



1997 ASSEMBLY BILL 21

January 28, 1997 - Introduced by Representatives NASS, KREIBICH, HANDRICK, LADWIG, AINSWORTH, OLSEN, OTT, WASSERMAN, KELSO, LAZICH, SCHAFER, POWERS and GUNDERSON, cosponsored by Senators WELCH, CLAUSING, WEEDEN and ZIEN. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT** *to amend* 101.123 (4) (am) 1., 101.123 (4) (bm), 101.123 (6) and 101.123
2 (8) (a); and *to create* 101.123 (1) (dr) and 101.123 (2) (d) of the statutes;
3 **relating to:** prohibiting prisoners from smoking in state prisons and providing
4 a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits smoking in certain specified buildings or facilities, such as enclosed, indoor areas of a state or local government building, except in areas designated by the person in charge of the building or facility. This bill prohibits prisoners from smoking anywhere in or on the premises of state prisons. The restriction does not apply to department of corrections employees or to prison visitors.

For further information see the *state* 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:

5 **SECTION 1.** 101.123 (1) (dr) of the statutes is created to read:
6 101.123 (1) (dr) "Prisoner" has the meaning given in s. 301.01 (2).
7 **SECTION 2.** 101.123 (2) (d) of the statutes is created to read:

ASSEMBLY BILL 21**SECTION 2**

1 101.123 (2) (d) Notwithstanding par. (a) and subs. (3) and (4), no prisoner may
2 smoke in or on the premises of a prison.

3 **SECTION 3.** 101.123 (4) (am) 1. of the statutes is amended to read:

4 101.123 (4) (am) 1. The secretary of health and family services or his or her
5 designee may designate areas where smoking is permitted in a state institution
6 other than a prison, unless a fire marshal, law or resolution prohibits smoking in the
7 area. The secretary of corrections or his or her designee may designate areas where
8 smoking is permitted in a prison, unless a fire marshal, law or resolution prohibits
9 smoking in the area and subject to the restriction under sub. (2) (d). Either secretary
10 or his or her designee may designate an entire room as a smoking area in a state
11 institution administered by the secretary's department subject to the restriction
12 regarding prisoners under sub. (2) (d).

13 **SECTION 4.** 101.123 (4) (bm) of the statutes is amended to read:

14 101.123 (4) (bm) The person in charge of a state institution, jail or lockup
15 facility, or his or her agent, shall post notice of the designation of a smoking area
16 under par. (am) in or near the area designated. If an entire room is designated a
17 smoking area, the person in charge or his or her agent shall post notice of the
18 designation conspicuously on or near all normally used entrances to the room. If an
19 entire building in a prison, secured correctional facility, jail or lockup facility is
20 designated a smoking area, the person in charge, or his or her agent, shall post notice
21 of the designation on or near all normally used entrances to the building, but need
22 not post notice of the designation on or near entrances to rooms within the building.
23 If applicable, the notice shall include information about the restriction under sub. (2)
24 (d).

25 **SECTION 5.** 101.123 (6) of the statutes is amended to read:

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1 101.123 (6) UNIFORM SIGNS. The department shall, by rule, specify uniform
2 dimensions and other characteristics of signs used to designate smoking areas,
3 including signs for areas subject to the restriction under sub. (2) (d). These rules may
4 not require the use of signs that are more expensive than is necessary to accomplish
5 their purpose.

6 **SECTION 6.** 101.123 (8) (a) of the statutes is amended to read:

7 101.123 (8) (a) Any person who wilfully violates sub. (2) (a), (am) 1, or (bm) after
8 being advised by an employe of the facility that smoking in the area is prohibited or
9 that the person is prohibited from smoking under sub. (2) (d) or any person in charge
10 or his or her agent who wilfully fails to comply with sub. (5) shall forfeit not more than
11 \$10.

12

(END)