

1 **AN ACT** *to amend* 12.03 (2) and 12.60 (1) (d); and *to create* 12.035 of the statutes;
2 **relating to:** electioneering at a polling place, the posting or distribution of
3 election-related material, and providing for a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on election law review.

Under current law, "electioneering" is prohibited at or near the entrances to polling places on election day. Specifically, the law prohibits an election official from engaging in "electioneering" on election day. In addition, the law prohibits any person from engaging in "electioneering" during polling hours on any public property on election day within 100 feet of an entrance to a building containing a polling place. This restriction, though, does not apply to the placement of any material on the bumper of a motor vehicle that is located on such property on election day. A municipal clerk, poll worker, or law enforcement officer is authorized to remove posters or other advertising that violates the prohibitions on "electioneering."

Current law defines "electioneering" as any activity which is intended to influence voting at an election.

Persons who violate the above prohibitions on electioneering may be fined not more than \$1,000, or imprisoned for not more than six months, or both. In addition, any election official who is convicted of violating the electioneering prohibitions is disqualified from acting as an election official for a term of five years from the time of the conviction.

This draft modifies the statutory language regarding "electioneering" to provide that the prohibition on electioneering also applies to electioneering at a polling place.

In addition, the draft prohibits the posting or distribution of election-related material during polling hours on any public property on election day at a polling place or within 100 feet of an entrance to a building containing a polling place. For purposes of the draft, "election-related material" means any written matter which describes, or

purports to describe, the rights or responsibilities of individuals voting or registering to vote at a polling place. The prohibition would not apply to material posted or distributed by the municipal clerk or other election officials or to a bumper sticker on a motor vehicle. The draft authorizes a municipal clerk, election inspector, or law enforcement officer to remove or confiscate unauthorized election-related material. Finally, the draft provides that a violation of the election-related material prohibition is punishable by a forfeiture not to exceed \$100.

This draft contains an effective date of January 1, 2006.

1 **SECTION 1.** 12.03 (2) of the statutes is amended to read:

2 12.03 (2) No person may engage in electioneering during polling hours on any public
3 property on election day at a polling place or within 100 feet of an entrance to a building
4 containing a polling place. This subsection does not apply to the placement of any material
5 on the bumper of a motor vehicle that is located on such property on election day.

NOTE: SECTION 1 provides that the prohibition on electioneering applies
 at a polling place in addition to within 100 feet of an entrance to a
 building containing a polling place.

6 **SECTION 2.** 12.035 of the statutes is created to read:

7 **12.035 (1)** In this section, “election-related material” means any written matter which
8 describes, or purports to describe, the rights or responsibilities of individuals voting or
9 registering to vote at a polling place.

10 **(2)** The legislature finds that posting or distributing election-related material at the
11 polling place or near the entrance to a polling place on election day may mislead and confuse
12 electors about their rights and responsibilities regarding the exercise of the franchise and tends
13 to disrupt the flow of election-day activities at polling places. The legislature finds that the
14 restrictions imposed by this section on the posting or distribution of election-related material
15 are necessary to protect the compelling governmental interest in orderly and fair elections.

(3) No person may post or distribute any election-related material during polling hours on any public property on election day at a polling place or within 100 feet of an entrance to a building containing a polling place.

(4) Subsection (3) does not apply to any of the following:

(a) Election-related material posted or distributed by the municipal clerk or other election officials.

(b) The placement of any material on the bumper of a motor vehicle located on such property on election day.

(5) A municipal clerk, election inspector, or law enforcement officer may remove election-related material posted in violation of sub. (3) and may confiscate election-related material distributed in violation of sub. (3).

NOTE: SECTION 2 defines “election-related material,” makes legislative findings, prohibits the posting or distribution of election-related material, provides exceptions, and authorizes the removal or confiscation of such material distributed in violation of the prohibition.

COMMENT: Are the exceptions in sub. (4) adequate? Also, should the elections board be required to develop rules to implement this prohibition?

SECTION 3. 12.60 (1) (d) of the statutes is amended to read:

12.60 (1) (d) Whoever violates s. 12.035 or 12.13 (3) (h) may be required to forfeit not more than \$100.

NOTE: SECTION 3 creates a penalty for violations of the prohibition on election-related material. A person violating a prohibition is subject to a forfeiture of not more than \$100.

COMMENT: Is this forfeiture sufficient?

SECTION 4. Effective date. This act takes effect on January 1, 2006.

(END)