

1 ten authorization for the new category of operations. In this paragraph, "new
2 category of operations" includes the manufacture or processing of any of the
3 following which was not identified on the dairy plant's most recent license
4 application:

- 5 1. Fluid milk products.
- 6 2. Cheese and related cheese products.
- 7 3. Frozen dessert dairy products.

8 (3) GRADE A DAIRY PLANT; PERMIT. (a) Permit requirement. No person
9 operating a dairy plant at which milk or fluid milk products are received,
10 transferred, manufactured or processed may sell or distribute that milk or
11 those fluid milk products as grade A milk or grade A milk products unless the
12 person holds a valid grade A dairy plant permit issued by the department for
13 that dairy plant. A grade A dairy plant permit expires on April 30 annually
14 and is not transferable between persons or locations. A grade A dairy plant
15 permit may be issued in the form of an endorsement on a dairy plant license
16 under sub. (2). An application for a grade A dairy plant permit shall be made
17 on a form provided by the department and shall be accompanied by the fee
18 required under par. (c).

19 (b) Grade A standards. A grade A dairy plant shall comply with standards
20 applicable to the receipt, transfer, manufacture, processing and distribution
21 of grade A milk and grade A milk products under this chapter or rules of the
22 department. A grade A dairy plant may not receive, transfer or process milk
23 that is not grade A milk unless the department provides written authorization.
24 Except as provided by the department by rule, the department may not grant
25 that authorization unless the grade A dairy plant maintains separate facili-
26 ties for the receipt, transfer and processing of milk that is not grade A
27 milk.

1 (c) Fees. In addition to any fee required under sub. (2) (c), an appli-
2 cant for a grade A dairy plant permit shall pay the following separate fee:

3 1. For a processing plant, an annual grade A dairy plant permit fee of
4 \$320 and a reinspection fee of \$20.

5 2. For a receiving station, an annual grade A dairy plant permit fee of
6 \$125.

7 (d) Surcharge for operating without a permit. An applicant for a grade A
8 dairy plant permit shall pay a grade A dairy plant permit surcharge of \$100 if
9 the department determines that, within one year prior to submitting the permit
10 application, the applicant operated the dairy plant as a grade A dairy plant
11 without a grade A permit, in violation of par. (a). Payment of this surcharge
12 does not relieve the applicant of any other civil or criminal liability which
13 results from a violation of par. (a), but does not constitute evidence of a
14 violation of any law.

15 (e) Permit contingent on payment of fees. The department may not issue
16 or renew a grade A dairy plant permit until the permit applicant pays all
17 applicable fees under this subsection. The department shall refund a fee paid
18 under protest if the department determines that the fee was not required as a
19 condition of the issuance of a grade A dairy plant permit under this
20 subsection.

21 (4) RULE MAKING. The department may promulgate rules to govern the
22 operation of dairy plants. The rules may include standards for the safety,
23 wholesomeness and quality of dairy products; the construction, maintenance and
24 sanitary operation of dairy plants; the design, installation, cleaning and
25 maintenance of equipment and utensils; personnel sanitation; storage and
26 handling of milk and fluid milk products; pasteurization and processing
27 procedures; sampling and testing; and reports and recordkeeping. The rules

1 may also set forth the duties of dairy plants to inspect dairy farms, collect
2 and test producer milk samples and make reports to the department.

3 ••87-4950/2••SECTION 310. 97.21 of the statutes is created to read:

4 97.21 MILK HAULERS AND MILK DISTRIBUTORS. (1) DEFINITIONS. In this
5 section:

6 (a) "Bulk milk tanker" means a mobile bulk container used to transport
7 bulk milk from a dairy farm, or to or from a dairy plant in this state. "Bulk
8 milk tanker" includes a mobile bulk container which is permanently mounted on
9 a motor vehicle or which is designed to be towed by a motor vehicle. "Bulk
10 milk tanker" does not include a mobile bulk container which is used by a milk
11 producer solely to transport that producer's own milk.

12 (am) "Dairy plant" has the meaning given under s. 97.20 (1) (a).

13 (b) "Fluid milk product" has the meaning given under s. 97.24 (1) (ar).

14 (c) "Grade A milk" has the meaning given under s. 97.24 (1) (b).

15 (d) "Milk" has the meaning given under s. 97.22 (1) (e).

16 (e) "Milk distributor" means a person who distributes milk or fluid milk
17 products. "Milk distributor" does not include a dairy plant, a milk hauler, a
18 milk producer, as defined in s. 97.22 (1) (f), or a retail food establishment,
19 as defined in s. 97.30 (1) (c).

20 (2) BULK MILK TANKER; LICENSE; GRADE A PERMIT. (a) License. 1. Except
21 as provided in subd. 2, no person may operate a bulk milk tanker in this state
22 without a valid license issued by the department for that bulk milk tanker.
23 That license expires on April 30 annually and is not transferable between
24 persons or bulk milk tankers. An application for a license shall be made on a
25 form provided by the department and shall be accompanied by applicable fees
26 under sub. (4). The application shall include the applicant's name and
27 address; a description of the bulk milk tanker including make, serial number
28 and capacity; the city, village or town in which the bulk milk tanker is

1 customarily kept; and any other information which the department may reason-
2 ably require for proper identification of the bulk milk tanker.

3 2. This paragraph does not apply to a person who operates a bulk milk
4 tanker solely as an employe of a person who holds a license under this para-
5 graph for that bulk milk tanker.

6 (b) Grade A bulk milk tanker; permit. No person may operate a bulk milk
7 tanker to transport bulk milk for sale or distribution without a valid grade A
8 bulk milk permit issued annually by the department for that bulk milk tanker.
9 A grade A bulk milk tanker permit is not transferable between persons or bulk
10 milk tankers. A permit may be issued in the form of an endorsement on a bulk
11 milk tanker license under par. (a). An application for a permit shall be made
12 on a form provided by the department, and may be included with a license
13 application under par. (a). The department may not charge a fee for a grade A
14 bulk milk tanker permit issued under this paragraph.

15 (3) MILK DISTRIBUTORS; LICENSE. No person may operate as a milk dis-
16 tributor without a valid license issued by the department. A milk distributor
17 license expires on April 30 annually. An application for a license shall be
18 made on a form provided by the department and shall be accompanied by appli-
19 cable fees under sub. (4). The application shall include all information
20 reasonably required by the department for purposes of issuing the license.

21 (4) FEES. (a) License fee. An applicant for a bulk milk tanker or milk
22 distributor license shall pay the license fee specified under sub. (4m).

23 (b) Reinspection fee. If the department reinspects a bulk milk tanker or
24 the vehicle or facilities of a milk distributor because the department finds a
25 violation of this chapter or rules promulgated under this chapter, the
26 department shall charge the bulk milk tanker operator or milk distributor the
27 reinspection fee specified under sub. (4m). The reinspection fee is payable
28 when the reinspection is completed, and is due upon written demand from the

1 department. The department may issue a demand for payment when it issues a
2 license renewal application to the bulk milk tanker operator or milk
3 distributor.

4 (c) Surcharge for operating without a license. An applicant for a bulk
5 milk tanker operator or milk distributor license shall pay a license fee sur-
6 charge of \$100 if the department determines that, within one year prior to
7 submitting the license application, the applicant operated without a license
8 or grade A permit in violation of this subsection. Payment of this license
9 fee surcharge does not relieve the applicant of any other civil or criminal
10 liability which results from a violation of sub. (2) or (3), but does not
11 constitute evidence of any violation of law.

12 (4m) FEE AMOUNTS. The annual fees required under sub. (4), beginning
13 with the license year which ends on April 30, 1989, are:

14 (a) For a bulk milk tanker license under sub. (2), an annual license fee
15 of \$25 and a reinspection fee of \$25.

16 (b) For a milk distributor license under sub. (3), an annual license fee
17 of \$70 and a reinspection fee of \$35.

18 (5) LICENSING CONTINGENT ON PAYMENT OF FEES. The department may not
19 issue or renew a bulk milk tanker or milk distributor license unless the
20 license applicant pays all fees which are due and payable by the applicant
21 under sub. (4), as set forth in a statement from the department. The depart-
22 ment shall refund a fee paid under protest if the department determines that
23 the fee was not due and payable as a condition of licensing under this
24 section.

25 (6) RULE MAKING. The department may promulgate rules to regulate bulk
26 milk tanker operators and milk distributors. The rules may include standards
27 for the construction, maintenance and sanitary operation of bulk milk tankers,
28 milk distribution vehicles and milk distribution facilities; the design,

1 installation, cleaning and maintenance of equipment and utensils; personnel
2 sanitation; storage and handling of milk and fluid milk products; identifi-
3 cation of bulk milk tankers and milk distribution vehicles; and recordkeeping.

4 ••87-4950/2••SECTION 311. 97.22 of the statutes, as affected by 1987
5 Wisconsin Act 27, is repealed and recreated to read:

6 97.22 MILK PRODUCERS. (1) DEFINITIONS. In this section:

7 (a) "Dairy farm" means any place where one or more cows or goats are kept
8 for the production of milk.

9 (b) "Dairy plant" has the meaning given under s. 97.20 (1) (a).

10 (c) "Fluid milk product" has the meaning given under s. 97.24 (1) (ar).

11 (d) "Grade A milk" has the meaning given under s. 97.24 (1) (b).

12 (e) "Milk" means the lacteal secretion of cows or goats, and includes
13 skim milk and cream.

14 (f) "Milk producer" means any person who owns or operates a dairy farm,
15 and sells or distributes milk produced on that farm.

16 (2) LICENSE. (a) License required. No person may operate a dairy farm
17 as a milk producer without a valid license issued by the department for that
18 dairy farm. A license expires on April 30 annually and is not transferable
19 between persons or dairy farms. Every milk producer shall comply with stan-
20 dards applicable to the production of milk and fluid milk products under this
21 chapter and rules promulgated under this chapter.

22 (b) License fee. The fee for a milk producer license under par. (a),
23 beginning with the license year which ends on April 30, 1989, is \$22, except
24 that the fee is \$7 if a producer of grade A milk is properly inspected at
25 least once annually by a special dairy farm inspector certified under sub. (7)
26 and except that the department may establish by rule a reduced license fee for
27 a producer other than a producer of grade A milk if that producer is properly

1 inspected at least once annually by a special dairy farm inspector certified
2 under sub. (7).

