



State of Wisconsin
1997 - 1998 LEGISLATURE

LRBa1133/1
GMM:jlj:jf

**SENATE AMENDMENT 15,
TO 1997 SENATE BILL 313**

November 19, 1997 - Offered by Senator FARROW.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 6: after "products" insert ", the amount of a penalty that may
3 be imposed on a juvenile who commits a delinquent act, the amount of a penalty that
4 may be imposed on a person under 18 years of age who possesses cigarettes or tobacco
5 products and providing penalties".

6 **2.** Page 5, line 8: delete lines 8 to 12 and substitute:

7 **"SECTION 8g.** 778.25 (1) (a) 1. of the statutes is amended to read:

8 778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
9 961.573 (2), 961.574 (2) or 961.575 (2) or under a local ordinance strictly conforming
10 to one of those statutes brought against an adult in circuit court or against a minor
11 in the court assigned to exercise jurisdiction under chs. 48 and 938.

12 **SECTION 8h.** 778.25 (1) (a) 4. of the statutes is repealed.

13 **SECTION 8k.** 938.17 (2) (c) of the statutes is amended to read:

1 938.17 (2) (c) The citation procedures described in ch. 800 shall govern
2 proceedings involving juveniles in municipal court, except that this chapter shall
3 govern the taking and holding of a juvenile in custody and par. (cg) shall govern the
4 issuing of a summons to the juvenile's parent, guardian or legal custodian. When a
5 juvenile is before the court assigned to exercise jurisdiction under this chapter and
6 ch. 48 upon a citation alleging the juvenile to have violated a civil law or municipal
7 ordinance, the procedures specified in s. 938.237 shall apply. If a citation is issued
8 to a juvenile, the issuing agency shall notify the juvenile's parent, guardian and legal
9 custodian within 7 days. The agency issuing a citation to a juvenile who is 12 to 15
10 years of age for a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
11 961.573 (2), 961.574 (2) or 961.575 (2) or an ordinance conforming to one of those
12 statutes shall send a copy to an intake worker under s. 938.24 for informational
13 purposes only.

14 **SECTION 8L.** 938.17 (2) (d) of the statutes is amended to read:

15 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal
16 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
17 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983, 961.573 (2),
18 961.574 (2) or 961.575 (2), the court shall enter any of the dispositional orders
19 permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails
20 to pay the forfeiture imposed by the municipal court, the court may not impose a jail
21 sentence but may suspend any license issued under ch. 29 for not less than 30 days
22 nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s.
23 340.01 (40), for not less than 30 days nor more than 5 years. If a court suspends a
24 license or privilege under this section, the court shall immediately take possession
25 of the applicable license and forward it to the department that issued the license,

1 together with the notice of suspension clearly stating that the suspension is for
2 failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the
3 period of suspension, the court shall immediately notify the department, which shall
4 thereupon return the license to the person.

5 **SECTION 8m.** 938.17 (2) (e) of the statutes is amended to read:

6 938.17 (2) (e) If a municipal court finds that a juvenile violated a municipal
7 ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 938.983,
8 961.573 (2), 961.574 (2) or 961.575 (2), the court shall enter a dispositional order
9 under s. 938.344 that is authorized under par. (cm).

10 **SECTION 8p.** 938.34 (8) of the statutes is amended to read:

11 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that
12 this disposition is in the best interest of the juvenile and in aid of rehabilitation. The
13 maximum forfeiture that the court may impose under this subsection for a violation
14 by a juvenile is the maximum amount of the fine that may be imposed on an adult
15 for committing that violation or, if the violation is applicable only to a person under
16 18 years of age, ~~\$100~~ \$250. Any such order shall include a finding that the juvenile
17 alone is financially able to pay the forfeiture and shall allow up to 12 months for
18 payment. If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture
19 and order other alternatives under this section, in accordance with the conditions
20 specified in this subchapter; or the court may suspend any license issued under ch.
21 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating
22 privilege as defined in s. 340.01 (40) for not less than 30 days nor more than 5 years.
23 If the court suspends any license under this subsection, the clerk of the court shall
24 immediately take possession of the suspended license and forward it to the
25 department which issued the license, together with a notice of suspension clearly

1 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
2 the forfeiture is paid during the period of suspension, the suspension shall be reduced
3 to the time period which has already elapsed and the court shall immediately notify
4 the department which shall then return the license to the juvenile.

