



2005 ASSEMBLY BILL 372

April 27, 2005 - Introduced by Representatives SCHNEIDER and LEHMAN,
cosponsored by Senator DARLING. Referred to Committee on State Affairs.

1 **AN ACT** *to repeal* 101.123 (3) (d) and 101.123 (3) (f); *to amend* 101.123 (1) (f),
2 101.123 (1) (g), 101.123 (2) (b), 101.123 (3) (b) and 101.123 (4) (a) 1.; and *to*
3 **create** 101.123 (1) (im), 101.123 (2) (a) 11. and 101.123 (4) (a) 2m. of the
4 statutes; **relating to:** smoking in restaurants, taverns, and offices.

Analysis by the Legislative Reference Bureau

Current law prohibits smoking in enclosed, indoor areas within specified buildings and facilities, including offices, retail establishments, other than taverns and bowling centers, and certain restaurants with a capacity of more than 50 individuals. However, with certain exceptions, current law authorizes a person in charge of any building or facility where smoking is prohibited to designate smoking areas within the building or facility. Current law also allows smoking in any restaurant holding a "Class B" intoxicating liquor license or Class "B" fermented malt beverage license, issued by a municipality, if the sale of alcohol beverages accounts for more than 50 percent of the restaurant's receipts.

This bill expands the prohibition against smoking to prohibit smoking in all indoor and outdoor areas of restaurants and taverns, regardless of capacity. The bill also eliminates the authority of a person in charge of a restaurant, tavern, or office to designate a smoking area in any of those places.

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

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1 **SECTION 1.** 101.123 (1) (f) of the statutes is amended to read:

2 101.123 (1) (f) “Restaurant” means an establishment defined in s. 254.61 (5)
3 ~~with a seating capacity of more than 50 persons.~~

4 **SECTION 2.** 101.123 (1) (g) of the statutes is amended to read:

5 101.123 (1) (g) “Retail establishment” means any store or shop in which retail
6 sales is the principal business conducted, ~~except a tavern operating under a “Class~~
7 ~~B” intoxicating liquor license or Class “B” fermented malt beverages license, and~~
8 ~~except bowling centers.~~

9 **SECTION 3.** 101.123 (1) (im) of the statutes is created to read:

10 101.123 (1) (im) “Tavern” means an establishment operating under a “Class B”
11 intoxicating liquor license or Class “B” fermented malt beverages license.

12 **SECTION 4.** 101.123 (2) (a) 11. of the statutes is created to read:

13 101.123 (2) (a) 11. Taverns.

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

15 101.123 (2) (b) The prohibition in pars. (a) and (am) 1. applies only to enclosed,
16 indoor areas, except that the prohibition in par. (a) 7. and 11. applies to all indoor and
17 outdoor areas of restaurants and taverns.

18 **SECTION 6.** 101.123 (3) (b) of the statutes is amended to read:

19 101.123 (3) (b) Rooms, other than offices, in which the main occupants are
20 smokers, even if nonsmokers are periodically present in the office or room.

21 **SECTION 7.** 101.123 (3) (d) of the statutes is repealed.

22 **SECTION 8.** 101.123 (3) (f) of the statutes is repealed.

23 **SECTION 9.** 101.123 (4) (a) 1. of the statutes is amended to read:

24 101.123 (4) (a) 1. Except as provided in ~~subd.~~ subds. 2. and 2m., a person in
25 charge or his or her agent may designate smoking areas in the places where smoking

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

3 **SECTION 10.** 101.123 (4) (a) 2m. of the statutes is created to read:

4 101.123 (4) (a) 2m. A person in charge or his or her agent may not designate
5 any office or any indoor or outdoor area of a restaurant or a tavern as a smoking area.

6 (END)