3 (c) Dairy plant to pay license fee for milk producer. The operator of a
4 dairy plant licensed under s. 97.20 shall pay the milk producer license fee
5 under this subsection for every dairy farm from which the dairy plant receives
6 milk at the time the fee payment is due. An applicant for a dairy plant
7 license shall submit that fee with the applicant's dairy plant license appli-
8 cation under s. 97.20. A dairy plant operator who pays a milk producer
9 license fee may charge that fee back to the milk producer if the dairy plant
10 operator notifies the milk producer in writing of the dairy plant operator's
11 intent to charge the fee to the milk producer. A dairy plant operator may not
12 discriminate between milk producers with respect to fee charges under this
13 paragraph, but may charge back license fees to all milk producers who cease
14 shipping milk to the dairy plant during the license year.

15 (3) GRADE A DAIRY FARM PERMIT. (a) Permit required. No milk producer
16 may sell or distribute milk from his or her dairy farm as grade A milk without
17 a valid grade A dairy farm permit issued by the department for that dairy
18 farm. A grade A dairy farm permit expires on April 30 annually and is not
19 transferable between persons or dairy farms. A grade A dairy farm permit may
20 be issued in the form of an endorsement on a milk producer license under sub.
21 (2). Every milk producer holding a grade A dairy farm permit shall comply
22 with standards applicable to the production of grade A milk under this chapter
23 or rules promulgated under this chapter.

24 (b) Permit fee. The annual fee for a grade A dairy farm permit under
25 par. (a), beginning with the license year which ends on April 30, 1989, is
26 \$13.

27 (c) Dairy plant to pay permit fee for milk producer. The operator of a
28 dairy plant licensed under s. 97.20 shall pay the grade A dairy farm permit

1 fee under this subsection for every dairy farm from which the dairy plant
2 receives milk at the time the fee payment is due. An applicant for a dairy
3 plant license shall submit the grade A dairy farm permit fees with the appli-
4 cant's dairy plant license application under s. 97.20. A dairy plant operator
5 who pays a grade A dairy farm permit fee may charge that fee back to the milk
6 producer, if the dairy plant operator notifies the milk producer in writing of
7 the dairy plant operator's intent to charge the fee to the milk producer. A
8 dairy plant operator may not discriminate between milk producers with respect
9 to fee charges under this paragraph, but may charge back grade A dairy farm
10 permit fees to all milk producers who cease shipping milk to the dairy plant
11 during the license year.

12 (4) REINSPECTION FEES. (a) Fee required. If the department reinspects
13 a dairy farm because the department or a special dairy inspector finds a
14 violation of this chapter or rules promulgated under this chapter, the
15 department shall charge the reinspection fee specified under par. (am). A
16 reinspection fee is payable when the reinspection is completed, and is due
17 upon written demand from the department.

18 (am) Fee amounts. The annual fees for reinspections of dairy farms under
19 par. (a) are as follows:

20 1. For a milk producer holding a valid grade A dairy farm permit under
21 sub. (3), or a permit issued under sub. (3) which is temporarily suspended but
22 not revoked, \$20.

23 2. For any milk producer not subject to subd. 1, \$22.

24 (b) Dairy plant to pay reinspection fee for milk producer. The operator
25 of a dairy plant licensed under s. 97.20 shall pay the dairy farm reinspection
26 fee under this subsection for every milk producer who was shipping milk from
27 the reinspected dairy farm to that dairy plant at the time the dairy farm was
28 reinspected. The department may issue an annual statement of reinspection

1 fees payable by the dairy plant, and may demand payment from the dairy plant
2 on an annual basis, when it issues an application form for the renewal of the
3 dairy plant's license under s. 97.20. A dairy plant operator who pays a dairy
4 farm reinspection fee shall charge that fee back to the milk producer.

5 (5) FEES PAYABLE BY MILK PRODUCER IF NOT PAID BY DAIRY PLANT. If a milk
6 producer ships milk to a dairy plant which is not subject to licensure under
7 s. 97.20, the unlicensed dairy plant may voluntarily pay the fees required
8 under this section on behalf of the milk producer if the dairy plant is
9 authorized by the milk producer to pay the fees. If no dairy plant pays the
10 fees required under this section on behalf of a milk producer, the milk pro-
11 ducer shall pay the fees.

12 (6) DAIRY FARM INSPECTION; FREQUENCY. The department shall inspect every
13 dairy farm at least once annually, and shall inspect every grade A dairy farm
14 more frequently if required by the department by rule under s. 97.24.

15 (7) SPECIAL DAIRY FARM INSPECTORS. The department may certify a dairy
16 plant employe or agent to inspect dairy farms on behalf of the department as a
17 special dairy farm inspector. A special dairy farm inspector shall inspect
18 dairy farms and make written reports to the department according to procedures
19 prescribed by the department. The department may promulgate rules governing
20 the certification of special dairy farm inspectors; defining the authority and
21 responsibilities of those inspectors; establishing inspection and reporting
22 requirements; and establishing procedures by which the department will review
23 inspector performance.

24 (8) RULE MAKING. The department may promulgate rules to govern the
25 operation of dairy farms by milk producers. The rules may include standards
26 for any of the following:

27 (a) The safety, wholesomeness and quality of milk.

1 (b) The sanitary construction and maintenance of dairy farm facilities
2 used in milk production.

3 (c) The availability of safe and adequate water supplies for milk
4 production.

5 (d) The sanitary construction, maintenance and cleaning of equipment and
6 utensils used in milk production.

7 (e) Personnel sanitation related to milk production.

8 (f) Sanitary procedures for the production of milk, including but not
9 limited to the handling, transfer and storage of milk on a dairy farm.

10 ••87b2359/3••SECTION 311m. 97.24 (1) (d) of the statutes, as affected by
11 1987 Wisconsin Act 27, is amended to read:

12 97.24 (1) (d) "Milk distributor" ~~means a grade A milk distributor as~~
13 ~~defined in s. 97.22~~ has the meaning given under s. 97.21 (1) (e).

14 ••87-4950/2••SECTION 312. 97.24 (3) of the statutes, as affected by 1987
15 Wisconsin Act 27, is repealed.

16 ••87-4950/2••SECTION 313. 97.24 (4) of the statutes, as affected by 1987
17 Wisconsin Act 27, is renumbered 97.24 (3).

18 ••87-4950/2••SECTION 314. 97.24 (4m) of the statutes, as created by 1987
19 Wisconsin Act 27, is repealed.

20 ••87-4950/2••SECTION 315. 97.24 (5) of the statutes, as affected by 1987
21 Wisconsin Act 27, is repealed.

22 ••87b2547/1••SECTION 318m. 97.24 (5m) of the statutes, as created by 1987
23 Wisconsin Act 27, is repealed.

24 ••87-4950/2••SECTION 319. 97.24 (6) of the statutes, as affected by 1987
25 Wisconsin Act 27, is renumbered 97.24 (4).

26 ••87-4950/2••SECTION 320. 97.26 of the statutes, as affected by 1987
27 Wisconsin Act 27, is repealed.

28 ••87-4950/2••SECTION 321. 97.27 of the statutes is created to read:

1 97.27 FOOD WAREHOUSES. (1) DEFINITIONS. In this section:

2 (a) "Cold storage warehouse" means a warehouse in which food is to be
3 stored at temperatures between zero and 50 degrees Fahrenheit.

4 (b) "Food warehouse" means a warehouse used for the storage of food, and
5 includes a cold storage warehouse, frozen food warehouse and frozen food
6 locker plant. "Food warehouse" does not include:

7 1. A public warehouse licensed under ch. 99.

8 2. A warehouse used solely for the storage of grain or other raw agri-
9 cultural commodities.

10 3. A retail food establishment, restaurant or other retail facility at
11 which food is stored on a temporary basis incidental to retail preparation or
12 sale.

13 4. A warehouse located in a dairy plant licensed under s. 97.20, a food
14 processing plant licensed under s. 97.29, or a meat establishment licensed
15 under s. 97.42, and used only for the storage of food ingredients or food
16 products manufactured or processed at the licensed establishment.

17 5. A warehouse operated by a milk distributor licensed under s. 97.21
18 (3), and used only for the storage and distribution of milk and fluid milk
19 products, as defined in s. 97.20 (1) (c) and (g).

20 6. A facility owned or operated by a consumer and used by that consumer
21 to store food for the consumer's use.

22 (c) "Frozen food locker plant" means a warehouse in which individual
23 locked compartments not exceeding 20 cubic feet in capacity are rented to
24 consumers for the storage of food at temperatures at or below 5 degrees
25 Fahrenheit.

26 (d) "Frozen food warehouse" means a warehouse at which food is to be
27 stored at temperatures at or below 5 degrees Fahrenheit.

1 (e) "Retail food establishment" has the meaning given under s. 97.30 (1)
2 (c).

3 (f) "Warehouse" means any building, room, structure or facility used for
4 the storage of property.

5 (2) LICENSE REQUIRED. No person may operate a food warehouse without a
6 valid license issued by the department for the food warehouse. A food ware-
7 house license expires on June 30 annually. Every food warehouse shall have a
8 separate license. A license is not transferable between persons or food
9 warehouse locations. Application for a license shall be made on a form pro-
10 vided by the department and shall be accompanied by applicable fees required
11 under sub. (3). An application shall include information reasonably required
12 by the department for licensing purposes.

13 (3) FEES. (a) License fee. An applicant for a food warehouse license
14 shall pay the license fee specified under sub. (3m).

15 (b) Reinspection fee. If the department reinspects a food warehouse
16 because the department finds a violation of this chapter or rules promulgated
17 under this chapter on a regularly scheduled inspection, the department shall
18 charge the food warehouse operator the reinspection fee specified under sub.
19 (3m). A reinspection fee is payable by the food warehouse operator when the
20 reinspection is completed, and is due upon written demand from the department.
21 The department may issue a demand for payment when it issues a license renewal
22 application form to the food warehouse operator.

