

Chapter 9.20

OFFENSES BY OR AGAINST MINORS

Sections:

9.20.010 Curfew.

9.20.020 Truancy.

9.20.030 Sale or gift of cigarettes or tobacco products to minors prohibited.

9.20.040 Purchase or possession of tobacco products prohibited.

9.20.010 Curfew.

A. Minors Restricted. No person under eighteen (18) years shall loiter, idle, wander, play or otherwise be on the town streets, alleys, highways, roads, sidewalks, parks, playgrounds, public grounds or vacant lots either on foot or in or on a vehicle between ten-thirty p.m. and five a.m., Sunday through Thursday, and between midnight and five a.m. on Friday and Saturday and the day preceding legal holidays, unless such minor is accompanied by either of his parents or his guardian, or other person having the legal custody of such minor.

B. Exceptions. This does not apply to minors who are returning home from functions authorized by schools or churches or other civic organizations, provided they take the shortest and most direct route, and as fast as reasonably possible under the circumstances, nor to minors whose employment makes it necessary to be upon such public streets, alleys, highways, roads, sidewalks, parks, playgrounds or other public places in the time restricted, but such minors shall carry a pass issued by the chief of police and shall use the shortest and most direct route going to and from their place of employment and home.

C. Responsibility of Parent. No parent, guardian or other person having legal custody of any minor person under the age of eighteen (18) years shall knowingly permit such minor to loiter, idle, wander,

play or otherwise be either on foot or in or on a vehicle of any nature upon the streets, alleys, highways, roads, sidewalks, parks, playgrounds, public grounds or vacant lots between the hours and dates specified in subsection A of this section unless accompanied by a parent, guardian or other adult person having the legal custody of such minor, unless such minor is returning home from functions authorized by schools, churches or otherwise recognized civic organizations or going to or returning home from work as specified in subsection B of this section. Any parent, guardian or other person having legal custody of any such minor child who shall violate the provisions of this section shall be subject to a penalty as provided in Chapter 1.20 of this code.

D. Responsibility of Operators of Hotels, Motels and Rooming Houses. No person operating a hotel, motel or lodging or rooming house within the town, or any agent, servant or employee of such person, shall permit any child under the age of seventeen (17) years to visit, idle, wander or stroll in any portion of such hotel, motel or lodging or rooming house between eleven p.m. and six a.m. the next day unless such child is accompanied by his parent, guardian or other adult person having legal custody of such child.

E. Loitering in School and Playground Areas. No person not in official attendance or on official school business shall enter into, congregate, loiter, wander, stroll, stand or play in any school building or in or about any playground area adjacent thereto within the town between eight a.m. and four p.m. on official school days.

F. Detaining a Child. A child believed to be violating the provisions of this section shall be taken to the police department, the county sheriff's department for proper identification or home, depending on applicable state law. Any law enforcement officer on duty may detain any child

violating subsection A, D or E of this section until such time as the parent, guardian or other adult person having legal custody of the child has been immediately notified and the person so notified has, as soon as reasonably possible thereafter, reported to the police department or the sheriff's office for the purpose of taking the child into custody and has signed a release for him.

G. Warning. The first time a child is detained by law enforcement officers as provided in subsection F of this section, the parent, guardian or person having legal custody shall be advised as to the provisions of this section; and any violation of this section occurring thereafter by this child or any other child under such adult's care or custody shall result in a penalty being imposed as provided in subsection H of this section.

H. Penalty.

1. Any parent, guardian or person having legal custody of a child described in subsection A, D or E of this section who has been warned in the manner provided in subsection G of this section, and who thereafter violates any of the provisions of this section, shall be subject to a penalty as provided in Chapter 1.20 of this code.

2. Any child who violates this section after being detained and released under subsection F of this section, shall be subject to a penalty as provided in Chapter 1.20 of this code. (Ord. dated 4/27/95; prior code § 9.15)

9.20.020 Truancy.

A. Definition. "Truancy" means any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of Wisconsin Statute 118.15.

B. Contributing to Truancy. Any person who, by an act or omission, knowingly encourages or contributes to the truancy, as defined in Section 118.16(1)(c), Wis. Stats., of a child shall forfeit not more than five hundred dollars (\$500.00). An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be truant.

Exception: This subsection does not apply to a person who has under his or her control a child who has been sanctioned under Section 49.50(7)(h), Wis. Stats.

C. Failure to Control Habitual Truancy. Whoever having under his or her control a child who is between the ages of six and eighteen (18) years and whose child is not in compliance with Section 118.15, Wis. Stats. shall forfeit not more than five hundred dollars (\$500.00).

D. Truant. Whoever is truant as defined in subsection A of this section shall be in violation of the ordinance codified in this chapter and upon conviction thereof shall forfeit not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). (Ord. dated 5/26/05; Ord. dated 11/12/90; prior code § 9.26)

9.20.030 Sale or gift of cigarettes or tobacco products to minors prohibited.

A. Definitions. The following words, terms and phrases when used in this section shall have the meanings scribed to them in this subsection, except where the context clearly indicates a different meaning.

"Cigarette and tobacco products" have the definitions set forth in Sec. 66-646, Wis. Stats.

