CHAPTER 101

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS

SUBCHAPTER I
REGULATION OF INDUSTRY: GENERAL PROVISIONS

101.01 Definitions. (1) In chs. 101 to 106 and 108:
(a) “Commission” means the labor and industry review commission.
(b) “Commissioner” means a member of the commission.
(c) “Department” means the department of industry, labor and human relations.
(d) “Deputy” means any person employed by the department designated as a deputy, who possesses special, technical, scientific, managerial, or personal abilities or qualities in matters within the jurisdiction of the department, and who may be engaged in the performance of duties under the direction of the secretary, calling for the exercise of such abilities or qualities.

(e) “General order” means such order as applies generally throughout the state to all persons, employments, places of employment or public buildings, or all persons, employments or places of employment or public buildings of a class under the jurisdiction of the department. All other orders of the department shall be considered special orders.

(f) “Local order” means any ordinance, order, rule or determination of any common council, board of aldermen, board of trustees or the village board, of any village or city, or the board of health of any municipality, or an order or direction of any official of such municipality, upon any matter over which the department has jurisdiction.
(g) “Order” means any decision, rule, regulation, direction, requirement or standard of the department, or any other determination arrived at or decision made by the department.
(h) “Secretary” means the secretary of industry, labor and human relations.

(2) The following terms as used in ss. 101.01 to 101.25, shall be construed as follows:

(a) The term “employee” shall mean and include every person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go or work or be at any time in any place of employment.
(b) The term “employer” shall mean and include every person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district and other public or quasi-public corporations as well as any agent, manager, representative or other person having control or custody of any employment, place of employment or of any employe.
(c) The term “employment” shall mean and include any trade, occupation or process of manufacture, or any method of carrying on such trade, occupation or process of manufacture in which any person may be engaged, except in such private domestic service as does not involve the use of mechanical power and in farm labor as used in par. (f).
(d) “Frequenter” means every person, other than an employe, who may go in or be in a place of employment or public building under circumstances which render such person other than a trespasser. Such term includes a pupil or student when enrolled in or receiving instruction at an educational institution.
(e) The term “owner” shall mean and include every person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district and other public or quasi-public corporations as well as any manager, representative, officer, or other person having ownership, control or custody of any place of employment or public building, or of the construction, repair or maintenance of any place of employment or public building, or who prepares plans for the construction of any place of employment or public building. Said ss. 101.01 to 101.25 shall apply, so far as consistent, to all architects and builders.
(f) “Place of employment” includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. “Farming” includes those activities specified in s. 102.04 (3), and also includes the transportation of farm products, supplies or equipment directly to the farm by the operator of said farm or employes for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, “place of employment” does not include an adult family home certified under s. 50.032 (1) (b) or, except for the purposes of s. 101.11, a previously constructed building used as a community-based residential facility, as defined in s. 50.01 (1g), which serves 20 or fewer unrelated residents.

(7) “Public building” means any structure, including exterior parts of such building, such as a porch, exterior platform or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants. When used in relation to building codes, “public building” does not include a previously constructed building used as a community-based residential facility as defined in s. 50.01 (1g) which serves 20 or fewer unrelated residents or an adult family home certified under s. 50.032 (1) (b).

(b) The term “safe” or “safety” as applied to an employment or a place of employment or a public building, shall mean such freedom from danger to the life, health, safety or welfare of employees or frequenters, or the public, or tenants, or fire fighters, and such reasonable means of notification, egress and escape in case of fire, and such freedom from danger to adjacent buildings or other property, as the nature of the employment, place of employment, or public building, will reasonably permit.

(i) The term “welfare” shall mean and include comfort, decency and moral well-being.
(d) The department may conduct any number of such investigations contemporaneously through different agents, and may delegate to such agent the taking of all testimony bearing upon any investigation or hearing. The decision of the department shall be based upon its examination of all testimony and records. The recommendations made by such agents shall be advisory only and shall not preclude the taking of further testimony if the department so orders nor preclude further investigation.