23 (c) Surcharge for operating without a license. An applicant for a food
24 warehouse license shall pay a license fee surcharge of \$100 if the department
25 determines that, within one year prior to submitting the license application,
26 the applicant operated a food warehouse without a license in violation of this
27 subsection. Payment of this license fee surcharge does not relieve the
28 applicant of any other civil or criminal liability which results from the

1 unlicensed operation of the food warehouse, but does not constitute evidence
2 of a violation of law.

3 (3m) FEE AMOUNTS. The annual fees required under sub. (3), beginning
4 with the license year which ends on June 30, 1989, are:

5 (a) For a food warehouse having fewer than 10,000 square feet of floor
6 area, an annual food warehouse license fee of \$20 and a reinspection fee of
7 \$20.

8 (b) For a food warehouse having at least 10,000 square feet but less than
9 50,000 square feet of floor area, an annual food warehouse license fee of \$40
10 and a reinspection fee of \$40.

11 (c) For a food warehouse having at least 50,000 square feet but less than
12 100,000 square feet of floor area, an annual food warehouse license fee of \$60
13 and a reinspection fee of \$60.

14 (d) For a food warehouse having at least 100,000 square feet but less
15 than 150,000 square feet of floor area, an annual food warehouse license fee
16 of \$80 and a reinspection fee of \$80.

17 (e) For a food warehouse having at least 150,000 square feet of floor
18 area, an annual food warehouse license fee of \$100 and a reinspection fee of
19 \$100.

20 (4) LICENSING CONTINGENT ON PAYMENT OF FEES. The department may not
21 issue or renew a food warehouse license unless the license applicant pays all
22 fees which are due and payable under sub. (3), as set forth in a statement
23 from the department. The department shall refund a fee paid under protest if
24 the department determines that the fee was not due and payable as a condition
25 of licensing under this section.

26 (5) RULE MAKING. The department may promulgate rules to govern the
27 sanitary operation of food warehouses. Rules may include standards for the
28 construction and maintenance of food storage facilities; standards for the

1 storage, identification and handling of food; recordkeeping requirements to
2 show the length of time that food is kept in storage; and freezing and tem-
3 perature requirements applicable to frozen food warehouses, frozen food locker
4 plants and cold storage warehouses.

5 ••87-4950/2••SECTION 322. 97.28 of the statutes, as affected by 1987
6 Wisconsin Acts 27 and (this act), is repealed.

7 ••87-4950/2••SECTION 323. 97.28 (1) of the statutes, as affected by 1987
8 Wisconsin Act 27, is amended to read:

9 97.28 (1) Except as provided in sub. (2m), no person may operate a retail
10 food processing plant without a license from the department or a village, city
11 or county granted agent status under s. 97.41. The license shall be granted
12 under any reasonable rules or ordinances the department or village, city or
13 county granted agent status under s. 97.41 prescribes pertaining to the proper
14 handling and storing of food and the construction and sanitary condition of
15 the building and equipment to be used for food processing.

16 ••87-4950/2••SECTION 324. 97.28 (2) (a) of the statutes is repealed.

17 ••87-4950/2••SECTION 325. 97.29 of the statutes is created to read:

18 97.29 FOOD PROCESSING PLANTS. (1) DEFINITIONS. In this section:

19 (a) "Alcohol beverage" has the meaning given under s. 125.02 (1).

20 (b) "Bakery" means any place where bread, crackers, pasta or pies, or any
21 other food product for which flour or meal is the principal ingredient, are
22 baked, cooked or dried, or prepared or mixed for baking, cooking or drying,
23 for sale as food.

24 (c) "Bottling establishment" means any place where drinking water, soda
25 water beverage or alcohol beverage is manufactured or bottled for sale.
26 "Bottling establishment" does not include a retail establishment engaged in
27 the preparation and sale of beverages under a license issued under s. 125.26
28 or 125.51 or a restaurant permit or other permit issued under s. 50.51.

1 (d) "Canning" means the preservation and packaging in hermetically sealed
2 containers of low-acid or acidified foods.

3 (e) "Confectionary" means any place where candy, fruit, nut meats or any
4 other food product is manufactured, coated or filled with saccharine sub-
5 stances for sale as food.

6 (f) "Drinking water" means water used or intended for use for human
7 consumption. "Drinking water" includes distilled water, artesian water,
8 spring water and mineral water, whether carbonated or uncarbonated, if con-
9 sumed by humans or intended for human consumption.

10 (g) "Food processing" means the manufacture or preparation of food for
11 sale through the process of canning, extracting, fermenting, distilling,
12 pickling, freezing, baking, drying, smoking, grinding, cutting, mixing,
13 coating, stuffing, packing, bottling or packaging, or through any other
14 treatment or preservation process. "Food processing" includes the activities
15 of a bakery, confectionary or bottling establishment, and also includes the
16 receipt and salvaging of distressed food for sale or use as food. "Food
17 processing" does not include any of the following:

- 18 1. Activities covered under a dairy plant license issued under s. 97.20.
- 19 2. Activities covered under a meat or poultry establishment license
20 issued under s. 97.42.
- 21 3. The retail preparation and processing of meals for sale directly to
22 consumers or through vending machines if the preparation and processing is
23 covered under a restaurant permit or other permit issued under s. 50.51.
- 24 4. Activities inspected by the federal department of agriculture under 21
25 USC 451 to 695 and 21 USC 1031 to 1056.
- 26 5. The extraction of honey from the comb, or the production and sale of
27 raw honey or raw bee products by a beekeeper.

1 6. The washing and packaging of fresh fruits and vegetables if the fruits
2 and vegetables are not otherwise processed at the packaging establishment.

3 7. The receipt and salvaging of distressed food for sale or use as food
4 if the food is received, salvaged and used solely by a charitable organization
5 and if contributions to the charitable organization are deductible by cor-
6 porations in computing net income under s. 71.02 (1) (c) (intro.).

7 8. Any other activity exempted by the department by rule.

8 (h) "Food processing plant" means any place where food processing is
9 conducted. "Food processing plant" does not include any establishment subject
10 to the requirements of s. 97.30 or any restaurant or other establishment
11 holding a permit under s. 50.51, to the extent that the activities of that
12 establishment are covered by s. 97.30 or the permit under s. 50.51.

13 (i) "Soda water beverage" means all beverages commonly known as soft
14 drinks or soda water, whether carbonated, uncarbonated, sweetened or flavored.

15 (2) LICENSE. (a) Requirement. Except as provided under par. (b), no
16 person may operate a food processing plant without a valid license issued by
17 the department for that food processing plant. A license expires on March 31
18 annually. Each food processing plant shall have a separate license. A
19 license is not transferable between persons or locations. Application for a
20 license shall be made on a form provided by the department and be accompanied
21 by the applicable fees required under sub. (3) and the sworn statement
22 required under s. 100.03 (2). An applicant shall identify the categories of
23 food processing activities which the applicant proposes to conduct at the food
24 processing plant. An application shall include additional information which
25 may reasonably be required by the department for licensing purposes.

26 (b) Exemptions. If a dairy plant licensed under s. 97.20 or a meat
27 establishment licensed under s. 97.42 is incidentally engaged in the operation

1 of a food processing plant at the same location, the department may exempt by
2 rule the dairy plant or meat establishment from licensing under this section.

3 (c) Added operations. No food processing plant may add a new category of
4 food processing operations during the time period for which a food processing
5 plant license was issued unless the operator of the food processing plant
6 first notifies the department and obtains written authorization for the new
7 category of operations. "New category of food processing operations" may
8 include any of the following operations which were not identified on the most
9 recent license application for the food processing plant:

10 1. Bakery operations.

11 2. Confectionary operations.

12 3. Bottling establishment operations.

13 4. Canning operations.

14 5. Freezing, smoking or other food preservation operations which consti-
15 tute a significant departure from the operations described in the most recent
16 license application.

17 6. Any other category of food processing operations which constitutes a
18 significant departure from the operations described in the most recent license
19 application.

20 (3) FEES. (a) Annual license fee; all food processing plants. An
21 applicant for a food processing plant license shall pay the license fee
22 specified under par. (am), based on the dollar volume of production by the
23 food processing plant during the previous license year. The annual dollar
24 volume of production shall be determined by gross sales of the product proc-
25 essed during the license year, plus the inventory value of any portion of the
26 product not sold. If the food processing plant was not licensed during the
27 previous license year, the license applicant shall pay an estimated license
28 fee based on projected annual production in the license year for which appli-

1 cation is made. At the end of the license year for which an estimated fee has
2 been paid, the licensee shall report to the department the actual production
3 during the license year, and the license fee for that year shall be recomputed
4 based on the actual production. If the license fee based on actual production
5 differs from the estimated license fee, the licensee shall pay the balance due
6 or receive a credit from the department on the next year's license fee.

7 (am) Fee amounts. The annual fees required under par. (a), beginning
8 with the license year which ends on March 31, 1989, are:

9 1. For a food processing plant with an annual production of less than
10 \$250,000, a food processing plant license fee of \$40.

11 2. For a food processing plant with an annual production of \$250,000 or
12 more, a food processing plant license fee of \$80.

13 (b) Canning operations; license fee surcharge. If a food processing
14 plant is engaged in canning operations, a license applicant shall pay a
15 license fee surcharge of \$195, beginning with the license year which ends on
16 March 31, 1989, which shall be added to the license fee under par. (a).

17 (c) Reinspection fee. If the department reinspects a food processing
18 plant because the department finds a violation of this chapter or rules
19 promulgated under this chapter, the department shall charge the food proc-
20 essing plant operator the reinspection fee specified under par. (cm). The
21 reinspection fee shall be based on the dollar volume of production by the food
22 processing plant during the previous license year, and may include a rein-
23 spection fee surcharge for a food processing plant engaged in canning
24 operations. The reinspection fee is payable when the reinspection is
25 completed, and is due upon written demand from the department. The department
26 may issue a demand for payment when it issues a license renewal application
27 form to the food processing plant operator.

1 (cm) Fee amounts. The reinspection fee required under par. (c), begin-
2 ning with the license year which ends on June 30, 1989, is:

3 1. For a food processing plant with an annual production of less than
4 \$250,000, the reinspection fee is \$40.

5 2. For a food processing plant with an annual production of \$250,000 or
6 more, the reinspection fee is \$80.

