

Chapter 171

MINORS

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[HISTORY: Adopted by the Village Board of the Village of Iola 2-12-1996 as Title 9, Secs. 9-6-2 through 9-6-9 and 9-1-2, of the 1996 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 77.
Cigarettes — See Ch. 109.
Curfew — See Ch. 113.

Fermented malt beverages and intoxicating liquor — See Ch. 134.
Peace and good order — See Ch. 201.

§ 171-1. Possession of controlled substances by juveniles. [Amended 9-14-1998 by Res. No. 98-14¹]

It shall be unlawful for any person under the age of 18 to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 961, of the Wisconsin Statutes.

§ 171-2. Petty theft by juveniles. [Amended 9-14-1998 by Res. No. 98-14]

It shall be unlawful for any person under the age of 18, with intent, to steal or take property from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof.

§ 171-3. Receiving stolen goods. [Amended 9-14-1998 by Res. No. 98-14]

It shall be unlawful for a person under the age of 18 to intentionally receive or conceal property he or she knows to be stolen.

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 171-4. Village jurisdiction over persons 14 through 17 years of age. [Amended 9-14-1998 by Res. No. 98-14]

- A. Adoption of state statute. Section 938.17(2), Wis. Stats., is hereby adopted and by reference made a part of this section as if fully set forth herein.²
- B. Provisions of ordinance applicable to persons 14 to 17 years of age. Subject to the provisions and limitations of Section 938.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against persons 14 through 17 years of age may be brought on behalf of the Village of Iola and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.³
- C. No incarceration as penalty. The court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this chapter.
- D. Additional prohibited acts. In addition to any other provision of the Village of Iola Code of Ordinances, no person age 14 through 17 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Chapter 125, Wis. Stats.
- E. Penalty for violations of Subsection D. Any person 14 through 17 years of age who shall violate the provisions of Subsection D shall be subject to the same penalties as are provided in Chapter 1, General Provisions, § 1-17, of these ordinances exclusive of the provisions therein relative to commitment in the County Jail.

§ 171-5. Enforcement and penalties. [Amended 9-14-1998 by Res. No. 98-14]

- A. Citation process. For violations of §§ 171-1 through 171-4, juveniles may be cited by the citation process on a form approved by the Village Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian.
- B. Penalties. Violations of §§ 171-1 through 171-4 by a person under the age of 18 shall be punishable according to Sections 938.17(2), 938.343, 938.344 and 48.345 of the Wisconsin Statutes. Nothing in this section shall prevent the juvenile officer, in his or her discretion, from referring cases directly to the District Attorney's office.⁴

§ 171-6. School attendance.

- A. Adoption of state truancy statute; penalty. It shall be unlawful for any person under the age of 18 to be truant from school. This subsection is adopted pursuant to Section 118.163, Wis. Stats. Section 118.163, Wis. Stats., is hereby incorporated herein and adopted by

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

³ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

reference. Both of the dispositional alternatives set forth in Section 118.163(1m), (b) and (d) are available to the court. [Amended 9-14-1998 by Res. No. 98-14⁵]

