

# State of Wisconsin



2011 Assembly Bill 93

Date of enactment: April 6, 2012  
Date of publication\*: April 19, 2012

## 2011 WISCONSIN ACT 249

AN ACT *to amend* 134.66 (title), 134.66 (2) (a), 134.66 (2) (am), 254.911 (5), 254.916 (2) (intro.), 254.92 (1), 254.92 (2), 254.92 (2m) (intro.) and 254.92 (3); and *to create* 134.66 (1) (f) and 254.911 (3m) of the statutes; **relating to** minors obtaining tobacco or nicotine products and providing a penalty.

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

**SECTION 1.** 134.66 (title) of the statutes is amended to read:

**134.66 (title) Restrictions on sale or gift of cigarettes or nicotine or tobacco products.**

**SECTION 2.** 134.66 (1) (f) of the statutes is created to read:

134.66 (1) (f) "Nicotine product" means a product that contains nicotine and is not any of the following:

1. A tobacco product.
2. A cigarette.

3. A product that has been approved by the U.S. food and drug administration for sale as a smoking cessation product or for another medical purpose and is being marketed and sold solely for such an approved purpose.

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

134.66 (2) (a) No retailer, direct marketer, manufacturer, distributor, jobber or subjobber, no agent, employee or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may sell or provide for nominal or no consideration cigarettes, nicotine products, or tobacco products to any per-

son under the age of 18, except as provided in s. 254.92 (2) (a). A vending machine operator is not liable under this paragraph for the purchase of cigarettes, nicotine products, 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 4.** 134.66 (2) (am) of the statutes is amended to read:

134.66 (2) (am) No retailer, direct marketer, manufacturer, distributor, jobber, subjobber, no agent, employee or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may provide for nominal or no consideration cigarettes, nicotine products, or tobacco products to any person except in a place where no person younger than 18 years of age is present or permitted to enter unless the person who is younger than 18 years of age is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

**SECTION 5.** 254.911 (3m) of the statutes is created to read:

254.911 (3m) "Nicotine product" has the meaning given in s. 134.66 (1) (f).

**SECTION 6.** 254.911 (5) of the statutes is amended to read:

\* Section 991.11, WISCONSIN STATUTES 2009-10: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

254.911 (5) "Retail outlet" means a place of business from which cigarettes, nicotine products, or tobacco products are sold at retail to consumers.

**SECTION 7.** 254.916 (2) (intro.) of the statutes is amended to read:

254.916 (2) (intro.) With the permission of his or her parent or guardian, a person under 18 years of age, but not under 15 years of age, may buy, attempt to buy or possess any cigarette, nicotine product, or tobacco product if all of the following are true:

**SECTION 8.** 254.92 (1) of the statutes is amended to read:

254.92 (1) No person under 18 years of age may falsely represent his or her age for the purpose of receiving any cigarette, nicotine product, or tobacco product.

**SECTION 9.** 254.92 (2) of the statutes is amended to read:

254.92 (2) No person under 18 years of age may purchase, attempt to purchase, or possess any cigarette, nicotine product, or tobacco product except as follows:

(a) A person under 18 years of age may purchase or

possess cigarettes, nicotine products, or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer.

(b) A person under 18 years of age, but not under 15 years of age, may purchase, attempt to purchase or possess cigarettes, nicotine products, or tobacco products in the course of his or her participation in an investigation under s. 254.916 that is conducted in accordance with s. 254.916 (3).

**SECTION 10.** 254.92 (2m) (intro.) of the statutes is amended to read:

254.92 (2m) (intro.) No person may purchase cigarettes, tobacco products, or nicotine products on behalf of, or to provide to, any person who is under 18 years of age. Any person who violates this subsection may be:

**SECTION 11.** 254.92 (3) of the statutes is amended to read:

254.92 (3) A law enforcement officer shall seize any cigarette, nicotine product, or tobacco product that has been sold to and is in the possession of a person under 18 years of age.

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