

1993 Assembly Bill 738

Date of enactment: **April 14, 1994**
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1993 WISCONSIN ACT 313

AN ACT to amend 101.123 (4) (a) 2, 101.123 (8) (a), 165.87 (2) (a), 302.46 (1) (a) and 814.63 (1) (c); and to create 101.123 (1) (ad) and 101.123 (2) (bm) of the statutes, relating to: regulating smoking on the premises of day care centers and providing a penalty.

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

SECTION 1. 101.123 (1) (ad) of the statutes is created to read:

101.123 (1) (ad) "Day care center" has the meaning given in s. 46.986 (1) (d).

SECTION 2. 101.123 (2) (bm) of the statutes is created to read:

101.123 (2) (bm) Notwithstanding par. (a) and sub. (3), no person may smoke on the premises, indoors or outdoors, of a day care center when children who are receiving day care services are present.

SECTION 3. 101.123 (4) (a) 2. of the statutes, as affected by 1991 Wisconsin Act 130, is amended to read:

101.123 (4) (a) 2. A person in charge or his or her agent may not designate an entire building as a smoking area or designate any smoking areas in a motor bus, ~~in~~ a hospital or ~~in~~ a physician's office or on the premises, indoors or outdoors, of a day care center when children who are receiving day care services are present, except that in a hospital or a unit of a hospital that has as its primary purpose the care and treatment of mental illness, alcoholism or drug abuse a person in charge or his or her agent may designate one or more enclosed rooms with outside ventilation as smoking areas for the use of adult patients who have the written permission of a physician. Subject to this subdivision and sub. (3) (b), a person in charge or his or her agent may not designate an entire room as a smoking area.

SECTION 4. 101.123 (8) (a) of the statutes, as affected by 1991 Wisconsin Act 130, is amended to read:

101.123 (8) (a) Any person who wilfully violates sub. (2) (a) ~~or~~ (am) 1 or (bm) after being advised by an employe of the facility that smoking in the area is prohibited or any person in charge or his or her agent who wilfully fails to comply with sub. (5) shall forfeit not more than \$10.

SECTION 5. 165.87 (2) (a) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

165.87 (2) (a) Whenever a court imposes a fine or forfeiture for a violation of state law or for a violation of a municipal or county ordinance except for a violation of s. 101.123 (2) (a) ~~or~~ (am) 1 or (bm) or (5) or state laws or municipal or county ordinances involving nonmoving traffic violations or safety belt use violations under s. 347.48 (2m), there shall be imposed in addition a penalty assessment in an amount of 22% of the fine or forfeiture imposed. If multiple offenses are involved, the penalty assessment shall be based upon the total fine or forfeiture for all offenses. When a fine or forfeiture is suspended in whole or in part, the penalty assessment shall be reduced in proportion to the suspension.

SECTION 6. 302.46 (1) (a) of the statutes, as affected by 1991 Wisconsin Act 130, is amended to read:

302.46 (1) (a) On or after October 1, 1987, if a court imposes a fine or forfeiture for a violation of state law or for a violation of a municipal or county ordinance except for a violation of s. 101.123 (2) (a) ~~or~~ (am) 1 or (bm) or (5) or state laws or municipal or county ordinances

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involving nonmoving traffic violations or safety belt use violations under s. 347.48 (2m), the court, in addition, shall impose a jail assessment in an amount of 1% of the fine or forfeiture imposed or \$10, whichever is greater. If multiple offenses are involved, the court shall determine the jail assessment on the basis of each fine or forfeiture. If a fine or forfeiture is suspended in whole or in part, the court shall reduce the jail assessment in propor-

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tion to the suspension.

SECTION 7. 814.63 (1) (c) of the statutes, as affected by 1991 Wisconsin Act 130, is amended to read:

814.63 (1) (c) This subsection does not apply to an action for a violation of s. 101.123 (2) (a) ~~or~~ (am) 1 or (bm) or (5) or a safety belt use violation under s. 347.48 (2m).
