

CHAPTER 7

Offenses Involving Cigarettes

10-7-1	Definitions
10-7-2	Restrictions Involving Underage Persons
10-7-3	Notices Required
10-7-4	Vending Machines
10-7-5	Stamp Required
10-7-6	Defense
10-7-7	Penalties

SEC. 10-7-1 DEFINITIONS.

For the purpose of this chapter, the definitions found in Sec. 134.66(1), Wis. Stats., shall apply.

SEC. 10-7-2 RESTRICTIONS INVOLVING UNDERAGE PERSONS.

- (a) No retailer, manufacturer, distributor, jobber or subjobber, no agent, employee or independent contractor of a retailer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may sell or provide, for nominal or no consideration, cigarettes or tobacco products to any person under the age of eighteen (18) years, except as provided in these ordinances. A vending machine operator is not liable under this subsection for the purchase of cigarettes or tobacco products from her or his vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.
- (b) No retailer, manufacturer, distributor, jobber or subjobber, no agent, employee or independent contractor of a retailer, manufacturer, distributor, jobber or subjobber, and no agent or employee of an independent contractor may provide for nominal or no consideration cigarettes or tobacco products to any person except in a place where no person younger than 18 years of age is present or permitted to enter unless the person who is younger than 18 years of age is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

SEC. 10-7-3 NOTICES REQUIRED.

- (a) A retailer shall post a sign in areas within her or his 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 18 is unlawful under this section and Section 23.38, Madison General Ordinances.
- (b) A vending machine operator shall attach a notice in a conspicuous place on the front of her or his vending machines stating that the purchase of any cigarette or tobacco product by a person under the age of 18 is unlawful under Sec. 23.38 of these ordinances and that the purchaser is subject to a forfeiture of not to exceed twenty-five dollars (\$25).

SEC. 10-7-4 VENDING MACHINES.

- (a) A retailer or vending machine operator may not sell cigarettes or tobacco products from a vending machine unless vending machine is located in a place where the retailer or vending machine operator ensures that no person younger than 18 years of age is present or permitted to enter unless he or she is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.
- (b) Notwithstanding Sec. 10-7-4(a) above, no retailer may place a vending machine within five hundred (500) feet of a school.

SEC. 10-7-5 STAMP REQUIRED.

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

SEC. 10-7-6 DEFENSE.

- (a) Proof of all of the following facts by a retailer, manufacturer or distributor who sells cigarettes or tobacco products to a person under the age of 18 is a defense to any prosecution for a violation of Section 10-7-2(a) above:
 - (1) That the purchaser falsely represented that she or he had attained the age of 18 and presented an identification card.

Offenses Involving Cigarettes

- (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 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 18.

SEC. 10-7-7 PENALTIES.

- (a) In this paragraph, "violation" means a violation of Sections 10-7-2, 10-7-4, or 10-7-5. A person who violates Section(s) 10-7-2, 10-7-4, or 10-7-5 is subject to a forfeiture of:
 - (1) Not more than five hundred dollars (\$500) if the person has not committed a previous violation within twelve (12) months of the violation; or
 - (2) Not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500) if the person has committed a previous violation within twelve (12) months of the violation.
 - (3) A court shall suspend any license or permit issued under Sec. 134.65, 139.34 or 139.79, Wis. Stats., to a person for:
 - a. Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation;
 - b. Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or
 - c. Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing 3 or more other violations.
 - (4) The court shall promptly mail notice of a suspension under 10-7-7(a)(3) above to the department of revenue and to the clerk of each municipality which has issued a license or permit to the person.
- (b) Whoever violates Section 10-7-3 above shall forfeit not more than twenty-five dollars (\$25).