"Distributer" means any of the following:

1. A person specified under Wis. Stats. Section 139.30(3);

2. A person specified under Wis. Stats. Section 139.75(4);

3. "Identification card" means any of the following:

1. A license containing a photograph issued under Wis. Stats., Chapter 343;

2. An identification Card issued under Wis. Stats. Section 343.50;

3. An identification card issued under Section 125.08, 1987 Wis. Stats.

"Jobber" has the meaning given in Wis. Stats. Section 139.30(6).

"Manufacturer" means any of the following:

1. A person specified under Wis. Stats. Section 139.30(7);

2. A person specified under Wis. Stats. Section 139.75(5).

"Retailer" means any person licensed under Wis. Stats. Section 134.65(1).

"School" has the meaning given in Wis. Stats. Section 118.257(1)(c).

"Subjobber" has the meaning given in Wis. Stats. Section 139.75(11).

"Tobacco products" has the meaning given in Wis. Stats. Section 139.75(12).

"Vending machine" has the meaning given in Wis. Stats. Section 139.30(14).

"Vending machine operator" has the meaning given in Wis. Stats. Section 139.30(15).

B. No retailer, manufacturer or distributor may sell or give cigarettes or tobacco products to any person under the age of eighteen (18), except as provided in Wis. Stats. Section 48.983(3). A vending machine operator is not liable under this subsection for the purchase of cigarettes or tobacco products from his or her vending machine by a person under the age of eighteen (18) if the vending machine operator was unaware of the purchase.

C. A retailer shall post a sign in areas within his or her premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or

tobacco product to a person under the age of eighteen (18) is unlawful under this section and Wis. Stats. Section 48.983.

D. A vending machine operator shall attach a notice in a conspicuous place on the front of his or her vending machines stating that the purchase of any cigarette or tobacco product by a person under the age of eighteen (18) is unlawful under Wis. Stats. Section 48.983 and that the purchaser is subject to a forfeiture of not to exceed twenty-five dollars (\$25.00).

E. Except as provided in subsection G of this section, no retailer may keep a vending machine in any public place that is open to persons under the age of eighteen (18) unless all of the following apply:

1. The vending machine is in a place where it is ordinarily in the immediate vicinity, plain view and control of an employee.

2. The vending machine is in a place where it is inaccessible to the public when the premises are closed.

F. The person who ultimately controls, governs or directs the activities within the premises where the vending machine is located shall ensure that an employee of the retailer remains in the immediate vicinity, plain view and control of the vending machine whenever the premises are open.

G. Notwithstanding subsection C of this section, no retailer may place a vending machine within five hundred (500) feet of a school.

H. No manufacturer, distributor, jobber, subjobber, or retailer, or their employees or agents, may provide cigarettes or tobacco products for nominal or no consideration to any person under the age of eighteen (18).

I. No retailer may sell cigarettes in a form other than as a package or container on which a stamp is affixed under Wis. Stats. Section 139.32(1).

J. Proof of all the following facts by a retailer, manufacturer or distributor who

sells cigarettes or tobacco products to a person under the age of eighteen (18) is a defense to any prosecution for a violation of Wis. Stats. Section 9.289(a):

1. That the purchaser falsely represented that he or she had attained the age of eighteen (18) and presented an identification card;

2. That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of eighteen (18);

3. That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of eighteen (18).

K. Penalties.

1. Any person who violates this section shall be subject to a penalty as provided in Chapter 1.20 of this code.

2. A court shall suspend any license or permit issued under Wis. Stats. Section 134.65, 139.34 or 139.79 to a person for:

a. Not more than three days, if the court finds the person committed a violation within twelve (12) months after committing one previous violation;

b. Not less than three days nor more than ten (10) days, if the court finds that the person committed a violation within twelve (12) months after committing two other violations; or

c. Not less than fifteen (15) days nor more than thirty (30) days, if that the person committed the violation within twelve (12) months after committing three or more violations.

3. The court shall promptly mail notice of a suspension under subsection (K)(2)(c) of this section to the department of revenue and to the clerk of each municipality which has issued a license or permit to the person. (Ord. dated 12/14/95: prior code § 9.28)

9.20.040 Purchase or possession of tobacco products prohibited.

A. In this section:

“Cigarette” has the meaning given in Wis. Stats. Section 139.30(1).

“Law enforcement officer” has the meaning given in Wis. Stats. Section 30.50(4s).

“Tobacco products” has the meaning given in Wis. Stats. Section 139.75(12).

B. Except as provided in subsection C of this section, no child may do any of the following:

1. Buy/purchase or attempt to buy/purchase any cigarette or tobacco product;

2. Falsely represent his or her age for the purpose of receiving any cigarette or tobacco product;

3. Possess any cigarette or tobacco product.

C. A child may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his/her working hours if employed by a retailer licensed under Wis. Stats. Section 134.65(1).

D. A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of subsection B of this section committed in his or her presence.

E. Penalties. Any person who violates this section shall be subject to a penalty as follows:

1. First offense \$10.00 plus court costs

2. Second offense \$25.00 plus court costs

(Ord. dated 2/5/96: prior code § 9.29)