

1991 Senate Bill 130

Date of enactment: **March 26, 1992**

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1991 WISCONSIN ACT 130

AN ACT to amend 101.123 (1) (b), 101.123 (2) (b), 101.123 (3) (intro.), 101.123 (4) (a) 1, 101.123 (4) (a) 2, 101.123 (8) (a), 165.87 (2) (a) and 814.63 (1) (c); to repeal and recreate 302.46 (1) (a); and to create 101.123 (1) (am), 101.123 (1) (dg), 101.123 (1) (gm) and 101.123 (2) (am) of the statutes, relating to: the coverage of the clean indoor air law.

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

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

101.123 (1) (am) "Hospital" has the meaning given in s. 50.33 (2), except that "hospital" does not include a nursing home licensed under s. 50.03 that is operated in connection with a hospital or a retirement home that is operated in connection with a hospital.

SECTION 2. 101.123 (1) (b) of the statutes is amended to read:

101.123 (1) (b) "Inpatient health care facility" ~~has the meaning provided under s. 140.86 (1), except that it does include community based residential facilities as defined under s. 50.01 (1g) means a county home established under s. 49.14, a county infirmary established under s. 49.171, a community-based residential facility or a nursing home licensed under s. 50.03 or a tuberculosis sanatorium established under s. 58.06, 149.01 or 149.02.~~

SECTION 3. 101.123 (1) (dg) of the statutes is created to read:

101.123 (1) (dg) "Physician's office" means a place, other than a residence or a hospital, that is used primarily to provide medical care and treatment.

SECTION 3m. 101.123 (1) (gm) of the statutes is created to read:

101.123 (1) (gm) "Retirement home" means a residential facility where 3 or more unrelated adults or their

spouses have their principal residence and where support services, including meals from a common kitchen, are available to residents.

SECTION 4. 101.123 (2) (am) of the statutes is created to read:

101.123 (2) (am) 1. Notwithstanding par. (a) and sub. (3) and except as provided in subd. 2, no person may smoke in a motor bus, in a hospital or in a physician's office.

2. Notwithstanding subd. 1, a person who is an adult patient of a hospital or unit of a hospital that has as its primary purpose the care and treatment of mental illness, alcoholism or drug abuse and who has the written permission of a physician may smoke in a room that is designated as a smoking area under sub. (4) (a) 2.

SECTION 5. 101.123 (2) (b) of the statutes is amended to read:

101.123 (2) (b) The prohibition in ~~par. (a)~~ pars. (a) and (am) 1 applies only to enclosed, indoor areas.

SECTION 6. 101.123 (3) (intro.) of the statutes is amended to read:

101.123 (3) EXCEPTIONS. (intro.) The regulation of smoking in sub. (2) (a) does not apply to the following places:

SECTION 7. 101.123 (4) (a) 1. of the statutes is amended to read:

101.123 (4) (a) 1. Except as provided in subd. 2, a person in charge or his or her agent may designate smoking areas in the places where smoking is regulated under

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sub. (2) (a) unless a fire marshal, law, ordinance or resolution prohibits smoking.

SECTION 8. 101.123 (4) (a) 2. of the statutes 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, 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 9. 101.123 (8) (a) of the statutes is amended to read:

101.123 **(8)** (a) Any person who wilfully violates sub. (2) (a) or (am) 1 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 10. 165.87 (2) (a) of the statutes, as affected by 1991 Wisconsin Act 26, 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 (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 20% 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 11. 302.46 (1) (a) of the statutes, as affected by 1991 Wisconsin Acts 26 and 32, is repealed and recreated 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 (5) or state laws or municipal or county ordinances 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 proportion to the suspension.

SECTION 12. 814.63 (1) (c) of the statutes, as affected by 1991 Wisconsin Act 26, 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 (5) or a safety belt use violation under s. 347.48 (2m).

SECTION 13. Effective date. This act takes effect on the first day of the 18th month beginning after publication.