2019 SENATE BILL 757


AN ACT to renumber and amend 134.65 (1); to amend 134.65 (title), 134.65 (1m), 134.65 (1r), 134.65 (4), 134.65 (5m) and 134.65 (8); and to create 20.566 (1) (am) and 134.65 (1a) of the statutes; relating to: licenses for the retail sale of vapor products and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill requires a person who sells vapor products to obtain a cigarette and tobacco products retailer license. Current law defines a “vapor product” as a noncombustible product that produces vapor or aerosol for inhalation from the application of a heating element, regardless of whether the liquid or other substance contains nicotine.

Specifically, the bill requires a retailer who sells or offers for sale vapor products to obtain an annual license from the clerk of the city, village, or town where the retailer is located. Additionally, the bill authorizes two positions in the Department of Agriculture, Trade and Consumer Protection to conduct investigations of retail sales that are regulated by DATCP and two positions in the Department of Revenue for administering and enforcing the taxes imposed on the sale of vapor products.

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:
SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

<table>
<thead>
<tr>
<th>Purpose</th>
<th>2019-20</th>
<th>2020-21</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue, department of VATA</td>
<td></td>
<td></td>
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<tr>
<td>Administration of vapor</td>
<td></td>
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<tr>
<td>products tax and enforcement</td>
<td>GPR C</td>
<td></td>
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<tr>
<td></td>
<td>206,640</td>
<td>243,250</td>
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</tbody>
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SECTION 2. 20.566 (1) (am) of the statutes is created to read:

20.566 (1) (am) Administration of vapor products tax and enforcement. As a continuing appropriation, the amounts in the schedule for the purpose of administering and enforcing the taxes imposed for the sale of vapor products.

SECTION 3. 134.65 (title) of the statutes is amended to read:

134.65 (title) Cigarette, vapor products, and tobacco products retailer license.

SECTION 4. 134.65 (1) of the statutes is renumbered 134.65 (1d) and amended to read:

134.65 (1d) No person shall in any manner, or upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes, vapor products, or tobacco products to any person not holding a license as herein provided or a permit under ss. 139.30 to 139.41 or 139.79 without first obtaining a license from the clerk of the city, village or town wherein such privilege is sought to be exercised.

SECTION 5. 134.65 (1a) of the statutes is created to read:

134.65 (1a) In this section:
SENATE BILL 757

(a) “Cigarette” has the meaning given in s. 139.30 (1m).

(b) “Tobacco products” has the meaning given in s. 139.75 (12).

(c) “Vapor product” has the meaning given in s. 139.75 (14).

(d) “Vending machine” has the meaning given in s. 139.30 (14).

SECTION 6. 134.65 (1m) of the statutes is amended to read:

134.65 (1m) A city, village, or town clerk may not issue a license under sub. (1)
(1d) unless the applicant specifies in the license application whether the applicant
will sell, exchange, barter, dispose of, or give away the cigarette, vapor products, or
tobacco products over the counter or in a vending machine, or both.

SECTION 7. 134.65 (1r) of the statutes is amended to read:

134.65 (1r) A city, village, or town clerk may not require an applicant’s
signature on an application for a cigarette, vapor products, and tobacco products
retailer license to be notarized. If a city, village, town, or any department of this state
prepares an application form for a cigarette, vapor products, and tobacco products
retailer license, the form may not require an applicant’s signature on the form to be
notarized.

SECTION 8. 134.65 (4) of the statutes is amended to read:

134.65 (4) Every licensed retailer shall keep complete and accurate records of
all purchases and receipts of cigarettes, vapor products, and tobacco products. Such
records shall be preserved on the licensed premises for 2 years in such a manner as
to insure permanency and accessibility for inspection and shall be subject to
inspection at all reasonable hours by authorized state and local law enforcement
officials.

SECTION 9. 134.65 (5m) of the statutes is amended to read:
134.65 (5m) Any person who knowingly provides materially false information in an application for a cigarette, vapor products, and tobacco products retailer license under this section may be required to forfeit not more than $1,000.

SECTION 10. 134.65 (8) of the statutes is amended to read:

134.65 (8) The uniform licensing of cigarette, vapor products, and tobacco products retailers is a matter of statewide concern. A city, village, or town may adopt an ordinance regulating the issuance, suspension, revocation, or renewal of a license under this section only if the ordinance strictly conforms to this section. If a city, village, or town has in effect on May 1, 2016, an ordinance that does not strictly conform to this section, the ordinance does not apply and may not be enforced.


(1) Vapor products enforcement. The authorized FTE positions for the department of revenue are increased by 2.0 GPR positions on January 1, 2020, to be funded from the appropriation under s. 20.566 (1) (am) for the purpose of administering and enforcing the taxes imposed on the sale of vapor products.

SECTION 12. Fiscal changes.

(1) Investigators; retail sales. In the schedule under s. 20.005 (3) for the appropriation to the department of agriculture, trade and consumer protection under s. 20.115 (1) (a), the dollar amount for fiscal year 2020–21 is increased by $164,800 to increase the authorized FTE positions for the department by 2.0 GPR positions to conduct investigations of retail sales. In the schedule under s. 20.005 (3) for the appropriation to the department of agriculture, trade and consumer protection under s. 20.115 (1) (a), the dollar amount for fiscal year 2020–21 is increased by $40,000 to provide supplies and services for the positions authorized under this subsection.
SECTION 13. Effective date.

(1) This act takes effect on the 90th day after the day of publication.

(END)