

Below is the analysis from the budget bill regarding TLW issues. I am still scouring the document to see what else is included and will keep you posted.

Of course, the biggest hit we took was the Governor including the statewide smoking ban in his budget. Some highlights...

- Includes every work place, including private clubs
- Is effective 60 days from the signing of the budget
- Exceptions for private residences, a limited number of hotel rooms and certain residence rooms in assisted living facilities.
- Adds a general prohibition against smoking outside within less than a reasonable
  - distance from any entrance to a building, a window that may be opened, or a
  - ventilation opening that draws air inside.
- The bill also specifically prohibits smoking in sports arenas and bus shelters.
- Municipalities can pass laws furthering the smoking ban. This is a floor, not a ceiling.
- Owners and managers are to be the enforcers of the ban, including asking a person who is smoking to leave and refusing to serve the person if the place is a restaurant, tavern, or private club.
- Any person who violates the smoking ban shall be subject to a forfeiture as follows:
  1. Not less than \$25 nor more than \$50 for the first violation.
  2. Not less than \$50 nor more than \$100 for the 2nd violation.
  3. Not less than \$100 nor more than \$250 for the 3rd or any subsequent violation.
- Any business found violating the law shall be subject to the following forfeitures:
  1. \$50 - \$100 for first violation
  2. \$100 - \$200 for second violation
  3. \$200 - \$500 for third and subsequent violations

The Governor proposed to raise the cigarette tax again. It would add 75 cents in state taxes to a pack of cigarettes, making the state tax \$2.52. With the new passage of a federal cigarette tax of 62 cents, the total taxes included in a pack of cigarettes bought in Wisconsin would be \$3.53 if this budget passes.

Primary enforcement for seatbelts was also included in the budget. This bill authorizes a law enforcement officer to stop or inspect a vehicle solely to determine compliance with seat belt use requirements, subject to any constitutional requirement that the officer have probable cause to believe that a violation has occurred. The bill also increases from \$10 to \$25 the penalty for violating this state's laws requiring the use of seat belts.

A link to the 1743 page budget bill, AB75, can be found here:  
<http://www.legis.state.wi.us/2009/data/AB-75.pdf>

### **SMOKING BAN:**

Current law prohibits smoking in mass transit vehicles and specified indoor locations, including inpatient health care facilities, such as community based-residential facilities and nursing homes, prisons and jails, restaurants, and governmental buildings.

With limited exceptions, a smoking area may be designated at an indoor location by the person who is in charge of that location.

Under this bill, smoking areas at the specified indoor locations may no longer be designated, resulting in a complete ban on indoor smoking at those locations with exceptions for private residences, a limited number of designated rooms in lodging establishments and certain residence rooms in assisted living facilities. In addition to the specified indoor locations listed under current law, the bill prohibits smoking in any public place or place of employment.

Current law provides exemptions from the prohibition against smoking for bowling centers, taverns, halls used for private functions, rooms in which the main occupants are smokers, and areas of facilities that are used to manufacture or assemble goods, products, or merchandise. This bill eliminates these exemptions.

Current law allows smoking in any restaurant that has a seating capacity of no more than 50 individuals, or that holds a liquor license, if the sale of alcohol beverages accounts for more than 50 percent of the restaurant's receipts. This bill prohibits smoking in any restaurant regardless of the seating capacity or the number of liquor sale receipts.

Current law allows smoking in any tavern holding a "Class B" intoxicating liquor license or Class "B" fermented malt beverages license issued by a municipality. This bill prohibits smoking in any tavern. The bill also specifically prohibits smoking in private clubs.

Under current law, smoking is prohibited outside in limited instances. This bill adds a general prohibition against smoking outside within less than a reasonable distance from any entrance to a building, a window that may be opened, or a ventilation opening that draws air inside. The bill also specifically prohibits smoking in sports arenas and bus shelters.

Current law does not limit the authority of a municipality or county to enact smoking ordinances that protect the public's health and comfort. This bill makes no change in this provision.

This bill requires that persons in charge of places where smoking is prohibited enforce the prohibitions by taking certain steps to ensure compliance, such as asking a person who is smoking to leave and refusing to serve the person if the place is a restaurant, tavern, or private club.

**CIGARETTES:**

This bill increases the cigarette tax from \$1.77 to \$2.52 a pack and increases the tobacco products tax from 50 percent to 71 percent of the manufacturer's established list price. In addition, the bill increases the tobacco products tax rate on moist snuff from \$1.31 per ounce to \$1.87 per ounce and imposes the increase on moist snuff in inventory.

Under current law, generally, a person may not sell cigarettes in this state without a permit from DOR. Current law also prohibits a direct marketer (anyone who sells cigarettes to a consumer who is not present on the seller's premises) from selling to consumers in this state unless the direct marketer fulfills certain requirements.

Under current law, a direct marketer must certify to DOR that the person will register with debit and credit card companies; that the invoices for all shipments of cigarettes will bear the direct marketer's name and address; and that the direct marketer will provide DOR any information that DOR considers necessary. The direct marketer may not sell any cigarettes unless the sales tax, use tax, or cigarette tax, as appropriate, has been paid.

Current law requires a direct marketer to verify the consumer's name and address and that the consumer is at least 18 years of age. In addition, any person who delivers cigarettes to consumers in this state must verify that the purchaser, and the person who receives the delivery, is at least 18 years of age.

Under this bill, generally, current provisions that apply to the direct marketing of cigarettes also apply to the direct marketing of tobacco products. In addition, no person may sell cigarettes or tobacco products to consumers in this state unless the person applies to DOR for a permit.

Under current law, a person may not sell cigarettes or tobacco products to consumers in this state unless the person obtains a license from each municipality in which the person intends to sell cigarettes or tobacco products. Under the bill, no municipality may issue a license to any person who has an arrest or conviction record related to selling cigarettes or tobacco products but a direct marketer who holds a valid permit to sell cigarettes or tobacco products to consumers in this state is not required to obtain a license from each municipality in which the cigarettes or tobacco products are sold.

Under current law, DOR may enter into agreements with American Indian tribes or bands in this state to refund, generally, the cigarette and tobacco product taxes imposed on sales of cigarettes and tobacco products on land that was designated a reservation or trust land on or before January 1, 1983. Under this bill, DOR may provide tax refunds for cigarettes and tobacco products sold on land designated a reservation or trust land on or before January 1, 1983, or on a later date determined by an agreement between DOR and the tribal council.

The bill also allows DOR to enter into agreements with American Indian tribes or bands in this state to collect, remit, and provide refunds of income, withholding, sales and use, motor vehicle fuel, and beverage taxes related to activities on tribal lands or undertaken by tribal members outside of tribal lands.

#### **PRIMARY ENFORCEMENT OF SEATBELTS**

Current law requires the use of seat belts, child safety seats, and booster seats in certain motor vehicles but prohibits a law enforcement officer from stopping or inspecting a motor vehicle solely to determine compliance with these requirements. An officer may, however, issue a citation for a seat belt use violation observed in the course of a stop or inspection made for other purposes.

This bill authorizes a law enforcement officer to stop or inspect a vehicle solely to determine compliance with seat belt use requirements, subject to any constitutional requirement that the officer have probable cause to believe that a violation has occurred. The bill also increases from \$10 to \$25 the penalty for violating this state's laws requiring the use of seat belts. As under current law, violators pay no additional costs, fees, or assessments.