5 **SECTION 8q.** 938.344 (title) of the statutes is amended to read:

6 **938.344 (title) Disposition; certain intoxicating liquor, beer, tobacco**
7 **and drug violations.**

8 **SECTION 8r.** 938.344 (2r) of the statutes is created to read:

9 938.344 (2r) If a court finds that a juvenile has committed a violation of s.
10 938.983 (2) or a local ordinance enacted under s. 938.983 (5), the court shall order one
11 or any combination of the following dispositions:

12 (a) Counseling by the court of the juvenile and his or her parent or guardian.

13 (b) A forfeiture not to exceed \$250. Any such order shall include a finding that
14 the juvenile alone is financially able to pay and shall allow up to 12 months for the
15 payment. If a juvenile fails to pay the forfeiture, the court may suspend any license
16 issued under ch. 29 or suspend the person's operating privilege, as defined in s.
17 340.01 (40), for not less than 30 days nor more than 5 years. The court shall
18 immediately take possession of the suspended license and forward it to the
19 department that issued the license, together with the notice of suspension clearly
20 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
21 the forfeiture is paid during the period of suspension, the court shall immediately
22 notify the department, which will thereupon return the license to the juvenile.

23 (c) Placement in a teen court program if all of the following conditions apply:

24 1. The chief judge of the judicial administrative district has approved a teen
25 court program established in the juvenile's county of residence and the judge

1 determines that participation in the teen court program will likely benefit the
2 juvenile and the community.

3 2. The juvenile admits or pleads no contest in open court, with the juvenile's
4 parent, guardian or legal custodian present, to the allegations that the juvenile
5 violated s. 938.983 (2) or the ordinance enacted under s. 938.983 (5).

6 3. The juvenile has not successfully completed participation in a teen court
7 program during the 2 years before the date of the alleged violation of s. 938.983 (2)
8 or the ordinance enacted under s. 938.983 (5).

9 (d) Participation in a supervised work program or other community service
10 work under s. 938.34 (5g).

11 (e) Attendance at a course relating to the health risks associated with the use
12 of cigarettes or tobacco products if such a course is available within a reasonable
13 distance from the juvenile's residence.

14 **SECTION 8s.** 938.344 (3) of the statutes is amended to read:

15 938.344 (3) If the a juvenile who is alleged to have committed the a violation
16 of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983, or of a local ordinance
17 that strictly conforms to one of those statutes, is within 3 months of his or her 17th
18 birthday, the court assigned to exercise jurisdiction under this chapter and ch. 48
19 may, at the request of the district attorney or on its own motion, dismiss the citation
20 without prejudice and refer the matter to the district attorney for prosecution under
21 s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2) or 938.983 or a local ordinance that
22 strictly conforms to one of those statutes. The juvenile is entitled to a hearing only
23 on the issue of his or her age. This subsection does not apply to violations under s.
24 961.573 (2), 961.574 (2) or 961.575 (2) or a local ordinance that strictly conforms to
25 one of those statutes.”.

1 **3.** Page 5, line 17: delete lines 17 to 20 and substitute:

2 “**SECTION 12m.** 938.983 (2r) of the statutes is created to read:

3 938.983 **(2r)** Subject to sub. (2v), any person who violates sub. (2) or an
4 ordinance enacted under sub. (5) is subject to one or any combination of the following
5 dispositions:

6 (a) Counseling by the court of the person and his or her parent or guardian.