7 (d) Surcharge for operating without a license. An applicant for a food
8 processing plant license shall pay a license fee surcharge if the department
9 determines that, within one year prior to submitting a license application,
10 the applicant operated the food processing plant without a license in viola-
11 tion of this subsection. The amount of the surcharge is \$100, or \$500 in the
12 case of a food processing plant buying farm products from producers. Payment
13 of this license fee surcharge does not relieve the applicant of any other
14 civil or criminal liability which results from the unlicensed operation of the
15 food processing plant, but does not constitute evidence of a violation of any
16 law.

17 (e) Licensing contingent on payment of fees. The department may not
18 issue or renew a food processing plant license unless the license applicant
19 pays all fees which are due and payable under this subsection, as set forth in
20 a statement from the department. The department shall refund a fee paid under
21 protest if the department determines that the fee was not due and payable as a
22 condition of licensing under this subsection.

23 (4) FOOD PROCESSING PLANTS BUYING FARM PRODUCTS FROM PRODUCERS. If a
24 food processing plant buys farm products from producers, no license to operate
25 the food processing plant may be issued or renewed until the applicant com-
26 plies with s. 100.03.

27 (5) RULE MAKING. The department may promulgate rules to govern the
28 operation of food processing plants. Rules may include standards for the

1 construction and maintenance of facilities; the design, installation, cleaning
2 and maintenance of equipment and utensils; personnel sanitation; food handling
3 and storage; sanitary production and processing; and food sources and food
4 labeling.

5 ••87-4950/2••SECTION 326. 97.30 of the statutes is created to read:

6 97.30 RETAIL FOOD ESTABLISHMENTS. (1) DEFINITIONS. In this section:

7 (a) "Agent city or county" means a city or county granted agent status by
8 the department under s. 97.41.

9 (b) "Food processing" has the meaning given under s. 97.29 (1) (g).

10 (c) "Retail food establishment" means a permanent or mobile food proc-
11 essing facility where food processing is conducted primarily for direct retail
12 sale to consumers at the facility, or any permanent facility from which food
13 is regularly sold to consumers at retail. "Retail food establishment"
14 includes a grocery store operated at a permanent facility, whether or not the
15 grocery store is engaged in food processing. "Retail food establishment" does
16 not include a restaurant or other establishment holding a permit under s.
17 50.51, to the extent that the activities of the establishment are covered by
18 that permit.

19 (2) LICENSE. (a) Requirement. Except as provided under par. (b), no
20 person may operate a retail food establishment without a valid license issued
21 by the department or an agent city or county. Licenses expire on June 30
22 annually. Each retail food establishment shall have a separate license. A
23 license is not transferable between persons or establishments. Application
24 for a license shall be made on a form provided by the department, or by the
25 agent city or county, and be accompanied by the applicable fees required under
26 sub. (3) or s. 97.41. An application shall indicate whether food processing
27 is conducted at the establishment and shall specify the nature of any food
28 processing activities. An application shall include other information

1 reasonably required by the department, or by the agent city or county, for
2 licensing purposes.

3 (b) Exemptions. 1. A license is not required under this section for any
4 of the following:

5 a. A retail food establishment which has gross food sales of less than
6 \$10,000 per year and is not engaged in food processing.

7 b. A retail food establishment which is primarily engaged in selling
8 fresh fruits and vegetables, honey, cider or maple syrup produced by the
9 operator of the retail food establishment, if that retail food establishment
10 is not engaged in other food processing activities.

11 c. A retail food establishment which is exempted from licensing by the
12 department by rule. If a restaurant or other establishment for which a permit
13 has been issued under s. 50.51 is incidentally engaged in operating a retail
14 food establishment at the same location, the department may exempt by rule the
15 restaurant or establishment from licensing under this section. Rules under
16 this subd. 1. c shall conform to a memorandum of understanding between the
17 department and the department of health and social services, under which the
18 department of health and social services agrees to inspect the retail food
19 establishment operations on behalf of the department.

20 2. If a food processing plant, as defined in s. 97.29 (1) (h), is inci-
21 dentally engaged in the operation of any retail food establishment subject to
22 the requirements of this section at the same location, the department may
23 exempt by rule that establishment from licensing under this section.

24 (3) FEES; RETAIL FOOD ESTABLISHMENTS LICENSED BY DEPARTMENT. (a)
25 License fee. An applicant for a retail food establishment license shall pay
26 the license fee specified under sub. (3m), based on gross receipts from food
27 sales at the retail food establishment during the previous license year. If a
28 retail food establishment was not licensed during the previous license year, a

1 license applicant shall pay an estimated license fee based on projected gross
2 receipts from food sales in the license year for which application is made.
3 At the end of the license year for which an estimated fee has been paid, the
4 licensee shall submit a report to the department stating the actual gross
5 receipts from food sales during the license year. The license fee for that
6 year shall be recomputed based on actual gross receipts. If the license fee
7 based on actual gross receipts differs from the estimated license fee which
8 was paid, the licensee shall pay the balance due or receive a credit from the
9 department on the next year's license fee.

10 (b) Reinspection fee. If the department reinspects a retail food estab-
11 lishment because the department finds a violation of this chapter or rules
12 promulgated under this chapter, the department shall charge the retail food
13 establishment operator the reinspection fee specified under sub. (3m). A
14 reinspection fee is payable when the reinspection is completed, and is due
15 upon written demand from the department. The department may issue a demand
16 for payment when it issues a license renewal application form to the retail
17 food establishment operator.

18 (c) Surcharge for operating without a license. An applicant for a retail
19 food establishment license shall pay a license fee surcharge of \$100 if the
20 department determines that, within one year prior to submitting a license
21 application, the applicant operated the retail food establishment without a
22 license in violation of this subsection. Payment of this license fee sur-
23 charge does not relieve the applicant of any other civil or criminal liability
24 which results from the unlicensed operation of the retail food establishment,
25 but does not constitute evidence of a violation of any law.

26 (d) Licensing contingent on payment of fees. The department may not
27 issue or renew a retail food establishment license unless the license appli-
28 cant pays all fees which are due and payable under this subsection and sub.

1 (3m), as set forth in a statement from the department. The department shall
2 refund a fee paid under protest if the department determines that the fee was
3 not due and payable as a condition of licensing under this subsection.

4 (3m) FEE AMOUNTS. The annual fees required under sub. (3), beginning
5 with the license year which ends on June 30, 1989, are:

6 (a) For a retail food establishment with annual food sales of less than
7 \$100,000, an annual retail food establishment license fee of \$40 and a rein-
8 spection fee of \$40.

9 (b) For a retail food establishment with annual food sales of at least
10 \$100,000 but less than \$250,000, an annual retail food establishment license
11 fee of \$60 and a reinspection fee of \$60.

12 (c) For a retail food establishment with annual food sales of \$250,000 or
13 more, an annual retail food establishment license fee of \$80 and a reinspec-
14 tion fee of \$80.

15 (4) FEES; RETAIL FOOD ESTABLISHMENT LICENSED BY AGENT CITY OR COUNTY.
16 Subsection (3) does not apply to any retail food establishment licensed by an
17 agent city or county under s. 97.41. An applicant for a retail food estab-
18 lishment license issued by an agent city or county shall pay fees established
19 by the agent city or county under s. 97.41.

20 (5) RULE MAKING. The department may promulgate rules to govern the
21 operation of retail food establishments. Rules may include standards for the
22 construction and maintenance of facilities; the design, installation, cleaning
23 and maintenance of equipment and utensils; personnel sanitation; food
24 handling, display and storage; and food sources and food labeling.

25 ••87-4950/2••SECTION 327. 97.34 (title) of the statutes is amended to
26 read:

27 97.34 (title) BOTTLED DRINKING WATER AND SODA WATER BEVERAGE; STANDARDS;
28 SAMPLING AND ANALYSIS.

1 ••87-4950/2••SECTION 328. 97.34 (2) of the statutes is repealed.

2 ••87-4950/2••SECTION 329. 97.34 (3) of the statutes is renumbered 97.34
3 (2).

4 ••87-4950/2••SECTION 330. 97.34 (4) of the statutes is repealed.

5 ••87-4950/2••SECTION 331. 97.34 (5) of the statutes, as affected by 1987
6 Wisconsin Act 27, is repealed.

7 ••87-4950/2••SECTION 332. 97.34 (6) to (11) of the statutes are repealed.

8 ••87-4950/2••SECTION 333. 97.36 of the statutes, as affected by 1987
9 Wisconsin Act 27, is amended to read:

10 97.36 BAKERY LICENSE. No person may operate a bakery without obtaining a
11 license under s. 97.40 from the department or a village, city or county
12 granted agent status under s. 97.41. "Bakery" means any place where bread,
13 crackers, pies, macaroni, spaghetti, or any other food product for which flour
14 or meal is the principal ingredient are baked, cooked or dried, or prepared or
15 mixed for baking, cooking or drying, for sale at retail as food. "Bakery"
16 does not include a restaurant, hotel or other place where such products are
17 prepared and sold exclusively with meals or lunches.

18 ••87-4950/2••SECTION 334. 97.36 of the statutes, as affected by 1987
19 Wisconsin Acts 27 and ... (this act), is repealed.

20 ••87-4950/2••SECTION 335. 97.38 of the statutes, as affected by 1987
21 Wisconsin Act 27, is amended to read:

22 97.38 CONFECTIONARY LICENSE. No person may operate a confectionary
23 without obtaining a license under s. 97.40 from the department or a village,
24 city or county granted agent status under s. 97.41. "Confectionary" means any
25 place where candy, fruit, nut meats or any other food product, except a bakery
26 product defined in s. 97.36, is manufactured, coated or filled with saccharine
27 substances for sale at retail as food.

1 ••87-4950/2••SECTION 336. 97.38 of the statutes, as affected by 1987
2 Wisconsin Acts 27 and (this act), is repealed.

3 ••87-4950/2••SECTION 337. 97.40 of the statutes, as affected by 1987
4 Wisconsin Acts 27 and (this act), is repealed.

