

2003 SENATE BILL 483

February 24, 2004 – Introduced by Senators CHVALA and HANSEN, cosponsored by Representatives BERCEAU and AINSWORTH, by request of Angela Shields and the Stoughton High School Student Council. Referred to Committee on Judiciary, Corrections and Privacy.

1 **AN ACT to create** 134.665 of the statutes; **relating to:** the sale of lighters and
2 cigarette papers to persons under the age of 18 and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits the sale of lighters and cigarette papers to persons under the age of 18. The bill also requires persons selling lighters or cigarette papers to the public to post a conspicuous notice stating that sales to persons under the age of 18 are in violation of this prohibition. The bill allows a defense to a prosecution for a violation of this prohibition if the purchaser falsely represented his or her age by showing an identification card that stated that he or she was at least 18, if the purchaser's appearance was such that an ordinary and prudent person would believe that the purchaser was at least 18, and if the sale was made in good faith and reasonable reliance on the purchaser's identification card and appearance.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

3 **SECTION 1.** 134.665 of the statutes is created to read:

SENATE BILL 483**SECTION 1**

1 **134.665 Sale of lighters and cigarette papers to person under 18 years**
2 **of age. (1) DEFINITION.** In this section, “identification card” means any of the
3 following:

4 (a) A license containing a photograph issued under ch. 343.

5 (b) An identification card issued under s. 343.50.

6 **(2) RESTRICTION.** No person may sell a lighter or cigarette papers to any person
7 under the age of 18 years.

8 **(3) NOTICE REQUIRED.** A person selling lighters or cigarette papers shall post
9 a notice in a conspicuous place at any site where the lighters or cigarette papers are
10 sold to the public. The notice shall state that the sale of any lighter or cigarette
11 papers to a person under the age of 18 years is unlawful under this section.

12 **(4) DEFENSE.** Proof of all of the following facts by a person who allegedly sold
13 a lighter or cigarette papers to a person under the age of 18 is a defense to any
14 prosecution for a violation of sub. (2):

15 (a) That the purchaser falsely represented that he or she had attained the age
16 of 18 years and presented an identification card that did not contradict that
17 representation.

18 (b) That the appearance of the purchaser was such that an ordinary and
19 prudent person would believe that the purchaser had attained the age of 18 years.

20 (c) That the sale was made in good faith, in reasonable reliance on the
21 identification card and appearance of the purchaser, and in the belief that the
22 purchaser had attained the age of 18 years.

23 **(5) PENALTIES.** (a) A person who commits a violation of sub. (2) is subject to a
24 forfeiture of either of the following:

