



## Legislation Text

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**File #: 970827, Version: 1**

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970827  
SUBSTITUTE 1

ALD. KALWITZ AND PRATT

A substitute ordinance restricting the advertisement of alcohol beverages and tobacco products on certain billboards.

244-20 rn

244-20 cr

- Analysis -

This ordinance restricts the location of outdoor signs advertising alcohol beverages or tobacco products to limited, defined locations within the city. It also creates a forfeiture penalty of not less than \$500 nor more than \$2,000 upon conviction, with each day on which a violation continues being considered a separate offense. The building inspection department would be the enforcing agency.

The ordinance also provides that contracts in existence on the effective date of this ordinance or any renewal term less than 5 years in length for advertising such beverages and products will not be abrogated by this ordinance.

Whereas, Wisconsin law prohibits the sale or possession of alcohol beverages to any person under 21 years of age and prohibits the sale or possession of tobacco products to any person under 18 years of age; and

Whereas, More than 3 million minors under the age of 18 consume more than 947 million packs of cigarettes annually in the United States, yielding gross sales to the tobacco industry each year of approximately \$1 billion; and

Whereas, Cigarettes are the most heavily advertised product in America, and the tobacco industry spends more than \$421 million annually for outdoor advertising of cigarettes; and

Whereas, Alcoholic beverages are the second most heavily advertised products in America and the alcohol beverage industry spends more than \$100 million annually for outdoor advertising of its products; and

Whereas, Outdoor advertisements are a unique and distinguishable medium of advertising which subjects the general public to involuntary and unavoidable forms of solicitation; and

Whereas, The Supreme Court and other courts have recognized the positive relationship between advertising and consumption as regards a variety of goods and services; and

Whereas, In addition to judicial recognition of the general link between advertising and consumption, there is evidence that tobacco advertising plays a significant role in stimulating illegal consumption of cigarettes by minors, including articles in the New England Journal of Medicine, American Journal of Public Health, Journal of Pediatrics and other scientific journals, and research has also shown that children's attitudes favorable to alcohol are significantly related to their exposure to alcohol advertising; and

Whereas, State figures indicate that 34% of 17-year-olds smoke daily and 9% of 11-year-olds are smoking daily; and

Whereas, A 1996 University of British Columbia study found that teenagers are 3 times as likely as adults to respond to cigarette ads and, on average, whenever a cigarette brand increased its advertising budget by 10%, its share of the adult smoking market grew 3% but its share of teen smokers grew 9%; and

Whereas, Studies have shown that our nation's adolescents commonly use cigarettes, and that cigarettes constitute a "gateway" drug for many of these youth, i.e., a substance which is used by adolescents as a first drug and opens the door for use of other "harder" substances at a later date; and studies have also shown a strong correlation between alcohol use and juvenile crime, that a striking association exists between juvenile alcohol use and suicide by firearm, and that alcohol use by minors correlates with drowning accidents, diving accidents, and school truancy and damage to school property; and

Whereas, An ordinance restricting the placement of advertisements for alcohol beverages and tobacco products in publicly visible locations within the City of Milwaukee is a reasonable and necessary measure for reducing illegal transactions and illegal consumption of alcohol beverages and tobacco products by minors, and for the promotion of the welfare and temperance of minors exposed to such advertisements;

Whereas, The restrictions contained in the following ordinance will not unduly burden legitimate business activities of persons licensed by the state of Wisconsin or the City of Milwaukee to sell alcohol beverages or tobacco products; now, therefore,

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 244-20 of the code is renumbered 244-21.

Part 2. Section 244-20 of the code is created to read:

244-20. Advertising of Alcohol Beverages or Tobacco Products.

1. DEFINITIONS. In this section:

a. "Alcohol beverages" has the meaning given in s. 125.02(1), Wis. Stats.

b. "Publicly visible location" means any outdoor location visible to the public, including, but not limited to, billboards, roofs and sides of buildings, water towers, and freestanding signboards.

c. "Tobacco products" has the meaning given in s. 139.75(12), Wis. Stats.

2. PROHIBITED. No person may place any sign, poster, placard, graphic display or any other form of advertising that advertises alcohol beverages or tobacco products in a publicly visible location.

3. EXCEPTIONS. The provisions of sub. 2 shall not apply to:

a. Any sign inside a premise licensed to sell alcohol beverages or tobacco products.

b. Any sign on a commercial vehicle used for transporting alcohol beverages or tobacco products.

c. Any sign that contains the name or slogan of a premise licensed to sell alcohol beverages or tobacco products.

d. Any sign that contains a generic description of alcohol beverages or tobacco products.

e. Any sign at sports arenas, stadiums, or convention facilities.

f. Any sign on property adjacent to an interstate highway.

g. Any sign in an industrial district.

h. Any neon or electrically charged sign on a premise licensed to sell alcohol beverages or tobacco products that is provided as part of a promotion of a particular alcohol beverage or tobacco product.

i. Any sign at a special event for which a special event permit is obtained under s. 105-55.5.

j. Any sign on a Milwaukee country transit system bus.

4. PENALTIES. Any person who violates this section shall, upon conviction, forfeit not less than \$500 nor more than \$2,000 together with the costs of prosecution for each offense, or, in default of payment may be imprisoned in the county jail or house of correction for not more than 80 days. Each day on which a violation continues shall be determined a separate and distinct offense.

Part 3. This ordinance may only be applied to, or interpreted to have an effect on, any contract executed on or after the effective date of this ordinance and to any renewal term less than 5 years in length, beginning on or after the effective date of this ordinance, of a preexisting contract.

APPROVED AS TO FORM

\_\_\_\_\_  
Legislative Reference Bureau

Date: \_\_\_\_\_

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

\_\_\_\_\_  
Office of the City Attorney

Date: \_\_\_\_\_

LRB97471.3

lme

10/8/97