



1997 SENATE BILL 481

March 4, 1998 - Introduced by Senators DRZEWIECKI, FARROW, ROESSLER, HUELSMAN, DARLING and WEEDEN, cosponsored by Representatives GREEN, DOBYNS, URBAN, AINSWORTH, FREESE, HAHN, GOETSCH, OTTE, COGGS and ALBERS. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

1 **AN ACT** *to create* 134.245 of the statutes; **relating to:** sale and distribution of
2 recordings of certain musical works to persons under the age of 18, the purchase
3 of recordings of certain musical works by persons under the age of 18 and
4 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits the sale of a compact disc, audiocassette or any other recording of a musical work to a person under the age of 18 if the recording has a statement on it warning that the recording contains explicit lyrics or if the recording has a similar statement. The bill prohibits the purchase of such a recording by a person under the age of 18. The bill also prohibits the distribution of such recordings as part of promotional or advertising activity to persons under the age of 18. Under the bill, if the recording is sold or distributed by an employe of a person engaged in the business of selling recordings both the employe and the employer are liable to pay the forfeitures created in the bill.

The bill establishes a defense to prosecution for a seller who is presented an identification card such as a driver's license by the purchaser and who reasonably relies on the purchaser's appearance and identification card. The bill authorizes counties, towns, villages and cities to enact ordinances that strictly conform to the provisions created in this bill.

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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:

1 **SECTION 1.** 134.245 of the statutes is created to read:

2 **134.245 Restrictions on sale of recordings. (1) DEFINITIONS.** In this
3 section:

4 (a) "Identification card" means any of the following:

5 1. A license containing a photograph issued under ch. 343.

6 2. An identification card issued under s. 343.50.

7 3. An identification card issued under s. 125.08, 1987 stats.

8 (b) "Labeled recording" means a recording that has a statement with a warning
9 that the recording contains explicit lyrics or a recording that has a statement with
10 a similar warning.

11 (c) "Recording" means an audiocassette, tape, phonograph record, compact disc
12 or similar device upon which is recorded a musical work.

13 **(2) RESTRICTIONS ON DISTRIBUTIONS.** (a) No person may sell a labeled recording
14 to any person under the age of 18.

15 (b) A person engaged in the business of selling labeled recordings at retail shall
16 post a sign in areas within the person's premises where the labeled recordings are
17 sold to consumers stating that the sale of any labeled recording to a person under the
18 age of 18 is unlawful under this section.

19 (c) No person may give away or provide at nominal consideration labeled
20 recordings as part of a promotional or advertising activity to a person under the age
21 of 18.

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1 **(3) DEFENSE OF SELLER.** Proof of all of the following facts by a person who sells
2 labeled recordings to a person under the age of 18 is a defense to any prosecution for
3 a violation of sub. (2) (a):

4 (a) That the purchaser falsely represented that he or she had attained the age
5 of 18 and presented an identification card.

6 (b) That the appearance of the purchaser was such that an ordinary and
7 prudent person would believe that the purchaser had attained the age of 18.

8 (c) That the sale was made in good faith, in reasonable reliance on the
9 identification card and appearance of the purchaser and in the belief that the
10 purchaser had attained the age of 18.

11 **(4) RESTRICTIONS ON MINORS.** Except as provided in sub. (5), no person under the
12 age of 18 may do any of the following:

13 (a) Buy or attempt to buy any labeled recording.

14 (b) Falsely represent his or her age for the purpose of purchasing a labeled
15 recording.

16 **(5) EXEMPTION FOR MINORS.** A person under the age of 18 years may purchase
17 labeled recordings for the sole purpose of sale in the course of employment during his
18 or her working hours as an employe of a person who is engaged in the business of
19 selling recordings and who holds a sales tax permit issued under s. 77.52 (9).

20 **(6) PENALTIES.** (a) In this paragraph, "violation" means a violation of sub. (2)
21 (a) or (c) or a local ordinance which strictly conforms to sub. (2) (a) or (c).

22 (b) A person who commits a violation is subject to a forfeiture of either of the
23 following:

24 1. Not more than \$500 if the person has not committed a previous violation
25 within 12 months of the violation.

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1 2. Not less than \$200 nor more than \$500 if the person has committed a
2 previous violation within 12 months of the violation.

3 (c) Whoever violates sub. (2) (b) shall forfeit not more than \$25.

4 (d) If the person committing the violation is an employe of a person who is
5 engaged in the business of selling or distributing recordings, both the employe and
6 the employer are subject to applicable forfeiture.

7 **(7) PENALTIES; MINORS.**

8 (a) In this subsection, "violation" means a violation of sub. (4) or a local
9 ordinance which strictly conforms to sub. (4).

10 (b) A person who commits a violation is subject to a forfeiture of either of the
11 following:

12 1. Not more than \$100 if the person has not committed a previous violation
13 within 12 months of the violation.

14 2. Not less than \$100 nor more than \$200 if the person has committed a
15 previous violation within 12 months of the violation.

16 **(8) LOCAL ORDINANCE.** A county, town, village or city may enact an ordinance
17 regulating the conduct regulated by this section only if it strictly conforms to this
18 section. A county ordinance enacted under this subsection does not apply within any
19 town, village or city that enacts or has enacted an ordinance under this subsection.

20 **SECTION 2. Effective date.**

21 (1) This act takes effect on the first day of the 4th month beginning after
22 publication.

23 **(END)**