



State of Wisconsin
2023 - 2024 LEGISLATURE

LRBs0061/1
ZDW:cdc

ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 61

May 17, 2023 - Offered by Representative BEHNKE.

1 **AN ACT to create** 93.36 of the statutes; **relating to:** creating a deicer applicators
2 registration program.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Agriculture, Trade and Consumer Protection to create a deicer applicators registration program and establish criteria for training individual commercial applicators in methods for snow and ice removal and deicer application that protect water quality. Under the bill, DATCP must register commercial applicators who have completed approved training and passed an exam.

The bill provides that a commercial applicator registered by DATCP and the owner of private real estate that contracts with a registered commercial applicator are not liable for damages arising from a hazard resulting from the accumulation of snow and ice on any private real estate maintained by the registered commercial applicator when the hazard is caused solely by snow or ice and the registered commercial applicator used methods for snow and ice removal and deicer application that are taught in training approved by DATCP.

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

1 **SECTION 1.** 93.36 of the statutes is created to read:

2 **93.36 Deicer applicators registration program. (1) DEFINITIONS.** In this
3 section:

4 (a) “Commercial applicator” means an individual who applies deicer for hire
5 but does not include a municipal, state, or other government employee.

6 (b) “Deicer” means any substance used to melt snow and ice or for its anti-icing
7 effects on privately owned surfaces traveled by pedestrians and vehicles.

8 (c) “Owner” means a person that owns or leases private real estate and that
9 enters into a written contract with a registered commercial applicator for snow and
10 ice removal and deicer application.

11 (d) “Registered commercial applicator” means a commercial applicator who is
12 registered by the department under sub. (2) (b).

13 **(2) VOLUNTARY REGISTRATION PROGRAM.** (a) The department shall create a deicer
14 applicators registration program and establish criteria for training commercial
15 applicators in methods for snow and ice removal and deicer application that protect
16 water quality. The department shall certify 3rd-party providers of training that
17 meets the criteria established by the department under this paragraph and shall
18 maintain a list of registered training providers.

19 (b) The department shall register a commercial applicator if the commercial
20 applicator successfully completes a training program approved by the department
21 under par. (a) and passes an examination approved by the department. A
22 registration under this paragraph shall be valid for 5 years.

23 (c) The department shall maintain and publish a list of registered commercial
24 applicators on the department’s website.

1 **(3) LIABILITY.** (a) A registered commercial applicator or an owner is not liable
2 for damages arising from a hazard resulting from the accumulation of snow and ice
3 on any private real estate maintained by the registered commercial applicator when
4 the hazard is caused solely by snow or ice and the registered commercial applicator
5 used methods for snow and ice removal and deicer application that are taught in a
6 training program approved by the department under sub. (2) (a).

7 (b) Nothing in par. (a) limits the liability of a registered commercial applicator
8 or an owner if the registered commercial applicator or owner does any of the
9 following:

10 1. Commits an act or omission that involves reckless or wanton conduct or
11 intentional misconduct and the act or omission proximately causes injury, damage,
12 or death.

13 2. Intentionally injures an entrant onto real estate of the owner that is
14 maintained by the registered commercial applicator.

15 3. Fails to use methods for snow and ice removal and deicer application that
16 are taught in a training program approved by the department under sub. (2) (a).

17 (c) This subsection does not apply to a commercial applicator who is not
18 registered under this section.

19 **(4) RECORD KEEPING.** A registered commercial applicator shall maintain all of
20 the following records:

21 (a) A copy of the registered commercial applicator's registration that is issued
22 by the department.

23 (b) Evidence of passing the examination approved by the department.

24 (c) A written record describing the road, parking lot, and property maintenance
25 practices the registered commercial applicator used. The record shall include the

1 types and amounts of deicers used, the dates of treatment, and the weather
2 conditions for each event requiring deicer application. The registered commercial
3 applicator shall maintain records under this paragraph for not less than 3 years.

4 (d) Proof of compliance with the reporting requirements under sub. (5).

5 (5) REPORTING. No later than July 1 of each year, a registered commercial
6 applicator shall submit to the department on a form provided by the department the
7 types and amounts of deicers he or she used in the previous calendar year.

8 (6) REVOCATION OF REGISTRATION. If the department determines that a
9 registered commercial applicator has failed to comply with this section or rules
10 promulgated under this section, the department may revoke the registration of the
11 registered commercial applicator. Any individual who receives notice that his or her
12 registration has been revoked under this subsection is entitled to a contested case
13 hearing under ch. 227 if the individual requests the hearing no later than 30 days
14 after receiving the notice that his or her registration has been revoked.

15 **SECTION 2. Effective date.**

16 (1) This act takes effect on the day after publication, or on the 2nd day after
17 publication of the 2023 biennial budget act, whichever is later.

18 (END)