



Legislation Text

File #: 27263, Version: 1

Fiscal Note

There may be a minimal increase in General Fund Revenues from forfeitures.

Title

Creating Section 38.045 and amending Section 1.08(3)(a) of the Madison General Ordinances to prohibit underage alcohol consumption and/or illegal use of a controlled substance at a lodging establishment and to establish a bail amount for this section.

Body

DRAFTER'S ANALYSIS: This ordinance creates a violation and establishes a penalty for anyone that rents a room in a lodging establishment and then permits the consumption of alcohol by an individual that is underage or permits the illegal use of a controlled substance or controlled substance analog in the rented room.

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

1. Section 38.045 entitled "Underage Alcohol Consumption at Lodging Establishments" of the Madison General Ordinances is created to read as follows:

"38.045 UNDERAGE ALCOHOL CONSUMPTION AND ILLEGAL USE OF A CONTROLLED SUBSTANCE AT LODGING ESTABLISHMENTS.

(1) Definitions.

"Controlled substance" has the meaning given in Wis. Stat. § 961.01(4).

"Controlled substance analog" has the meaning given in Wis. Stat. § 961.01(4m).

"Lodging establishment" has the meaning given in Wis. Stat. § 106.52(1)(d).

(2) Any person who procures lodging in a lodging establishment and permits or fails to take action to prevent any of the following activities from occurring in the lodging establishment is subject to the penalties provided in sub. (4):

(a) Consumption of an alcohol beverage by any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

(b) Illegal use of a controlled substance or controlled substance analog.

(3) An owner or employee of a lodging establishment may deny lodging to an adult if the owner or employee reasonably believes that consumption of an alcohol beverage by an underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, or illegal use of a controlled substance or controlled substance analog, may occur in the area of the lodging establishment procured.

(4) A person who violates sub. (2) shall forfeit:

(a) Not more than five hundred dollars (\$500) if the person has not committed a previous violation within twelve (12) months of the violation; or

(b) 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."

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> |
|---|-------------------------------------|------------------------|
| Underage alcohol consumption at lodging establishments. \$300, 2 nd & sub. w/in 12 months" | 38.045(2) | \$250, 1 st |

EDITOR'S NOTE:

1. Legal References:

Wisconsin Statutes § 961.01 provides the following definitions:

961.01(4) "Controlled substance" means a drug, substance or immediate precursor included in schedules I to V of subch. II.

961.01(4m)

- (a) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance included in schedule I or II and:
1. Which has a stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II; or
 2. With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.
- (b) "Controlled substance analog" does not include:
1. A controlled substance;
 2. A substance for which there is an approved new drug application;
 3. A substance with respect to which an exemption is in effect for investigational use by a particular person under 21 USC 355 to the extent that conduct with respect to the substance is permitted by the exemption; or
 4. Any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

Wisconsin Statutes § 106.52(1) provides the following definition:

106.52(1)(d)

- (d) "Lodging establishment" means any of the following:
1. A bed and breakfast establishment, as defined in s. 254.61(1).
 2. A hotel, as defined in s. 254.61(3).
 3. A tourist rooming house, as defined in s. 254.61(6).
 4. A campground.
2. New bail deposits must be approved by the Municipal Judge prior to adoption. These deposits have been so approved.