

LEGISLATIVE HEARING CALENDAR

Positions to be taken by the City of Milwaukee on the following bills will be discussed by the

COMMITTEE ON JUDICIARY-LEGISLATION

MONDAY, FEBRUARY 4, 2002 AT 9:45 A.M.

Room 301-B, City Hall

S-360 Cigarettes

S-407 Internal Revenue Code; Income

CITY OF MILWAUKEE
2002 JAN 31 PM 3:45
RONALD D. LEONHARDT
CITY CLERK

2001 SENATE BILL 360

December 27, 2001 - Introduced by Senators ROBSON, ROESSLER, RISSER and PLACHE, cosponsored by Representatives LIPPERT, URBAN, BOCK, LA FAVE, J. LEHMAN, TURNER, OTT, MILLER, MORRIS-TATUM, STASKUNAS and BERCEAU. Referred to Committee on Human Services and Aging.

1 AN ACT *to repeal* 254.916 (4); *to amend* 134.66 (5), subchapter IX (title) of
2 chapter 254 [precedes 254.911], 254.911 (2), 254.916 (1) (b), 254.916 (1) (c),
3 254.916 (3) (e), 254.916 (3) (f) (intro.), 254.916 (5) and 254.916 (8); *to repeal*
4 *and recreate* 254.916 (title) and 254.916 (1) (a); and *to create* 134.65 (1m) of
5 the statutes; **relating to:** investigations to determine compliance with certain
6 prohibitions against selling or giving cigarettes and tobacco products to minors
7 and requiring certain information to be included on an application for a license
8 to sell, expose for sale, possess with intent to sell, exchange, barter, dispose of,
9 or give cigarettes or tobacco products to a person.

Analysis by the Legislative Reference Bureau

Under current law, a person is prohibited from directly or indirectly selling, exposing for sale, possessing with intent to sell, exchanging, bartering, disposing of, or giving cigarettes or tobacco products to any person unless the person is licensed by a town, city, or village clerk.

Under this bill, a city, village, or town clerk may not issue a license to sell, exchange, barter, dispose of, or give away cigarettes or tobacco products unless the applicant specifies in the license application whether the applicant will sell,

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exchange, barter, dispose of, or give away the cigarette or tobacco products over the counter or in a vending machine, or both.

Current law prohibits a retailer, manufacturer, distributor, jobber, subjobber, or independent contractor, or the agent or employee of any of these persons, from selling or giving cigarettes or tobacco products to a minor unless the minor purchased or possessed the cigarettes or tobacco products in the course of the minor's employment. In addition, these persons are prohibited from giving cigarettes or tobacco products to any person unless the cigarettes or tobacco products are provided in a place where minors are not permitted to enter. Current law authorizes a county, town, city, or village to adopt an ordinance regulating the sale or gift of cigarettes or tobacco products to a minor as long as the ordinance strictly conforms to these statutory prohibitions.

Under current federal law, as a condition of receiving certain amounts of the substance abuse block grant, this state must prohibit manufacturers, retailers, or distributors of tobacco products from selling or distributing tobacco products to minors, must conduct random unannounced investigations of retail outlets where cigarettes or tobacco products are sold, and must report annually to the federal department of health and human services on these enforcement activities and the success of these activities.

Current law authorizes the department of health and family services (DHFS) to contract with governmental regulatory authorities, as agents of DHFS, to conduct unannounced investigations of retail outlets where cigarettes or tobacco products are sold to survey overall levels of compliance with the prohibitions against selling cigarettes or tobacco products to minors. A governmental regulatory authority is defined as a local health department, a state agency, or a state or local law enforcement agency. Current law authorizes governmental regulatory authorities to use, as part of the governmental regulatory authority's unannounced investigations, a minor who is at least 15 years of age to buy, attempt to buy, or possess cigarettes or tobacco products if the minor has the permission of his or her parent or guardian, is directly supervised by an adult employee of the governmental regulatory authority, and has prior written authorization to participate in the investigation from the governmental regulatory authority, authorized agent of the governmental regulatory authority, or district attorney.

