



Legislation Text

File #: 971613, Version: 3

971613
SUBSTITUTE 3

ALD. KALWITZ, PRATT AND RICHARDS

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

244-20 rn

244-20 cr

- Analysis -

This ordinance restricts the location of signs advertising tobacco products to limited, defined locations within the city. The penalty for violation would be the standard penalty found in s. 200-19, which is forfeiture of not less than \$150 per violation per day nor more than \$5,000, with up to \$10,000 in accumulated penalties recoverable in any one action. The building inspection department is the enforcing agency.

The ordinance also provides that contracts in existence on the effective date of this ordinance or any renewal term less than 6 months in length for advertising such products will not be abrogated by this ordinance.

Whereas, Wisconsin law 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, 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, and the Journal of Pediatrics ; and

Whereas, More than 80% of smokers start to smoke before the legal age of sale; and

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

Whereas, Wisconsin children smoke 14 million packs of cigarettes per year, each day 120 Wisconsin children begin smoking, each day 60 of these children become addicted smokers and 30 of these addicted children will eventually die of diseases caused by smoking; 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

Whereas, An ordinance restricting the placement of advertisements for 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 tobacco products by minors, and for the promotion of the welfare of minors exposed to such advertisements; and

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 tobacco products; and

Whereas, In order to protect legitimate business activities and to narrowly focus its efforts on those advertisements which most directly affect minors where they live, attend school, attend church and engage in recreational activities, the Milwaukee Common Council has determined not to restrict tobacco advertisement in industrial districts except where children might be present within those districts; 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 Tobacco Products.

1. DEFINITIONS. In this section:

a. "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, including signs inside premises visible to the outside.

b. "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 tobacco products in a publicly visible location. This restriction does not apply to any sign, poster, placard, graphic display or billboard solely advertising a cultural event or supporting a nonprofit group.

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

a. Any sign facing inside and on a premise licensed to sell tobacco products.

b. Any sign facing onto the street on a premise licensed to sell tobacco products which is in a format in which truthful, factual information appears in clear, plain black type on a white field without adornment and unaccompanied by color, opinion, artwork or logos.

c. Any sign on a commercial vehicle used for transporting tobacco products.

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

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

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

g. Any sign in an industrial district that is not within 500 feet of a school, church, playground, community center or day care center.

Part 3. This ordinance does not apply to pre-existing contracts up to a period of 6 months from the effective date of this ordinance.
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: _____

LRB97669.6

lme

2/27/98