

**LEGISTAR #37621 - Body**

DRAFTER'S ANALYSIS: This ordinance is amended to mirror state statute, to include nicotine products. This ordinance prohibits individuals under the age of 18 from possessing nicotine products. This ordinance also prohibits individuals from providing cigarettes, nicotine products or tobacco products to individuals under age 18. The ordinance creates an exception for possession by individuals aged 15 to 18 that are working in an operation to insure that vendors are not selling these items to individuals under age 18. It also establishes a penalty range.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Section 23.38 entitled "Purchase or Possession of Tobacco Products by Children Prohibited" of the Madison General Ordinances is amended to read as follows:

**"23.38 PURCHASE OR POSSESSION OF CIGARETTES, NICOTINE PRODUCTS OR TOBACCO PRODUCTS BY CHILDREN PERSONS UNDER 18 PROHIBITED.**

- (1) Definitions. For the purpose of this section, the definitions found in Wis. Stat. § 134.66(1), shall apply.
- (42) No person under the age of eighteen (18) years shall buy, attempt to buy, or possess any cigarette, nicotine product, or tobacco product or falsely represent her or his age for the purpose of receiving any cigarette, nicotine product, or tobacco product, except as provided in Subsection (2).
- (23) A ~~child~~ person under the age of 18 may purchase or possess cigarettes, nicotine products, or tobacco products for the sole purpose of resale in the course of employment during her or his working hours if employed by a retailer licensed under ~~Sec.~~ Wis. Stat. § 134.6566(1), Wis. Stats.
- (4) No person may purchase cigarettes, nicotine products, or tobacco products on behalf of, or to provide to, any person who is under 18 years of age.
- (35) A law enforcement officer shall seize any cigarette, nicotine product, or tobacco product involved in any violation of subsection (1) committed in her or his presence that has been sold to and is in the possession of a person under 18 years of age.
- (6) Exception. A person under 18 years of age, but not under fifteen (15) years of age, may purchase, attempt to purchase or possess cigarettes, nicotine products, or tobacco products in the course of his or her participation in an investigation under Wis. Stat. § 254.916 that is conducted in accordance with Wis. Stat. § 254.916(3)
- (47) Any person violating subsection (1) above shall be subject to one or more of the dispositions set out in Section 1.10 of these ordinances Any person violating this section shall be subject to a forfeiture of up to five hundred dollars (\$500)."

2. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by creating and amending therein the following:

<u>"Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
Possession of <u>cigarettes, nicotine products, tobacco products by children individual under 18.</u> "	23.38	\$25