7 (b) A forfeiture not to exceed \$250. Any such order shall include a finding that
8 the person alone is financially able to pay and shall allow up to 12 months for the
9 payment. If a person fails to pay the forfeiture, the court may suspend any license
10 issued under ch. 29 or suspend the person’s operating privilege, as defined in s.
11 340.01 (40), for not less than 30 days nor more than 5 years. The court shall
12 immediately take possession of the suspended license and forward it to the
13 department that issued the license, together with the notice of suspension clearly
14 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
15 the forfeiture is paid during the period of suspension, the court shall immediately
16 notify the department, which will thereupon return the license to the person.

17 (c) Placement in a teen court program if all of the following conditions apply:

18 1. The chief judge of the judicial administrative district has approved a teen
19 court program established in the person’s county of residence and the judge
20 determines that participation in the teen court program will likely benefit the person
21 and the community.

22 2. The person admits or pleads no contest in open court, with the person’s
23 parent, guardian or legal custodian present, to the allegations that the person
24 violated sub. (2) or the ordinance enacted under sub. (5).

1 3. The person has not successfully completed participation in a teen court
2 program during the 2 years before the date of the alleged violation of sub. (2) or the
3 ordinance enacted under sub. (5).

4 (d) Participation in a supervised work program administered by the county
5 department or a community agency approved by the court or other community
6 service work administered by a public agency or nonprofit charitable organization
7 approved by the court as described in sub. (2t).

8 (e) Attendance at a course relating to the health risks associated with the use
9 of cigarettes or tobacco products if such a course is available within a reasonable
10 distance from the person's residence.

11 **SECTION 12p.** 938.983 (2t) of the statutes is created to read:

12 938.983 (2t) (a) The court shall set standards for the supervised work program
13 under sub. (2r) (d) within the budgetary limits established by the county board of
14 supervisors. The supervised work program may provide the person with reasonable
15 compensation reflecting a reasonable market value of the work performed or it may
16 consist of uncompensated community service work. The court may use any available
17 resources, including any community service work program, in ordering the person
18 to perform community service work under sub. (2r).

19 (b) The supervised work program or other community service work shall be of
20 a constructive nature designed to promote the person's rehabilitation, shall be
21 appropriate to the person's age level and physical ability and shall be combined with
22 counseling from a member of the staff of the county department, community agency,
23 public agency or nonprofit charitable organization or other qualified person. The
24 supervised work program or other community service work may not conflict with the

1 person's regular attendance at school. The amount of work required shall be
2 reasonably related to the seriousness of the person's offense.

3 **SECTION 12r.** 938.983 (2v) of the statutes is created to read:

4 938.983 (2v) A person who is under 17 years of age on the date of disposition
5 is subject to s. 938.344 unless proceedings have been instituted against the person
6 in a court of civil or criminal jurisdiction after dismissal of the citation under s.
7 938.344 (3).”.

8 **4.** Page 6, line 9: after that line insert:

9 “**SECTION 14g.** 938.983 (5) of the statutes is amended to read:

10 938.983 (5) A county, town, village or city may adopt an ordinance regulating
11 the conduct regulated by this section only if it strictly conforms to this section. An
12 ordinance adopted under this subsection shall specify which of the dispositions
13 available under sub. (2r) are available to the court. A county ordinance adopted
14 under this section does not apply within any town, village or city that has adopted
15 or adopts an ordinance under this subsection.”.

16 **5.** Page 7, line 3: delete that line.

17 **6.** Page 7, line 4: delete “and (4)” and substitute “OF AGE. The treatment of
18 sections 778.25 (1) (a) 1. and 4., 938.17 (2) (c), (d) and (e), 938.34 (8), 938.344 (title),
19 (2r) and (3) and 938.983 (1) (b), (2) (intro.), (2r), (2t), (2v), (3m), (4) and (5)”.

20 (END)