



1995 ASSEMBLY BILL 798

January 18, 1996 – Introduced by Representatives SCHNEIDER, BOYLE, GARD, OLSEN, OTTE, OWENS, RYBA, WILLIAMS, WIRCH and OTT. Referred to Committee on State Affairs.

1 **AN ACT to create** 118.115 of the statutes; **relating to:** smoking or using tobacco
2 products at or near a school and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, persons under the age of 18 may not possess cigarettes or other tobacco products. This bill bans the use of cigarettes and other tobacco products by anyone who has reason to believe that he or she is in a school zone. The bill defines a school zone to be the premises of a school or the area within 1,000 feet of the school premises. The bill exempts certain adults from this ban, including adults who are on private property that is not part of the school premises and adults who are in motor vehicles traveling through a school zone. The bill also authorizes the school administration to authorize certain employees of the school to detain, for a reasonable length of time, any person whom they see violating the ban in order to turn the person over to a law enforcement officer or a parent or guardian.

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

3 **SECTION 1.** 118.115 of the statutes is created to read:
4 **118.115 Tobacco-free school zones. (1) DEFINITIONS.** In this section:
5 (a) “Motor vehicle” has the meaning given in s. 340.01 (35).
6 (b) “Peace officer” has the meaning given in s. 939.22 (22).
7 (c) “School” has the meaning given in s. 948.61 (1) (b).

1 (d) "School administrator" means a school district administrator, or for private
2 or parochial schools, the governing body of the school.

3 (e) "School premises" means any school building, grounds, recreation area or
4 athletic field or any other property owned, used or operated for the purpose of the
5 school.

6 (f) "School zone" means any of the following:

- 7 1. School premises.
- 8 2. Within 1,000 feet of the school premises.

9 (g) "Smoke" means to carry a lighted cigar, cigarette, pipe or any other lighted
10 tobacco product or lighted smoking equipment.

11 (h) "Tobacco products" means cigarettes, cigars, smoking tobacco, snuff and any
12 other kind or form of tobacco prepared in such manner to be suitable for use for
13 chewing or smoking or both.

14 **(2) USE OF TOBACCO PRODUCTS IN SCHOOL ZONE.** (a) No person may smoke or use
15 tobacco products at a place that the person knows, or has reasonable cause to believe,
16 is a school zone.

17 (b) Paragraph (a) does not apply to smoking or using tobacco products by any
18 of the following:

- 19 1. An adult on private property not part of the school premises.
- 20 2. An adult who is in a motor vehicle traveling through the school zone.
- 21 3. An adult for use in a program approved by a school in the school zone.
- 22 4. An adult in accordance with a contract entered into between a school in the
23 school zone and the person or an employer of the person.

24 **(3) ENFORCEMENT.** (a) A school administrator, or any person who is covered by
25 a designation under par. (b), who has reasonable cause to believe that a person has

1 violated sub. (2) (a) in his or her presence may detain the person in a reasonable
2 manner for a reasonable length of time to deliver the person to a peace officer, or to
3 his or her parent or guardian in the case of a minor. The detained person must be
4 promptly informed of the purpose for the detention and be permitted to make phone
5 calls, but he or she shall not be interrogated or searched against his or her will before
6 the arrival of a peace officer who may conduct a lawful interrogation of the detained
7 person. The school administrator, or any person covered by the designation under
8 par. (b), may release the detained person before the arrival of a peace officer or parent
9 or guardian. Any school administrator, or any person covered by the designation
10 under par. (b), who acts in good faith under this subsection is immune from civil and
11 criminal liability for those acts.

12 (b) A school administrator may designate individual employes, or
13 classifications of employes, of a school to act under par. (a).

14 (4) PENALTY. A person who commits a violation of sub. (2) (a) is subject to a
15 forfeiture of \$75.

16 (END)