5 ••87-4950/2••SECTION 338. 97.40 (1) of the statutes, as affected by 1987
6 Wisconsin Act 27, is amended to read:

7 97.40 (1) An applicant for a license to operate a retail bakery or a
8 retail confectionary shall complete the application prepared by the department
9 or a village, city or county granted agent status under s. 97.41 and provide,
10 in writing, any additional information the department or village, city or
11 county issuing the license requires. If the license is issued by the
12 department, the application shall be accompanied by a graduated fee based on
13 dollar volume of output for the preceding licensing year, as follows: For less
14 than \$50,000, a fee of \$35; for \$50,000 or more but less than \$150,000, a fee
15 of \$50; and for \$150,000 or more, a fee of \$75. Dollar volume of output shall
16 be determined by gross sales of product processed plus inventory value of any
17 portion of the product not sold. Fees applicable to bakeries and
18 confectionaries not operated during the preceding licensing year shall be
19 determined in the manner prescribed for food processing plants under s. 97.28
20 (3) (b). If the department conducts a reinspection of any facility used by a
21 person licensed under this subsection due to any violation of any federal or
22 state law which the department determines in a regularly scheduled inspection
23 of that facility, the department shall charge for that reinspection the holder
24 of a license for output of less than \$50,000, \$35; of a license for output of
25 \$50,000 or more but less than \$150,000, \$50; and of a license for \$150,000 or
26 more, \$75.

27 ••87-4950/2••SECTION 339. 97.41 (1) of the statutes, as affected by 1987
28 Wisconsin Act 27, is amended to read:

1 97.41 (1) In the administration of this chapter, the department may enter
2 into a written agreement with a village, city or county, if the village, city
3 or county has a population greater than 5,000, which designates the village,
4 city or county as its agent for issuing licenses to and making investigations
5 or inspections of ~~counter freezers under s. 97.26, retail food processing~~
6 ~~plants as defined in s. 97.28 (2) (b), bakeries as defined in s. 97.36, and~~
7 ~~confectionaries as defined in s. 97.38~~ retail food establishments, as defined
8 in s. 97.30 (1) (c). When the designation is made, no license other than the
9 license issued by the village, city or county under this section may be
10 required by the department, the village, the city or the county for the same
11 operations. The department shall coordinate the designation of agents under
12 this section with the department of health and social services to ensure that,
13 to the extent feasible, the village, same city and county agencies are granted
14 agent status under this section and under s. 50.535 (2). Except as otherwise
15 provided by the department, a village, city or county granted agent status
16 shall regulate all types of establishments for which this subsection permits
17 the department to delegate regulatory authority. No village or city may be
18 designated on or after August 1, 1987, as an agent under this subsection if
19 the county in which the village or city is located is designated as an agent.
20 If a county is designated before, on or after August 1, 1987, as an agent
21 under this subsection, the designation only applies to those cities, villages
22 and towns in the county which are not designated as an agent under this
23 subsection.

24 ••87-4950/2••SECTION 340. 97.41 (4) (a) of the statutes, as affected by
25 1987 Wisconsin Act 27, is amended to read:

26 97.41 (4) (a) Except as provided in par. (b), a village, city or county
27 granted agent status under this section shall establish and collect the
28 license fee for ~~each type of establishment~~ retail food establishments, as

1 defined in s. 97.30 (1) (c). The village, city or county may establish sep-
2 arate fees for preinspections of new establishments, for preinspections of
3 existing establishments for which a person intends to be the new operator or
4 for the issuance of duplicate licenses. No fee may exceed the village's,
5 city's or county's reasonable costs of issuing licenses to, making investi-
6 gations and inspections of, and providing education, training and technical
7 assistance to the establishments, plus the state fee established under sub.
8 (5). A village, city or county which is granted agent status under this
9 section or under s. 50.535, may issue a single license and establish and col-
10 lect a single fee which authorizes the operation on the same premises of more
11 than one type of establishment with respect to which it is granted agent
12 status under this section or under s. 50.535 (2).

13 ••87-4950/2••SECTION 341. 97.41 (5) of the statutes, as affected by 1987
14 Wisconsin Act 27, is amended to read:

15 97.41 (5) The department shall establish state fees for its costs related
16 to setting standards for ~~counter freezers, retail food processors, bakeries~~
17 ~~and confectionaries~~ retail food establishments, as defined in s. 97.30 (1)
18 (c), setting standards for agents under this section and monitoring and
19 evaluating the activities of, and providing education and training to, agent
20 villages, cities and counties. Agent villages, cities and counties shall
21 include the state fees in the license fees established under sub. (4) (a),
22 collect the state fees and reimburse the department for the state fees
23 collected. ~~For each type of establishment, the~~ The state fee may not exceed
24 20% of the license fees ~~fee~~ charged under ss. 97.26 (2), 97.28 (3) and 97.40
25 (1) in villages, cities and counties where the department issues licenses s.
26 97.30 (3) for a license issued by the department.

27 ••87-4950/2••SECTION 342. 97.41 (7) of the statutes, as affected by 1987
28 Wisconsin Act 27, is amended to read:

1 97.41 (7) ~~Except as provided in s. 97.28 (9), a~~ A city or county may
2 impose regulations on licensees and premises for which it is the designated
3 agent under this section, which are stricter than this chapter or rules
4 ~~adopted~~ promulgated by the department under this chapter. No such regulation
5 may conflict with this chapter or rules ~~adopted~~ promulgated by the department.

6 ••87-4950/2••SECTION 343. 97.41 (9) (intro.) of the statutes is amended
7 to read:

8 97.41 (9) (intro.) The department shall hold a hearing under ch. 227 if
9 any interested person, in lieu of proceeding under ch. 68, appeals to the
10 department alleging ~~either~~ any of the following:

11 ••87-4950/2••SECTION 344. 97.41 (9) (c) of the statutes is created to
12 read:

13 97.41 (9) (c) That a license fee for a retail food establishment license
14 issued by an agent city or county under this section exceeds the reasonable
15 costs of that agent city or county for issuing the license, investigating and
16 inspecting the establishment, and providing education, training and technical
17 assistance to the establishment.

18 ••87-4950/2••SECTION 345. 97.415 of the statutes, as affected by 1987
19 Wisconsin Act 27, is repealed.

20 ••87-4950/2••SECTION 346. 97.42 (1) (d) 1 and (2) (a) of the statutes are
21 amended to read:

22 97.42 (1) (d) 1. Establishments subject to ~~the federal meat inspection~~
23 ~~act (21 U.S.C. 71 et seq.) or the federal poultry products inspection act (21~~
24 ~~U.S.C. 21 USC 451 et seq.) to~~ 695.

25 (2) (a) No person ~~shall~~ may operate an establishment as defined in sub.
26 (1) (d) without ~~an annual~~ a valid license issued by the department for each
27 such establishment. ~~Licenses shall expire~~ That license expires on June 30 ~~of~~
28 ~~each year~~ annually. No license ~~shall~~ may be issued unless the applicant has

1 (3) "Public warehouse" means a warehouse that is operated by a public
2 warehouse keeper for the storage for hire of the property of others. "Public
3 warehouse" includes a food warehouse, as defined in s. 97.27 (1) (b), if the
4 warehouse is operated by a public warehouse keeper on a storage for hire
5 basis. "Public warehouse" does not include a frozen food locker plant as
6 defined in s. 97.27 (1) (c).

7 ••87-4950/2••SECTION 353. 99.01 (13) of the statutes is renumbered 99.01
8 (4).

9 ••87-4950/2••SECTION 354. 99.01 (14) to (16) of the statutes are
10 repealed.

11 ••87-4950/2••SECTION 355. 99.01 (17) of the statutes is renumbered 99.01
12 (5).

13 ••87-4950/2••SECTION 356. 99.015 of the statutes is amended to read:

14 99.015 WAREHOUSES CLASSIFIED. For the purposes of this chapter, public
15 ~~and cold storage~~ warehouses are classified as follows: Class 1 warehouses
16 have less than 10,000 square feet of floor space; Class 2 warehouses have
17 10,000 square feet or over but less than 50,000; Class 3 warehouses have
18 50,000 square feet or over but less than 100,000; Class 4 warehouses have
19 100,000 square feet or over but less than 150,000; and Class 5 warehouses have
20 150,000 square feet or over.

21 ••87-4950/2••SECTION 357. Subchapter II (title) of chapter 99 of the
22 statutes is repealed.

23 ••87-4950/2••SECTION 358. 99.04 (1) of the statutes is amended to read:

24 99.04 (1) FACILITIES. All public warehouse facilities shall be suitable
25 for the type of storage operations to be conducted and shall be maintained and
26 operated in a manner which will reasonably protect property to be stored
27 against loss or damage. No public warehouse keeper license may be issued or
28 continued in effect if facilities used are unsuitable for the type of storage

1 operation to be conducted or adequate safeguards are not taken for the pro-
2 tection of property against loss or damage while in storage. A public ware-
3 house used for the storage of food is subject to ch. 97.

4 ••87-4950/2••SECTION 359. Subchapter III of chapter 99 of the statutes,
5 as affected by 1987 Wisconsin Act 27, is repealed.

6 ••87-4950/2••SECTION 360. Subchapter IV of chapter 99 of the statutes, as
7 affected by 1987 Wisconsin Act 27, is repealed.

8 ••87-4950/2••SECTION 361. Subchapter V (title) of chapter 99 of the
9 statutes is repealed.

10 ••87-4950/2••SECTION 362. 99.40 to 99.42 of the statutes are renumbered
11 99.06 to 99.08.

12 ••87-4950/2••SECTION 363. 100.03 (1) (k), (2) (intro.), (3) (a) 1 and (4)
13 (a) of the statutes are amended to read:

14 100.03 (1) (k) "Food processing plant" has the meaning specified in s.
15 ~~97.28 (2) (a). "Food processing plant" does not include "retail food pro-~~
16 ~~cessing plant", as defined in s. 97.28 (2) (b) 97.29 (1) (h).~~

17 (2) ANNUAL STATEMENTS. (intro.) An applicant for an original or renewal
18 ~~food processing plant operator's license to operate a food processing plant~~
19 under s. ~~97.28~~ 97.29 shall include with the application a sworn statement as
20 to all of the following, and shall notify the department whenever he or she
21 knows or has reason to believe that any of the information reported is no
22 longer correct:

23 (3) (a) 1. An applicant for an original ~~food processing plant operator's~~
24 ~~license to operate a food processing plant~~ under s. ~~97.28~~ 97.29 shall file a
25 financial statement with the department.