Current law also requires that an unannounced investigation comply with standards established by DHFS and meet all of the following requirements:

1. A minor, if asked his or her age during the course of an investigation, must give his or her age.
2. A governmental regulatory authority may not use a minor in an investigation if the minor is a regular customer at the retail outlet that is the subject of the investigation.
3. The appearance of a minor who is used in an investigation may not be materially altered to indicate greater age.
4. A photograph or videotape of the minor must be made on the day of the investigation and, if a prosecution results from the investigation, the governmental

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regulatory authority must retain the photograph or videotape until the final disposition of the case.

5. If a violation of the prohibition against selling or providing cigarettes or tobacco products to minors occurs during the investigation, the governmental regulatory authority conducting the investigation is required to make a good faith effort to notify a retailer of the violation and to issue a citation, if any, within 72 hours after the investigation.

6. Within ten days after an investigation, the governmental regulatory authority conducting the investigation must report to the retailer the name and position of the governmental regulatory authority employee who supervised the investigation, the age of a minor used in the investigation, the date and time of the investigation, and the results of the investigation.

Finally, under current law, a governmental regulatory authority may not subject a retailer to more than two investigations annually unless both of the investigations reveal that the retailer violated the prohibition against selling or giving cigarettes or tobacco products to minors.

This bill permits DHFS or another governmental regulatory authority, without first contracting with DHFS, to conduct unannounced investigations at retail outlets to enforce compliance with the statutory prohibitions against selling or giving cigarettes or tobacco products to minors, or a local ordinance that strictly conforms to the statutory prohibitions. The bill requires that any investigation that is conducted comply with the current statutory requirements for investigations and any standards established by DHFS.

In addition, under this bill a governmental regulatory authority may not conduct more than two investigations annually at a retail outlet unless one of the investigations reveals that the retailer violated the prohibition against selling or giving cigarettes or tobacco products to minors.

For further information see the *state and local* 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.** 134.65 (1m) of the statutes is created to read:

2 **134.65 (1m)** A city, village, or town clerk may not issue a license under sub. (1)
3 unless the applicant specifies in the license application whether the applicant will
4 sell, exchange, barter, dispose of, or give away the cigarette or tobacco products over
5 the counter or in a vending machine, or both.

6 **SECTION 2.** 134.66 (5) of the statutes is amended to read:

2001 SENATE BILL 407

January 29, 2002 - Introduced by Senators BURKE, BAUMGART, ERPENBACH, GROBSCHMIDT, M. MEYER, RISSER and WIRCH, cosponsored by Representatives KRAWCZYK, LIPPERT, M. LEHMAN, GARD, JENSEN, GROTHMAN, OTT, SERATTI, D. MEYER, OWENS, J. FITZGERALD, NASS, RHOADES, MUSSER, VRAKAS, JOHNSRUD, HUNDERTMARK, LOEFFELHOLZ, WARD, MONTGOMERY, BIES, HAHN, LADWIG, WIECKERT, LEIBHAM, JESKEWITZ, SKINDRUD, POWERS, URBAN, STARZYK, KAUFERT, HINES, HUEBSCH, TOWNSEND, PETTIS, KESTELL, WALKER, UNDERHEIM, FRISKE and PETROWSKI. Referred to Joint Committee on Tax Exemptions.

- 1 AN ACT *to amend* 71.01 (6) (o), 71.22 (4) (o), 71.22 (4m) (m), 71.26 (2) (b) 15., 71.34
 2 (1g) (o) and 71.42 (2) (n) of the statutes; **relating to:** references to the Internal
 3 Revenue Code for income and franchise tax purposes.

Analysis by the Legislative Reference Bureau

This bill adopts, for income tax and franchise tax purposes, the changes to the federal Internal Revenue Code made by the individual income and pension and individual retirement arrangement provisions of the federal Economic Growth and Tax Relief Reconciliation Act of 2001, excluding the section related to a deduction for higher education expenses which is similar to a deduction allowed under current state law.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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:

- 4 SECTION 1. 71.01 (6) (o) of the statutes is amended to read:
 5 71.01 (6) (o) For taxable years that begin after December 31, 1999, for natural
 6 persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or