
To: LRB.Legal
Subject: Draft review: LRB 03-2354/1 Topic: Penalties for cigarettes to minors

It has been requested by <Riley, Neci> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-2354/1 Topic: Penalties for cigarettes to minors

Malaise, Gordon

From: Riley, Neci
Sent: Monday, April 28, 2003 5:20 PM
To: Malaise, Gordon
Subject: Changes to LRB 2354/1 relating to the sale of cigarettes or tobacco products to minors and providing a penalty

Dear Gordon,

Rep. Morris would like to make some changes to LRB 2354/1 relating to the sale of cigarettes or tobacco products to minors and providing a penalty. She wants it specified that her bill only applies to the employer or store owner, not the employee or sales clerk.

If there are any questions, please give me a call.

Thank you,

Neci

Neci Riley
Office of State Rep. Johnnie E. Morris
118 North State Capitol
P.O. Box 8953
Madison, WI 53708

Phone: (608) 266-3756
Fax: (608) 282-3611



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2354/1
GMM:cmh/rs

2
RMR

2003 BILL

, except that the bill does not change that time period or those penalties with respect to an agent, employee, or independent contractor of a ~~agent~~ cigarette retailer

a violation committed by any person engaged in the business of manufacturing, distributing, or selling cigarettes, other than an agent, employee, or independent contractor of a cigarette retailer,

Regen

1 AN ACT to amend 134.66 (4) (a) 1., 134.66 (4) (a) 2. (intro.), 134.66 (4) (a) 2. a.,
2 134.66 (4) (a) 2. b. and 134.66 (4) (a) 4.; to repeal and recreate 134.66 (4) (a)
3 3.; and to create 134.66 (4) (a) 3m. of the statutes; relating to: sale of cigarettes
4 or tobacco products to minors and providing a penalty.

Regen

Analysis by the Legislative Reference Bureau

Current law prohibits, with certain exceptions, any person engaged in the business of manufacturing, distributing, or selling cigarettes or tobacco products (cigarettes) from selling or giving cigarettes to any person under the age of 18. A court may require a person who violates this prohibition to forfeit up to \$500, and may suspend the violator's license or permit to manufacture, distribute, or sell cigarettes (license or permit) for a period of up to 30 days. Current law increases the minimum forfeiture amount, and the minimum and maximum duration of a license or permit suspension, based upon the number of violations committed within the previous 12 months.

This bill eliminates the time period for counting previous violations and changes the penalties that apply. Under the bill, the penalties for violations are as follows:

- 1) For a first violation, a mandatory forfeiture of not less than \$500 nor more than \$1,000.
- 2) For a second violation, a mandatory forfeiture of not less than \$1,000 nor more than \$2,000. In addition, the court must suspend the violator's license or permit for not less than 30 days nor more than 90 days.

X

X

BILL

3) For a third or subsequent violation, the court must revoke the violator's license or permit.

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

Insert
2-1

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

2 134.66 (4) (a) 1. In this paragraph, "violation" means a violation of sub. (2) (a),
3 (am), (cm), or (e) or of a local ordinance which that strictly conforms to sub. (2) (a),
4 (am), (cm), or (e). For the purpose of determining whether a previous violation has
5 occurred, if more than one violation occurs at the same time all violations occurring
6 at that time shall be counted as one violation.

Subject to subd. 2m, a

7 SECTION ~~2~~[✓] 134.66 (4) (a) 2. (intro.) of the statutes is amended to read:

8 134.66 (4) (a) 2. (intro.) ~~A~~ person who commits a violation is subject to a
9 forfeiture of shall be:

10 SECTION ~~3~~[✓] 134.66 (4) (a) 2. a. of the statutes is amended to read:

11 134.66 (4) (a) 2. a. ~~Not~~ Required to forfeit not less than \$500 nor more than \$500
12 \$1,000 if the person has not committed a previous violation within 12 months of the
13 violation; or,

14 SECTION ~~4~~[✓] 134.66 (4) (a) 2. b. of the statutes is amended to read:

15 134.66 (4) (a) 2. b. ~~Not~~ Required to forfeit not less than \$200 \$1,000 nor more
16 than \$500 \$2,000 if the person has committed a previous violation within 12 months
17 of the violation.

18 SECTION ~~5~~[✓] 134.66 (4) (a) 3. of the statutes is repealed and recreated to read:

19 134.66 (4) (a) 3. A court shall suspend any license or permit issued under s.
20 134.65, 139.34, or 139.79 to a person for not less than 30 days nor more than 90 days,
21 if the court finds that the person committed one previous violation.

Insert 2-17

Insert 2-1

Section #. 134.66 (2m) (a) of the statutes is amended to read:

2m.
and 2m.

134.66 (2m) (a) Except as provided in par. (b), at the time that a retailer hires or contracts with an agent, employee, or independent contractor whose duties will include the sale of cigarettes or tobacco products, the retailer shall provide the agent, employee, or independent contractor with training on compliance with sub. (2) (a) and (am), including training on the penalties under sub. (4) (a) 2. for a violation of sub. (2) (a) or (am). The department of health and family services shall make available to any retailer on request a training program developed or approved by that department that provides the training required under this paragraph. A retailer may comply with this paragraph by providing the training program developed or approved by the department of health and family services or by providing a comparable training program approved by that department. At the completion of the training, the retailer and the agent, employee, or independent contractor shall sign a form provided by the department of health and family services verifying that the agent, employee, or independent contractor has received the training, which the retailer shall retain in the personnel file of the agent, employee, or independent contractor.

History: 1987 a. 336; 1989 a. 31; 1991 a. 95; 1993 a. 210, 312; 1995 a. 352; 1997 a. 214; 1999 a. 9; 2001 a. 75.

(end of insert)

Inset 2-17

~~agent, employee, or independent contractor of a retailer or manufacturer~~

SEC. OR; 134.66 (4) (a) 2m.

(b) If an
134.66 (4) (a) ~~2m.~~ 2m. ~~And~~ agent, employee, or
of
independent contractor of a retailer commits a violation
Contractor
for which the agent, employee, or independent contractor
2m c
is subject to a citation under sub. (2m) (c), the
agent, employee, or independent contractor is subject
to the following:

a. A forfeiture of not more than \$500
not
if he or she has committed a previous violation
within 12 months of the violation.

b. A forfeiture of not less than \$200
nor more than \$500 if he or she has committed
a violation within 12 months of the violation.

(end of inset)

Emery, Lynn

From: Emery, Lynn
Sent: Friday, May 02, 2003 11:54 AM
To: Riley, Neci
Subject: LRB-2354/2 (attached as requested)



03-2354/2

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us