26 (4) (a) The department may not grant or renew a ~~food processing plant~~
27 ~~operator's license to operate a food processing plant~~ under s. ~~97.28~~ 97.29
28 unless the applicant certifies that all producers who have supplied or con-

1 tracted to supply farm products to the applicant or any subsidiary or affili-
2 ate of the applicant on or before December 31 of the current license year have
3 been paid in cash at the agreed price under par. (b) or (c).

4 ••87-4950/2••SECTION 364. 100.03 (5) (intro.) of the statutes is amended
5 to read:

6 100.03 (5) PAYMENT ON DELIVERY; MINIMUM FINANCIAL STANDARDS; SECURITY.
7 (intro.) No person may operate a food processing plant, and the department
8 may not, under s. ~~97.28~~ 97.29, grant or renew the license of any food proc-
9 essing plant operator, that does not make payment on delivery unless the
10 operator meets the minimum financial standards under par. (a) or files secur-
11 ity with the department under par. (c):

12 ••87-4950/2••SECTION 365. 100.06 (6) of the statutes is amended to read:

13 100.06 (6) Compliance with this section shall be an additional require-
14 ment for the license and noncompliance shall be ground for denial, suspension
15 or revocation of license, under s. 97.20. ~~Section 97.20 (9) and (10) shall~~
16 ~~apply to this section~~ This subsection does not apply to any dairy plant, as
17 defined in s. 97.20 (1) (a), operated by this state.

18 ••87-4950/2••SECTION 366. 100.201 (6) (a) of the statutes is amended to
19 read:

20 100.201 (6) (a) For the purpose of administering and enforcing this
21 section the first person who processes or manufactures any selected dairy
22 product for sale at wholesale or sale at retail (except sales at retail by
23 counter freezer operators licensed as retail food establishments under s.
24 ~~97.26~~ 97.30 or 97.41) within this state, or the wholesaler or retailer who
25 first receives any such product already processed from outside the state for
26 sale within the state, shall pay to the department on or before the 25th day
27 of each month following the month in which such wholesaler receives, processes
28 or sells such selected dairy products, a fee as determined by the department,

1 but not to exceed 5 mills per hundredweight of 3.5% butterfat raw milk
2 equivalent on all selected dairy products defined in sub. (1) (c) 1 sold
3 within the state in final consumer package or container to retailers or con-
4 sumers or sold in such packages or containers to other wholesalers of selected
5 dairy products for further sale within the state to retailers or consumers,
6 and not to exceed 3.5 mills per gallon on all ice cream mix and ice milk mix
7 made for freezing into ice cream and ice milk and ultimately sold within the
8 state, whether in the form of mix or finished ice cream and ice milk. Prod-
9 ucts upon which fees have been paid shall be exempt from further fees in suc-
10 cessive transactions. Any person claiming that products sold by the person
11 are not subject to assessment under this subsection by reason of the fact that
12 they were not sold or resold within the state shall have the burden of so
13 proving, and shall be obligated to pay assessment on such products unless and
14 until the person produces records satisfying the department that such products
15 are not subject to assessment.

16

17 ••87b2321/3••SECTION 366c. 101.09 (3) of the statutes is renumbered
18 101.09 (3) (a) and amended to read:

19 101.09 (3) (a) The department shall promulgate by rule construction,
20 maintenance and abandonment standards applicable to tanks for the storage,
21 handling or use of flammable and combustible liquids, and to the property and
22 facilities where the tanks are located, for the purpose of protecting the
23 waters of the state from harm due to contamination by flammable and combus-
24 tible liquids. The rule shall comply with ch. 160. The rule may include
25 different standards for new and existing tanks, but all standards shall pro-
26 vide substantially similar protection for the waters of the state. The rule
27 shall include maintenance requirements related to the detection and prevention
28 of leaks. The rule may require any person supplying heating oil to any non-

1 commercial storage tank for consumptive use on the premises to submit to the
2 department, within 30 days after the department requests, the location, con-
3 tents and size of any such tank.

4 ••87b2321/3••SECTION 366d. 101.09 (3) (b) of the statutes is created to
5 read:

6 101.09 (3) (b) The department may transfer any information which the
7 department receives under par. (a) to any other agency or governmental unit.
8 Notwithstanding s. 19.35, the department and any such agency shall treat the
9 name of the owner and the location of any noncommercial storage tank which
10 stores heating oil for consumptive use on the premises, required to be sub-
11 mitted to the department under par. (a), as confidential.

12 ••87b3019/1••SECTION 366dg. 101.122 (2) (a) 3 of the statutes is created
13 to read:

14 101.122 (2) (a) 3. In the rules adopted under this paragraph, the
15 department may not include any requirement for interior or exterior foundation
16 insulation or basement ceiling insulation.

17 ••87b2732/1••SECTION 366e. 101.123 (title) of the statutes is amended to
18 read:

19 101.123 (title) SMOKING RESTRICTED IN CERTAIN PUBLIC PLACES.

20 ••87b2732/1••SECTION 366f. 101.123 (1) (a) of the statutes is amended to
21 read:

22 101.123 (1) (a) "~~Educational~~ Higher educational facility" means any
23 building used principally for educational purposes in which ~~a school is~~
24 ~~located or~~ a course of instruction or training program is offered ~~that has~~
25 ~~been approved or licensed by a state agency or board~~ by an institution of
26 higher education, as defined in s. 39.32 (1) (a).

27 ••87b2732/1••SECTION 366g. 101.123 (1) (gm) of the statutes is created to
28 read:

1 101.123 (1) (gm) "School" has the meaning given in s. 118.257 (1).
2 ••87b2732/1••SECTION 366i. 101.123 (1m) (title) of the statutes is
3 created to read:
4 101.123 (1m) (title) COUNTY AND MUNICIPAL ORDINANCES.
5 ••87b2732/1••SECTION 366k. 101.123 (2) (a) 2 of the statutes is amended
6 to read:
7 101.123 (2) (a) 2. Educational Higher educational facilities.
8 ••87b2732/1••SECTION 366L. 101.123 (2) (c) of the statutes is renumbered
9 101.123 (1m).
10 ••87b2732/1••SECTION 366n. 101.123 (2m) of the statutes is created to
11 read:
12 101.123 (2m) REGULATION OF SMOKING IN SCHOOLS. Except as provided in
13 sub. (4) (am), no person may smoke in a school or on school premises, includ-
14 ing outdoor areas.
15 ••87b2732/1••SECTION 366p. 101.123 (3) (intro.) of the statutes is
16 amended to read:
17 101.123 (3) EXCEPTIONS. (intro.) The regulation of smoking in ~~sub-~~
18 subs. (2) and (2m) does not apply to the following places:
19 ••87b2732/1••SECTION 366r. 101.123 (4) (a) of the statutes is amended to
20 read:
21 101.123 (4) (a) A person in charge or his or her agent may designate
22 smoking areas in the places where smoking is regulated under sub. (2) unless a
23 fire marshal, law, ordinance or resolution prohibits smoking. Entire rooms
24 and buildings may be designated smoking areas. This paragraph does not apply
25 to schools.
26 ••87b2732/1••SECTION 366s. 101.123 (4) (am) of the statutes is created to
27 read:

1 101.123 (4) (am) A person in charge of a school may designate smoking
2 areas in areas where only faculty, school staff and other adults are
3 permitted, unless a fire marshal, law, ordinance or resolution prohibits
4 smoking.

5 ••87b3409/2••SECTION 366sd. 101.14 (2) (b) of the statutes is repealed
6 and recreated to read:

7 101.14 (2) (b) The chief of every fire department shall provide for the
8 inspection of every public building and place of employment to determine and
9 cause to be eliminated any fire hazard or any violation of any law relating to
10 fire hazards or to the prevention of fires.

11 ••87b3409/2••SECTION 366sdc. 101.14 (2) (c) of the statutes, as affected
12 by 1987 Wisconsin Act (Senate Bill 349), is amended to read:

13 101.14 (2) (c) Except as provided under subd. 2, ~~such inspection shall~~
14 and par. (cm), the chief of every fire department shall provide that the
15 inspections required under par. (b) be made at least once in 6 months in all
16 of the territory served by ~~such~~ his or her fire department, and not less than
17 once in 3 months in ~~such~~ any territory ~~as~~ which the common council has desig-
18 nated or thereafter designates as within the fire limits or as a congested
19 district subject to conflagration, and oftener as the chief of the fire
20 department orders. Each 6-month period shall begin on January 1 and July 1,
21 and each 3-month period on January 1, April 1, July 1 and October 1 of each
22 year.

23 ••87b3409/2••SECTION 366sde. 101.14 (2) (cm) of the statutes is created
24 to read:

25 101.14 (2) (cm) A fire department is not subject to par. (c) if it does
26 all of the following:

27 1. Completes at least 80% of the total required fire prevention inspec-
28 tions specified in par. (c).

1 2. Completes at least 50% of the required number of fire prevention
2 inspections specified in par. (c) for each public building and place of
3 employment occupancy subject to inspection.

4 3. Provides public fire education services prescribed by the department
5 by rule, in consultation with the fire prevention council.

6 ••87b3409/2••SECTION 366sdg. 101.14 (2) (d) of the statutes is amended to
7 read:

8 101.14 (2) (d) ~~The chiefs chief of every fire departments in every city of~~
9 ~~the 1st, 2nd and 3rd classes department, or, in 1st class cities, the building~~
10 ~~inspector appointed by the department under par. (a), shall designate a suf-~~
11 ~~ficient number of inspectors to carry out this section make the inspections~~
12 ~~required under pars. (b) to (cm).~~

13 ••87b3409/2••SECTION 366sdm. 101.14 (2) (f) of the statutes is amended to
14 read:

15 101.14 (2) (f) ~~Such~~ Every inspection shall be required under pars. (b) to
16 (cm) is subject to the supervision and direction of the department, which
17 shall ~~upon examination, after audit,~~ certify to the commissioner of insurance
18 after the expiration of each calendar year each ~~such~~ city, village or town
19 where the inspections for ~~such~~ the year have been made, and where records
20 ~~thereof~~ have been made and kept on file as required ~~by law~~ under par. (e) and
21 s. 101.575 (3) (a) 5.

22 ••87b3409/2••SECTION 366sds. 101.14 (2) (g) of the statutes is repealed.