- B. Adoption of state habitual truancy statute; penalty. It shall be unlawful for any person under the age of 18 to be a habitual truant from school. This subsection is adopted pursuant to Section 118.163, Wis. Stats. Section 118.163, Wis. Stats., is hereby incorporated herein and adopted by reference. Any one or more dispositional alternatives set forth in Section 118.163 (2) (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k) are available to the court. [Amended 9-14-1998 by Res. No. 98-14]
- C. Additional prohibited acts. It shall be unlawful for any person enrolled as a student in any city, public or parochial school to violate any school rule, a violation of which could result in suspension or expulsion from school. [Amended 9-14-1998 by Res. No. 98-14]
- D. Prohibition on causing, allowing and encouraging truancy. No person having control of a child shall cause, allow or encourage a child to be truant or habitually truant from school during the full period and hours, religious holidays excepted, that the school in which the child is or should be enrolled is in session until the end of the school year in which the child becomes 18 years of age, unless such child's absence is pursuant to Sec. 118.15(1)(b) to (d), (3), (4), Wis. Stats., or unless the child has graduated from high school.
- E. Penalties.
- (1) Any person having control of a child who is found to have caused, allowed or encouraged a child to be truant or habitually truant shall, upon conviction thereof, forfeit not more than \$500 together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.⁶
 - (2) The village shall have any and all remedies afforded by the Wisconsin Statutes in addition to the penalties provided above.
- F. Prohibition on encouraging and contributing to truancy. No person 18 years of age or older shall by any act or omission knowingly encourage or contribute to the truancy or habitual truancy of a child.
- G. Specific penalties.
- (1) Any adult person who is found to have encouraged or contributed to truancy or habitual truancy of a child shall, upon conviction thereof, forfeit not more than \$500 together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.⁷
 - (2) The village shall have any and all remedies afforded by the Wisconsin Statutes in addition to the penalties provided above.

⁵ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁷ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 171-7. Possession of cigarettes and tobacco products by children. [Amended 9-14-1998 by Res. No. 98-14]

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

CHILD — Any person who has not yet attained the age of 18.

CIGARETTE — Has the meaning given in Sec. 139.30(1), Wis. Stats.

LAW ENFORCEMENT OFFICER — Has the meaning given in Section 30.50(4s), Wis. Stats.

TOBACCO PRODUCTS — Has the meaning given in Sec. 139.75(12), Wis. Stats.

B. Prohibition. Except as provided in Subsection D, no child may do any of the following:

- (1) Buy or attempt to buy any cigarette or tobacco product.
- (2) Falsely represent his or her age for the purpose of receiving any cigarette or tobacco product.
- (3) Possess any cigarette or tobacco product.

C. Penalty. Any child violating the provisions of this section will be subject to a forfeiture not to exceed \$50, plus costs, in accordance with Sec. 938.343(2), Wis. Stats., and in default of payment shall be subject to the remedies listed in Sec. 938.343 and otherwise as provided by law.⁸

D. Exception. A child may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer under Sec. 134.65(1), Wis. Stats.

E. Seizure. A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of Subsection B(2) committed in his or her presence.

§ 171-8. Sale or gift of cigarettes or tobacco products to children. [Amended 9-14-1998 by Res. No. 98-14]

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

CHILD — Any person who has not yet attained the age of 18.

CIGARETTE — Has the meaning given in Sec. 139.30 (1) Wis. Stats.

DISTRIBUTOR — Any of the following:

- (1) Any person who acquires unstamped cigarettes from the manufacturer thereof, affixes stamps to the packages or other containers, stores them and sells them to other permittees or to retailers for sale. he or she may also acquire stamped cigarettes from another permittee for such sales;

⁸ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) Any person engaged in the business of selling tobacco products in this state, who brings, or causes to be brought into this state from outside the state any tobacco products for sale;
- (3) Any person who makes, manufactures or fabricates tobacco products in this state for sale in this state; or
- (4) Any person engaged in the business of selling tobacco products outside this state who ships or transports tobacco products to retailers in this state to be sold by those retailers.

IDENTIFICATION CARD — Any of the following:

- (1) A license containing a photograph issued under Chapter 343, Wis. Stats.; or
- (2) An identification card issued under Sec. 343, Wis. Stats.; or
- (3) An identification card issued under Sec. 125.085, Wis. Stats.⁹

JOBBER — Any person who acquires stamped cigarettes from manufacturers or distributors, stores them and sells them to retailers for resale.

LAW ENFORCEMENT OFFICER — Has the meaning given in Sec. 30.50, Wis. Stats.

MANUFACTURER — Any of the following:

- (1) Any person who manufactures cigarettes for the purpose of sale; or
- (2) Any person who manufactures and sells tobacco products.

PLACE OF BUSINESS — Any place where cigarettes or tobacco products are sold, manufactured, or stored for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machine.

RETAILER — Any person licensed under Sec. 134.65(1), Wis. Stats.

