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## NO PUFFING AT WORK?

### Wisconsin's Proposed Smoking Ban Will Affect All Places of Employment

Earlier this week, the legislature introduced Senate Bill 181 which would impose a statewide smoking ban – **including a “place of employment.”** This bill is expected to be approved by the Wisconsin legislature and signed by Governor Doyle.

#### ***How will this bill affect employment?***

Current law allows smoking in 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.

The bill defines a “place of employment” to include any indoor place that employees normally frequent during the course of employment. This will include, for example, an office, a work area, an employee lounge, a restroom, a conference room, a meeting room, a classroom, a hallway, an employee cafeteria, a common area and a *vehicle*.

The bill adds a general prohibition against smoking outside of any prohibited area – including a “place of employment” within less than a reasonable distance from any entrance into a building, an openable window, or a ventilation opening that draws air inside.

Finally, the bill requires “persons in charge” of places where smoking is prohibited to take certain steps to ensure compliance with the smoking ban. These steps include, but are not limited to:

- (1) Posting a sign describing the smoking ban and providing other appropriate information about the smoking ban;
- (2) Asking a person who is smoking to refrain from smoking, and if the person refuses, asking the person to leave the location;
- (3) If a person refuses to leave after being asked, by “immediately” notifying law enforcement about the violation.

In addition, no “person in charge” can provide matches, ashtrays or other equipment for smoking at a location where smoking is prohibited.

The bill also imposes forfeitures on persons who violate the ban and on “persons in charge” who fail to take preventative measures. A “person in charge” is defined broadly, to include a person (or his/her agent) who ultimately controls, governs or directs the activities at a location where smoking is prohibited.

As written, this would include officers, directors, partners, human resource managers, plant managers, supervisors or anyone an employer vests with any authority to direct the workplace. The penalty against a “person in charge” ranges from \$50 to \$500 – and each day is considered a separate violation.

If this bill is enacted in its current form, it will take effect in July 2010.

### **Stay Tuned . . . .**

Employers should stay tuned for further guidance from the State and should expect future regulations that potentially address some unclear issues in the Bill, such as whether the Bill bans smoking in vehicles used for business purposes, specifications for placement of the signs, and requirements for a policy.

This is a brief summary of the proposed bill. The Schroeder Group, S.C. attorneys are available to answer inquiries about the bill should it become law and to assist employers to achieve compliance with this and other workplace regulations.

The Schroeder Group, S.C., Attorneys at Law provides comprehensive services covering all aspects of employment, employee benefits and labor relations law to closely-held businesses and companies. Through aggressive representation and sound advice, we help our clients achieve their business objectives. We are regularly in direct and ongoing communication with labor relations, human resources and employee benefits managers, as well as business owners and senior executives, and are also sensitive to their business, cost management and relationship needs. Our priority is counseling and problem avoidance.

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