23 ••87b3486/1••SECTION 366sg. 101.143 of the statutes is created to read:

24 101.143 PETROLEUM STORAGE REMEDIAL ACTION. (1) DEFINITIONS. In this
25 section:

26 (a) "Commercial petroleum product storage system" means an underground
27 petroleum product storage tank system used to store petroleum products for
28 resale. The term does not include pipeline facilities.

1 (b) "Discharge" has the meaning designated under s. 144.76 (1) (a).

2 (c) "Groundwater" has the meaning designated under s. 144.027 (1) (c).

3 (cm) "Home oil tank" means an underground home heating oil tank used for
4 consumptive use on the premises.

5 (d) "Operator" means any of the following:

6 1. A person who operates a commercial petroleum product storage system,
7 regardless of whether the system remains in operation and regardless of
8 whether the person operates or permits the use of the system at the time
9 environmental pollution occurs.

10 2. A subsidiary or parent corporation of the person specified under subd.

11 1.

12 (e) "Owner" means any of the following:

13 1. A person who owns, or has possession or control of, a commercial
14 petroleum product storage system, or who receives direct or indirect consid-
15 eration from the operation of a system regardless of whether the system
16 remains in operation and regardless of whether the person owns or receives
17 consideration at the time environmental pollution occurs.

18 2. A subsidiary or parent corporation of the person specified under subd.

19 1.

20 (f) "Petroleum product" means gasoline, gasoline-alcohol fuel blends,
21 kerosene, fuel oil, burner oil, diesel fuel oil or used motor oil.

22 (g) "Precision testing" means a testing method capable of detecting a
23 release rate of at least 0.10 gallon per hour from any portion of a commercial
24 petroleum product storage system or home oil tank determined with a probabil-
25 ity of detection of 0.99 and a probability of false alarms of 0.01 and that
26 controls or minimizes through proper design and test procedures the effects of
27 product temperature changes, trapped vapor pockets, condensation, evaporation
28 and tank deflection.

1 (h) "Subsidiary or parent corporation" means a business entity, including
2 a subsidiary, parent corporation or other business arrangement, that has ele-
3 ments of common ownership or control or that uses a long-term contractual
4 arrangement with a person to avoid direct responsibility for conditions at a
5 commercial petroleum product storage system site.

6 (i) "Underground petroleum product storage tank system" means an under-
7 ground storage tank used for storing petroleum products that is required to be
8 registered under 42 USC 6991 and the regulations promulgated under that
9 section or registered under this chapter and the rules promulgated under this
10 chapter together with any on-site integral piping or dispensing system.

11 (2) DUTIES OF THE DEPARTMENT. (a) The department shall set the addi-
12 tional oil inspection fee under s. 168.12 (1m) at a level sufficient, consid-
13 ering funds in the petroleum storage environmental cleanup fund, to fund
14 actual and projected awards and administrative costs under this section and
15 administrative costs paid from the appropriation under s. 20.370 (2) (dw), but
16 not more than \$7,500,000 in a fiscal year.

17 (b) The department shall promote the program under this section to per-
18 sons who may be eligible for awards under this section.

19 (c) The department shall keep records and statistics on the program under
20 this section and shall periodically evaluate the effectiveness of the program.

21 (3) CLAIMS FOR PETROLEUM PRODUCT INVESTIGATION, REMEDIAL ACTION PLANNING
22 AND REMEDIAL ACTION ACTIVITIES. (a) Who may submit a claim. An owner or
23 operator or a person owning a home oil tank may submit a claim to the depart-
24 ment for an award under sub. (4) to reimburse the owner or operator or the
25 person for the eligible costs under sub. (4) (b) that the owner or operator or
26 the person incurs because of a petroleum products discharge from a commercial
27 petroleum product storage system or home oil tank if all of the following
28 apply:

1 1. The owner or operator or the person is able to document that the
2 source of a discharge is from a commercial petroleum product storage system or
3 home oil tank that was installed before the effective date of this subdivision
4 [revisor inserts date].

5 2. The remedial action activities are not eligible for funding under 42
6 USC 6991.

7 3. The owner or operator or the person notifies the department, before
8 conducting a site investigation or remedial action activity, of the discharge
9 and the potential for submitting a claim under this section, except as pro-
10 vided under par. (g).

11 4. The owner or operator registers the commercial petroleum product
12 storage system or the home oil tank is registered with the department under s.
13 101.09.

14 5. The owner or operator or the person reports the discharge in a timely
15 manner to the division of emergency government in the department of adminis-
16 tration or to the department of natural resources, according to the require-
17 ments under s. 144.76.

18 6. The owner or operator or the person investigates the extent of envi-
19 ronmental damage caused by the commercial petroleum product storage system or
20 home oil tank.

21 7. The owner or operator or the person recovers any recoverable petroleum
22 products from the commercial petroleum products storage system or home oil
23 tank.

24 8. The owner or operator or the person disposes of any residual solid or
25 hazardous waste in a manner consistent with local, state and federal laws,
26 rules and regulations.

27 9. The owner or operator or the person follows standards for groundwater
28 restoration in the groundwater standards in the rules promulgated by the

1 department of natural resources under ss. 160.07 and 160.09 and restores the
2 environment, to the extent practicable, according to those standards at the
3 site of the discharge from a commercial petroleum product storage system or
4 home oil tank.

5 (b) Claims submitted by owners or operators who were not owners or
6 operators, or a person owning a home oil tank when a petroleum product dis-
7 charge occurred. An owner or operator who was not the owner or operator, or a
8 person who owns a home oil tank who did not own the home oil tank, when a
9 petroleum product discharge occurred and who meets the requirements of this
10 section may submit a claim for an award under sub. (4) unless the owner or
11 operator or the person knew or should have known of the ineligibility of the
12 previous owner or operator or of the person who previously owned the home oil
13 tank as a result of actions under sub. (4) (g) 4, 5 or 6.

14 (c) Investigations, remedial action plans and remedial action activities.
15 Before submitting an application under par. (f), except as provided under par.
16 (g), an owner or operator or the person shall do all of the following:

17 1. Complete an investigation to determine the extent of environmental
18 damage caused by a discharge from a commercial petroleum product storage
19 system or home oil tank.

20 2. Prepare a remedial action plan that identifies specific remedial
21 action activities proposed to be conducted under subd. 3.

22 3. Conduct all remedial action activities at the site of the discharge
23 from the commercial petroleum product storage system or home oil tank neces-
24 sary to restore the environment to the extent practicable and minimize the
25 harmful effects from the discharge as required under s. 144.76.

26 4. Receive written approval from the department of natural resources that
27 the remedial action activities performed under subd. 3 meet the requirements
28 of s. 144.76.

1 (d) Review of site investigations, remedial action plans and remedial
2 action activities. The department of natural resources shall, at the request
3 of the claimant, review the site investigation and the remedial action plan
4 and advise the claimant on the adequacy of proposed remedial action activities
5 in meeting the requirements of s. 144.76. The advice is not an approval of
6 the remedial action activities. The department of natural resources shall
7 complete a final review of the remedial action activities within 60 days after
8 the claimant notifies the department of natural resources that the remedial
9 action activities are completed.

10 (e) Notifications. The department of natural resources shall notify the
11 department when it gives the claimant written approval under par. (c) 4. The
12 department shall notify the department of natural resources of all
13 notifications that it receives under par. (a) 3.

14 (f) Application. A claimant shall submit a claim on a form provided by
15 the department. The claim shall contain all of the following documentation of
16 activities, plans and expenditures associated with the eligible costs incurred
17 because of a petroleum products discharge from a commercial petroleum product
18 storage system:

19 1. A record of investigation results and data interpretation.

20 2. A remedial action plan.

21 3. Contracts for eligible costs incurred because of the discharge and
22 records of the contract negotiations.

23 4. Accounts, invoices, sales receipts or other records documenting actual
24 eligible costs incurred because of the discharge.

25 5. The written approval of the department of natural resources under par.
26 (c) 4.

27 6. Other records and statements that the department determines to be
28 necessary to complete the application.

1 (g) Emergency situations. Notwithstanding pars. (a) 3 and (c) 1 and 2,
2 an owner or operator or the person may submit a claim for an award under sub.
3 (4) after notifying the department under par. (a) 3, without completing an
4 investigation under par. (c) 1 and without preparing a remedial action plan
5 under par. (c) 2 if any of the following apply:

6 1. An emergency existed which made the investigation under par. (c) 1 and
7 the remedial action plan under par. (c) 2 inappropriate.

8 2. The owner or operator or the person acted in good faith in conducting
9 the remedial action activities and did not wilfully avoid conducting the
10 investigation under par. (c) 1 or the remedial action plan under par. (c) 2.

11 (h) Initial eligibility review. When an owner or operator or the person
12 notifies the department under par. (a) 3, the department shall provide the
13 owner or operator or the person with information on the program under this
14 section and the department's estimate of the eligibility of the owner or
15 operator or of the person for an award under this section.

16 (4) AWARDS FOR PETROLEUM PRODUCT INVESTIGATION, REMEDIAL ACTION PLANNING
17 AND REMEDIAL ACTION ACTIVITIES. (a) Awards. 1. If the department finds
18 that the claimant meets all of the requirements of this section and any rules
19 promulgated under this section, the department shall issue an award to reim-
20 burse a claimant for eligible costs incurred because of a petroleum products
21 discharge from a commercial petroleum product storage system or home oil tank.

22 2. The department may not issue an award before all eligible costs have
23 been incurred and written approval is received under sub. (3) (c) 4, unless
24 the department determines that the delay in issuing the award would cause a
25 financial hardship to the owner or operator or the person.

26 3. If the department issues an award at the time specified under subd. 2,
27 the department may not reimburse the claimant at that time for more than 75%
28 of the eligible costs.

1 4. Except as provided in subd. 5, if the department projects that the
2 funds available for awards under this subsection will be insufficient to pay
3 all awards under this subsection, the department shall issue awards according
4 to a priority system. The department shall consider all of the following in
5 developing a priority system:

6 a. The severity of the environmental contamination.

7 b. The impact of the discharge on public health.

8 c. The estimated number of people adversely affected by the environmental
9 contamination.

10 d. The timeliness and thoroughness of the remedial action activities
11 conducted by the claimant.

12 e. The financial condition of the claimant.