SCHOOL — Has the meaning given in Sec. 118.257(1)(d), Wis. Stats.¹⁰

SUBJOBBER — Any person other than a manufacturer or distributor, who buys tobacco products from a distributor and sells them to a person other than the ultimate consumers.

TOBACCO PRODUCTS — Has the meaning given in Sec. 139.75(12), Wis. Stats.

VENDING MACHINE — Any mechanical device which automatically dispenses cigarettes upon the deposit therein of specified coins in payment for such cigarettes.

VENDING MACHINE OPERATOR — A person who acquires stamped cigarettes from manufacturers or permittees, stores them and sells them through the medium of vending machines which he or she owns, operates or services and which are located on premises which are owned or under the control of other persons.

⁹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

¹⁰ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. Prohibition. No retailer may sell or give cigarettes or tobacco products to any person under the age of 18, except as provided in Sec. 938.983(3), Wis. Stats. A vending machine operator is not liable under this paragraph for the purchase of cigarettes or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.¹¹
- C. Posting signs.¹²
- (1) A retailer shall post a sign in areas within his or her 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 938.983, Wis. Stats.
 - (2) A vending machine operator shall attach a notice in a conspicuous place on the front of his or her vending machine stating that the purchase of any cigarette or tobacco product by a person under the age of 18 is unlawful under Sec. 938.983, Wis. Stats., and that the purchaser is subject to a forfeiture not to exceed \$50, plus costs.
- D. Prohibition.
- (1) No person may place a vending machine within 500 feet of a school.
 - (2) Except as provided by Subsection D(3) below, a vending machine operator shall remove all of his or her vending machines which are located within 500 feet of a school by September 1, 1989.
 - (3) Notwithstanding Subsection D(2), if a written agreement binding on a vending machine operator governs the location of his or her vending machine which is located within 500 feet of a school, the vending machine owner shall remove the vending machine on the date that the written agreement expires or would be extended or renewed.
- E. Prohibition on giving cigarettes to children. No manufacturer, distributor, jobber, subjobber, or retailer, or their employees or agents, may provide cigarettes or tobacco products for nominal or no consideration to any person under the age of 18.
- F. Penalties. Any retailer, manufacturer or distributor convicted of any violation of the provisions of this section shall be subject to a forfeiture and penalties as provided in Sec. 134.66, Wis. Stats.
- G. Exceptions. Proof of all of the following facts by a retailer who sells cigarettes or tobacco products to a person under the age of 18 is a defense to any prosecution for a violation of Subsection B:
- (1) That the purchaser falsely represented that he or she had attained the age of 18 and presented an identification card.
 - (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.

¹¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

¹² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (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.

§ 171-9. Violations and penalties; attempt; parties to acts.

- A. **Penalty.** In addition to the general penalty provisions of this Code in Chapter 1, General Provisions, § 1-17, or any other penalty imposed for violation of any section of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates § 201-11 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police Department from referring violations of the provisions of this chapter to the District Attorney's office in the interest of justice.
- B. **Attempt.**
 - (1) Whoever attempts to commit an act prohibited by this chapter of the Code of Ordinances of the Village of Iola may be required to forfeit amounts not to exceed $\frac{1}{2}$ the maximum penalty for the completed act.
 - (2) An attempt to commit an act prohibited by the ordinances in this Code requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he or she does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he or she formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.
- C. **Parties to acts prohibited in this chapter.**
 - (1) Whoever is concerned in the commission of an act prohibited by this chapter of this Code of Ordinances is a principal and may be charged with and convicted of the commission of said act although he or she did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.
 - (2) A person is concerned in the commission of an act prohibited by these ordinances if he:
 - (a) Directly commits the act; or
 - (b) Intentionally aids and abets the commission of it; or
 - (c) Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such party is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his/her mind and no longer desires that the act be committed and notifies the other parties concerned of his/her withdrawal within a

reasonable time before the commission of the violation so as to allow the others also to withdraw.