



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3238/1
PJH:klm

2015 SENATE BILL 499

January 5, 2016 – Introduced by Senators COWLES, MOULTON, OLSEN, WANGGAARD and NASS, cosponsored by Representatives NYGREN, NOVAK, QUINN, PETRYK, SWEARINGEN, SCHRAA, HORLACHER, KREMER, CZAJA, SPIROS, KLEEFISCH, STEFFEN, ROHRKASTE, RIPP, SKOWRONSKI, T. LARSON, DUCHOW, A. OTT, SANFELIPPO, KULP, JORGENSEN and CONSIDINE. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to amend* 103.34 (1) (b) 1. and 961.443 (2); and *to create* 961.55 (1) (h)
2 and 961.69 of the statutes; **relating to:** the use, possession, manufacture,
3 distribution, and advertisement of a masking agent and providing a criminal
4 penalty.

Analysis by the Legislative Reference Bureau

This bill criminalizes the use, possession, manufacture, distribution, and advertisement of any substance or device that is intended to defraud, circumvent, interfere with, or provide a substitute for a bodily fluid in conjunction with a lawfully administered drug test (masking agent).

Under the bill, a person who uses or possesses with the intent to use a masking agent is subject to a fine up to \$500, imprisonment for 30 days, or both. A person who delivers or manufactures with the intent to deliver a masking agent is subject to a fine up to \$1,000, imprisonment for up to 90 days, or both. A person who advertises a masking agent for sale may be fined up to \$500, imprisoned for up to 30 days, or both.

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:

SENATE BILL 499**SECTION 1**

1 **SECTION 1.** 103.34 (1) (b) 1. of the statutes is amended to read:

2 103.34 (1) (b) 1. A violation of s. 125.07 (1) (a), (2) (a) 1. or 2., or (4) (a) or (b),
3 125.085 (3) (a) or (b), 125.09 (2), 961.41 (1) or (1m), 961.573, 961.574, ~~or~~ 961.575, or
4 961.69, of a substantially similar federal law or law of another state, or of a local
5 ordinance that strictly conforms to any of those statutes, if the violation was
6 committed in connection with or incident to any traveling sales crew activities.

7 **SECTION 2.** 961.443 (2) of the statutes is amended to read:

8 961.443 (2) IMMUNITY FROM CRIMINAL PROSECUTION. An aider is immune from
9 prosecution under s. 961.573, for the possession of drug paraphernalia, and under
10 s. 961.41 (3g) for the possession of a controlled substance or a controlled substance
11 analog, and under s. 961.69 (2) for possession of a masking agent under the
12 circumstances surrounding or leading to his or her commission of an act described
13 in sub. (1).

14 **SECTION 3.** 961.55 (1) (h) of the statutes is created to read:

15 961.55 (1) (h) Any masking agent, as defined in s. 961.69 (1), used in violation
16 of this chapter.

17 **SECTION 4.** 961.69 of the statutes is created to read:

18 **961.69 Possession, use, manufacture, distribution, or advertisement of**
19 **a masking agent.** (1) In this section, “masking agent” means any substance or
20 device that is intended for use to defraud, circumvent, interfere with, or provide a
21 substitute for a bodily fluid in conjunction with a lawfully administered drug test.

22 (2) No person may use, or possess with the primary intent to use, a masking
23 agent. Any person who violates this subsection may be fined not more than \$500 or
24 imprisoned for not more than 30 days or both.

