



## Legislation Text

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**File #:** 160963, **Version:** 0

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160963  
ORIGINAL

ALD. MURPHY

An ordinance prohibiting the use of smokeless tobacco at sports facilities and recreational areas.

105-49.5                      cr

This ordinance prohibits the use of smokeless tobacco at sporting event venues. A sporting event venue includes the entire physical area in which the sporting event occurs, including open, semi-open and enclosed spaces and structures, playing fields, team bench areas, vendor areas, spectator seating areas, parking lots and designated tailgating areas. This prohibition does not apply to tobacco cessation products. Any person violating this prohibition shall be subject to a \$100 to \$250 forfeiture.

No person in charge of controlling, governing or directing the activities at a sporting event venue where the use of smokeless tobacco is prohibited may allow another person to use smokeless tobacco. Any such person in charge violating this prohibition, after first receiving a warning notice, shall be subject to a \$100 forfeiture. No person in charge shall be required to forfeit more than \$100 in total for all violations occurring on a single day.

Whereas, Public health authorities, including the Surgeon General of the United States and the National Cancer Institute, have found that smokeless tobacco use is hazardous to health and can lead to nicotine addiction; and

Whereas, The National Cancer Institute states that smokeless tobacco contains at least 28 chemicals that cause cancer, and according to the Wisconsin Department of Health Services, smokeless tobacco has 10 times the amount of some cancer-causing substances as smoking tobacco; and

Whereas, According to the Wisconsin Department of Health Services, 17.4% of male Wisconsin high-school students use smokeless tobacco, and each year, about 535,000 children between the ages of 12-17 use smokeless tobacco for the first time; and

Whereas, The U.S. Centers for Disease Control and Prevention (CDC) reports that the use of smokeless tobacco <<http://www.cdc.gov/media/releases/2015/p0903-athlete-tobacco.html>> by youth athletes increased from 2001 to 2013, and young athletes are almost 80 percent more likely <<http://health.usnews.com/health-news/articles/2015/09/03/more-high-school-athletes-using-dip-and-chew-cdc-finds>> to use smokeless tobacco products than non-athletes; and

Whereas, According to an expert from the CDC, “Athletes serve as role models for youth, and smokeless tobacco manufacturers have used advertising, images, and testimonials featuring athletes and sports to make smokeless tobacco products appear attractive to youth”; and

Whereas, The CDC expert also noted that, “Children and teens closely observe athletes’ actions,

including their use of tobacco products, and are influenced by what they see. Adolescents tend to mimic the behaviors of those they look up to and identify with, including baseball players and other athletes”; and

Whereas, The use of smokeless tobacco has become part of the culture of some sports, particularly baseball, and is reinforced through the use of smokeless tobacco by players, coaches and fans at professional and amateur levels of the sport; and

Whereas, Major League Baseball has banned the use of smokeless tobacco by its minor league players since 1993, but has failed to enforce a similar ban for its major league players; and

Whereas, Smokeless tobacco spit is unsanitary and interferes with the enjoyment of other players and fans; now, therefore

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

Part 1. Section 105-49.5 of the code is created to read:

### **105-49.5. Use of Smokeless Tobacco Products Prohibited.**

#### **1. DEFINITIONS.** In this section:

- a. “Person in charge” means the person, or his or her agent, who ultimately controls, governs or directs the activities at a sporting event venue where the use of smokeless tobacco is prohibited under this section.
- b. “Smokeless tobacco” means any product that contains cut, ground, powdered or leaf tobacco and is intended to be placed in the oral or nasal cavity for purposes other than smoking, including chewing tobacco, dipping tobacco, dissolvable tobacco products, snuff and snus, but does not include any product that has been approved by the U.S. Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.
- c. “Sporting event venue” means any venue in which sporting events occur. This includes the entire physical area in which the sporting event occurs, including open, semi-open and enclosed spaces and structures, playing fields, dugouts, bullpens, training rooms, locker rooms, team bench areas, spectator seating areas, pedestrian walkways, bathrooms, dining areas, vendor areas, offices, recreational areas, parking lots and designated tailgating areas.
- d. “Sporting event” means any professional, collegiate, high school or organized amateur game or athletic competition organized by a league or association of persons, including but not limited to baseball, softball, football, basketball, hockey, track and field, field hockey, lacrosse or soccer.

**2. USE OF SMOKELESS TOBACCO PROHIBITED.** The use of smokeless tobacco is prohibited at sporting event venues.

#### **3. RESPONSIBILITY OF PERSONS IN CHARGE.**

- a. No person in charge may allow any person to use smokeless tobacco in violation of sub. 2 at a

location that is under the control or direction of the person in charge.

b. A person in charge shall comply with par. a by doing all of the following:

b-1. Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.

b-2. Refusing to serve food or drink to a person who is in violation of sub. 2.

b-3. Asking a person who is in violation of sub. 2 to refrain from using smokeless tobacco and, if the person refuses to do so, asking the person to leave the sporting event venue.

b-4. If a person refuses to leave a sporting event venue after being requested to do so as provided in subd. 3, the person in charge shall immediately notify an appropriate law enforcement agency of the violation.

#### 4. PENALTIES.

a. Any person violating the prohibition set forth in sub. 2 shall be subject to a forfeiture of not less than \$100 nor more than \$250.

b. Except as provided in par. c or d, any person in charge who violates sub. 3 shall be subject to a forfeiture of \$100 for each violation.

c. For violations subject to the forfeiture under par. b, if the person in charge has not previously received a warning notice for a violation of sub. 3, the law enforcement officer shall issue the person in charge a warning notice and may not issue a citation.

d. No person in charge may be required under par. b to forfeit more than \$100 in total for all violations of sub. 3 occurring on a single day.

#### APPROVED AS TO FORM

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Legislative Reference Bureau

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

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

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Office of the City Attorney

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

Dana J. Zelazny  
LRB165184-1  
11/2/2016