



2019 SENATE BILL 118

March 20, 2019 - Introduced by Senators JACQUE, SCHACHTNER, L. TAYLOR, BEWLEY, CARPENTER, DARLING, HANSEN, JOHNSON, LARSON, MILLER, OLSEN, PETROWSKI and WANGGAARD, cosponsored by Representatives MURSAU, BILLINGS, ALLEN, ANDERSON, BALLWEG, BOWEN, BRANDTJEN, CONSIDINE, CROWLEY, DITTRICH, DOYLE, DUCHOW, EDMING, EMERSON, FELZKOWSKI, GOYKE, GRUSZYNSKI, GUNDRUM, HESSELBEIN, KITCHENS, KOLSTE, KULP, LOUDENBECK, MEYERS, MILROY, MYERS, OHNSTAD, OLDENBURG, POPE, QUINN, RAMTHUN, RIEMER, RODRIGUEZ, SARGENT, SINICKI, SKOWRONSKI, SPIROS, SPREITZER, STEFFEN, STUCK, SUBECK, C. TAYLOR, THIESFELDT, TITTL, TUSLER, VANDERMEER and VRUWINK. Referred to Committee on Local Government, Small Business, Tourism and Workforce Development.

- 1 **AN ACT** *to amend* 134.65 (7) (a) 1. and 134.66 (4) (a) 1.; and *to create* 134.66 (2)
2 (f) of the statutes; **relating to:** placement of cigarettes, nicotine products, or
3 tobacco products by retailers and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill allows a retailer to place cigarettes, nicotine products, or tobacco products only in locations that are inaccessible to customers without the assistance of the retailer or the retailer's employee or agent, such as behind the counter or in a locked case. The bill's restriction does not apply to 1) cigarettes, nicotine products, or tobacco products sold in a vending machine; 2) a retail location that generates 75 percent or more of its revenue from sales of cigarettes, nicotine products, or tobacco products, as long as the retail location prohibits anyone under the age of 18 from entering without a parent or guardian; or 3) cigars that are placed in a separate, humidity-controlled room in a retail location if the entrance to the room is visible, either directly or by video surveillance, from the check-out area and no person under the age of 18 is permitted to enter the room without a parent or guardian. Current law imposes restrictions on sales from a vending machine that this bill does not affect.

A retailer who violates the bill's restriction is subject to the same penalties that apply to violations of other restrictions that apply to retailers of cigarettes or tobacco products, including 1) a forfeiture of not more than \$500, if the retailer has not committed a previous violation within 12 months; 2) a forfeiture of not less than \$200 nor more than \$500, if the retailer has committed a previous violation within 12

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months; and 3) suspension of the retailer's license for a period of time that depends on the number of previous violations committed by the retailer.

The bill also allows a first class city, which currently includes only Milwaukee, to suspend, revoke, or refuse to renew a cigarette and tobacco products retailer license if the retailer violates the bill's restriction, by following the complaint and hearing procedure that exists under current law for certain other violations and activities.

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

1 **SECTION 1.** 134.65 (7) (a) 1. of the statutes is amended to read:

2 134.65 (7) (a) 1. The person has violated s. 134.66 (2) (a), (am), (cm), ~~or~~ (e), or
3 (f), or a municipal ordinance adopted under s. 134.66 (5).

4 **SECTION 2.** 134.66 (2) (f) of the statutes is created to read:

5 134.66 (2) (f) A retailer shall place cigarettes, nicotine products, or tobacco
6 products only in locations that are inaccessible to customers without the assistance
7 of the retailer or the retailer's employee or agent, including behind the counter or in
8 a locked case. This paragraph does not apply to any of the following:

9 1. Cigarettes, nicotine products, or tobacco products sold from a vending
10 machine.

11 2. A retail location that receives 75 percent or more of its revenue from sales
12 of cigarettes, nicotine products, or tobacco products, if no person younger than 18
13 years of age is permitted to enter the retail location without being accompanied by
14 his or her parent or guardian or by his or her spouse who has attained the age of 18
15 years.

16 3. Cigars placed in an enclosed room in a retail location if no person younger
17 than 18 years of age is permitted to enter the room without being accompanied by
18 his or her parent or guardian or by his or her spouse who has attained the age of 18

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1 years, the room has a separate system for controlling humidity, and the entrance to
2 the room is directly visible or visible by video surveillance from the retail location's
3 register or check-out area.

4 **SECTION 3.** 134.66 (4) (a) 1. of the statutes is amended to read:

5 134.66 (4) (a) 1. In this paragraph, "violation" means a violation of sub. (2) (a),
6 (am), (cm), ~~or (e)~~, or (f) or a local ordinance which strictly conforms to sub. (2) (a), (am),
7 (cm), ~~or (e)~~, or (f).

8 **SECTION 4. Effective date.**

9 (1) This act takes effect on the first day of the 7th month beginning after
10 publication.

11 (END)