13 5. The department shall allocate \$500,000 in each fiscal year to make
14 awards for home oil tank discharges, and shall make awards in the order that
15 applications are received. The department may conditionally approve awards
16 which exceed the total of \$500,000 in any fiscal year, and make those awards
17 first in the following fiscal year.

18 (b) Eligible costs. Eligible costs for an award under par. (a) include
19 actual costs for the following items only:

20 1. Precision testing to determine tightness of tanks and lines.

21 2. Removal of petroleum products from commercial petroleum product stor-
22 age systems and home oil tanks, surface waters, groundwater or soil.

23 3. Investigation and assessment of contamination caused by a commercial
24 petroleum product storage system or a home oil tank.

25 4. Preparation of remedial action plans.

26 5. Removal of contaminated soils.

27 6. Soil treatment and disposal.

28 7. Environmental monitoring.

- 1 8. Laboratory services.
- 2 9. Maintenance of equipment for petroleum product recovery or remedial
- 3 action activities.
- 4 10. Restoration or replacement of a private or public potable water
- 5 supply.
- 6 11. Restoration of environmental quality.
- 7 12. Contractor costs for remedial action activities.
- 8 13. Inspection and supervision.
- 9 14. Other costs identified by the department as necessary for proper
- 10 investigation, remedial action planning and remedial action activities to meet
- 11 the requirements of s. 144.76.
- 12 (c) Exclusions from eligible costs. Eligible costs for an award under
- 13 par. (a) do not include the following:
- 14 1. Costs incurred before August 1, 1987.
- 15 2. Costs of retrofitting or replacing a commercial petroleum product
- 16 storage system or home oil tank.
- 17 3. Other costs that the department determines to be associated with, but
- 18 not integral to, the eligible costs incurred because of a petroleum products
- 19 discharge from a commercial petroleum product storage system or home oil tank.
- 20 4. Costs which the department determines to be unreasonable or unrec-
- 21 essary to carry out the remedial action activities as specified in the reme-
- 22 dial action plan.
- 23 (d) Awards for applicants who complete investigations, remedial action
- 24 plans and remedial action activities during the grace period. 1. The
- 25 department shall issue an award for a claim filed before August 1, 1989, for
- 26 eligible costs, under par. (b), incurred on or after August 1, 1987, and
- 27 before August 1, 1989, by an owner or operator.

1 2. The department shall issue the award under this paragraph without
2 regard to fault for each commercial petroleum product storage system in an
3 amount equal to 75% of the amount of the eligible costs that exceeds a
4 deductible amount of \$5,000. An award issued under this paragraph may not
5 exceed \$146,250.

6 (e) Awards for claims filed after the grace period. 1. The department
7 shall issue an award for a claim filed after July 31, 1989, for eligible
8 costs, under par. (b), incurred on or after August 1, 1987, by an owner or
9 operator.

10 2. The department shall issue the award under this paragraph without
11 regard to fault for each commercial petroleum product storage system in an
12 amount equal to 50% of the amount of the eligible costs that exceeds a
13 deductible amount of \$5,000. An award issued under this paragraph may not
14 exceed \$97,500.

15 (em) Awards for claims for home oil tank discharges. 1. The department
16 shall issue an award for a claim filed after the effective date of this sub-
17 division [revisor inserts date], for eligible costs, under par. (b),
18 incurred on or after August 1, 1987, by a person who owns a home oil tank.

19 2. The department shall issue the award under this paragraph without
20 regard to fault for each home oil tank in an amount equal to 75% of the amount
21 of the eligible costs. An award issued under this paragraph may not exceed
22 \$7,500.

23 (f) Contributory negligence. Contributory negligence shall not be a bar
24 to submitting a claim under this section and no award under this section may
25 be diminished as a result of negligence attributable to the claimant or any
26 person who is entitled to submit a claim.

27 (g) Denial of claims, limits on awards. The department shall deny a
28 claim under par. (a) if any of the following applies:

1 1. The claim is not within the scope of this section.

2 2. The claimant submits a fraudulent claim.

3 3. The claimant has been grossly negligent in the maintenance of the
4 commercial petroleum product storage system or home oil tank.

5 4. The claimant intentionally damaged the commercial petroleum product
6 storage system or home oil tank.

7 5. The claimant falsified storage records.

8 6. The claimant wilfully failed to comply with laws or rules of this
9 state concerning the storage of petroleum products.

10 (5) RECOVERY OF AWARDS. (a) Right of action. A right of action under
11 this section shall accrue to the state against an owner, operator or other
12 person only if the owner, operator or other person submits a fraudulent claim
13 or does not meet the requirements under this section and if an award is issued
14 under this section to the owner, operator or other person for eligible costs
15 under this section.

16 (b) Action to recover awards. The attorney general shall take action as
17 is appropriate to recover awards to which the state is entitled under par.

18 (a). The department shall request that the attorney general take action if
19 the department discovers a fraudulent claim after an award is issued.

20 (c) Disposition of funds. If an award is made from the petroleum storage
21 environmental cleanup fund, the net proceeds of the recovery under par. (b)
22 shall be paid into the petroleum storage environmental cleanup fund.

23 (6) REQUIREMENT FOR PROOF OF FINANCIAL RESPONSIBILITY. (a) If after
24 July 1, 1988, an owner or operator fails to pay for an investigation or reme-
25 dial action planning or remedial action activity for a commercial petroleum
26 product storage system that the owner or operator used in a business
27 operation, the owner or operator may not continue to conduct business at that
28 business operation or start a new business that uses a commercial petroleum

1 product storage system unless all of the following requirements and conditions
2 are met:

3 1. The owner or operator establishes proof of financial responsibility in
4 the amount of \$100,000 by obtaining a bond or irrevocable letter of credit,
5 making a deposit or establishing an escrow account made payable to or estab-
6 lished for the benefit of the department, or by giving a financial commitment
7 satisfactory to the department.

8 2. The department approves the owner's or operator's proof of financial
9 responsibility under subd. 1.

10 3. The owner or operator maintains the proof of financial responsibility
11 under subd. 1.

12 (b) The department shall enforce this subsection by the revocation of any
13 existing petroleum storage tank use permit issued by the department or by the
14 refusal to issue a new petroleum storage tank use permit under s. 101.09.

15 (7) LIABILITY. (a) No common law liability, and no statutory liability
16 which is provided in a statute other than this section, for damages resulting
17 from a commercial petroleum product storage system or home oil tank is
18 affected by this section. The authority, power and remedies provided in this
19 section are in addition to any authority, power or remedy provided in any
20 statute other than this section or provided at common law.

21 (b) If a person conducts a remedial action activity for a discharge at a
22 commercial petroleum product storage system or home oil tank site, whether or
23 not the person files a claim under this section, the claim and remedial action
24 activity conducted are not evidence of liability or an admission of liability
25 for any potential or actual environmental pollution.

26 (8) PETROLEUM STORAGE ENVIRONMENTAL CLEANUP COUNCIL. The petroleum
27 storage environmental cleanup council shall do all of the following:

1 (a) Advise the secretary on any rules which may be promulgated under this
2 section.

3 (b) Review and advise the secretary and the secretary of natural re-
4 sources on the implementation of the petroleum product remedial action program
5 established under this section.

6 ••87b2575/1••SECTION 366t. 101.245 of the statutes is repealed.

7 ••87b3391/2••SECTION 366v. 101.27 (1) (a) 4 of the statutes is created to
8 read:

9 101.27 (1) (a) 4. The individual is unemployed or underemployed according
10 to rules promulgated by the department because of a strike or labor dispute,
11 as defined under s. 111.02 (9), which has lasted longer than 6 months and is
12 unlikely to return to his or her previous industry or occupation.

13 ••87-5185/2••SECTION 367. 101.28 (2) of the statutes is amended to read:

14 101.28 (2) Any company which receives a loan or grant from a state
15 agency, as defined in s. 20.001 (1), or an authority under ch. 231, ~~233~~ or 234
16 shall notify the department and the area private industry council under the
17 job training partnership act, 29 USC 1501 to 1798, of any position in the
18 company to be filled in this state within one year after receipt of the loan
19 or grant. The company shall provide this notice at least 2 weeks prior to
20 advertising the position.

21 ••87-5185/2••SECTION 368. 101.28 (3) of the statutes, as created by 1987
22 Wisconsin Act 27, is amended to read:

23 101.28 (3) A state agency, as defined in s. 20.001 (1), or an authority
24 under ch. 231, ~~233~~ or 234 shall notify the department of development if it
25 makes a loan or grant to a company.

26 ••87b2734/3••SECTION 368c. 101.35 of the statutes is created to read:

27 101.35 PILOT WISCONSIN JOB OPPORTUNITY BUSINESS SUBSIDY PROGRAM. (1)
28 DEFINITIONS. In this section:

1 (a) "Business" means any person engaged in a business enterprise for
2 profit in this state.

3 (b) "Eligible county" means a county described in sub. (2) (a) or desig-
4 nated under sub. (2) (b).

5 (c) "Eligible job applicant" means an individual who the department
6 determines meets the requirements of sub. (9).

7 (d) "Local service agency" means an organization designated under sub.
8 (3).

9 (e) "Minority business" has the meaning given in s. 560.036 (1) (e).

10 (f) "Small business" has the meaning given in s. 227.485 (2) (c).

11 (g) "Urban county" means a county located in a federal standard metro-
12 politan statistical area.

13 (h) "Wisconsin job opportunity business subsidy program" means the pro-
14 gram administered under this section.

15 (2) DESIGNATED COUNTIES. (a) The department shall provide funds under
16 sub. (4) for wage and fringe benefits subsidies to a local service agency
17 located in an urban county with the most unemployed persons in this state.

18 (b) The department shall designate, in addition to the county described
19 in par. (a), one urban and one rural county where the department shall provide
20 funds under sub. (4) for wage and fringe benefits subsidies to a local service
21 agency. The department shall designate the 2 counties under this paragraph
22 after considering all of the following:

23 1. The number of unemployed persons in the county.

24 2. The county's unemployment rate and the change in the unemployment rate
25 during the preceding 12 months.

26 3. Major plant or business closings or announced closings.

27 3m. Closing of a major production line by a business, causing a signifi-
28 cant negative impact on the county's economy.