(e) The secretary may direct any deputy who is a citizen to act as special prosecutor in any action, proceeding, investigation, hearing or trial relating to the matters within its jurisdiction.

(f) Upon the request of the department, the department of justice or district attorney of the county in which any investigation, hearing or trial had under ss. 101.01 to 101.25 is pending, shall aid therein and prosecute under the supervision of the department, all necessary actions or proceedings for the enforcement of those sections and all other laws of this state relating to the protection of life, health, safety and welfare, and for the punishment of all violations thereof.

(6) (a) All orders of the department in conformity with law shall be in force, and shall be prima facie lawful; and all such orders shall be valid and in force, and prima facie reasonable and lawful until they are found otherwise upon judicial review thereof pursuant to ch. 227 or until altered or revoked by the department.

(b) All general orders shall take effect as provided in s. 227.22. Special orders shall take effect as therein directed.

(c) The department shall, upon application of any employer or owner, grant such time as may be reasonably necessary for compliance with any order.

(d) Any person may petition the department for an extension of time, which the department shall grant if it finds such an extension of time necessary.

(e) Any employer or other person interested either because of ownership in or occupation of any property affected by any such order, or otherwise, may petition for a hearing on the reasonableness of any order of the department in the manner provided in ss. 101.01 to 101.25.

(f) Such petition for hearing shall be by verified petition filed with the department, setting out specifically and in full detail the order upon which a hearing is desired and every reason why such order is unreasonable, and every issue to be considered by the department on the hearing. The petitioner shall be deemed to have finally waived all objections to any irregularities and illegallities in the order upon which a hearing is sought other than those set forth in the petition. All hearings of the department shall be open to the public.

(g) Upon receipt of such petition, if the issues raised in such petition have theretofore been adequately considered, the department shall determine the same by confirming without hearing its previous determination, or if such hearing is necessary to determine the issues raised, the department shall order a hearing thereon and consider and determine the matter or matters in question at such times as shall be prescribed. Notice of the time and place of such hearing shall be given to the petitioner and such other persons as the department may find directly interested in such decision.

(h) Upon such investigation, if it shall be found that the order complained of is unjust or unreasonable the department shall substitute therefor such other order as shall be just and reasonable.

(i) Whenever at the time of the final determination upon such hearing it shall be found that further time is reasonably necessary for compliance with the order of the department, the department shall grant such time as may be reasonably necessary for such compliance.

(7) (a) Nothing contained in ss. 101.01 to 101.25 shall be construed to deprive the common council, the board of aldermen, the board of trustees or the village board of any village or city, or the board of health of any municipality of any power or jurisdiction over or relative to any place of employment or public building, provided that, whenever the department shall, by an order, fix a standard of safety or any hygienic condition for employments or places of employment or public buildings, such order shall, upon the filing by the department of a copy thereof with the clerk of the village or city to which it may apply, be held to amend or modify any similar conflicting local order in any particular matters governed by said order. Thereafter no local officer shall make or enforce any order contrary thereto.

(b) Any person affected by any local order in conflict with an order of the department, may, in the manner provided in s. 101.02 (6) (e) to (i), petition the department for a hearing on the ground that such local order is unreasonable and in conflict with the order of the department. The petition for such hearing shall conform to the requirements set forth for a petition in s. 101.02 (6) (e) to (i).

(c) Upon receipt of such petition the department shall order a hearing thereon, to consider and determine the issues raised by such appeal, such hearing to be held in the village or city or municipality where the local order appealed from was made. Notice of the time and place of such hearing shall be given to the petitioner and such other persons as the department may find directly interested in such decision, including the clerk of the municipality or town from which such appeal comes. If upon such investigation it shall be found that the local order appealed from is unreasonable and in conflict with the order of the department, the department may modify its order and shall substitute for the local order appealed from such order as shall be reasonable and legal in the premises, and thereafter shall be in force and shall, in such particulars, be void and of no effect.

(8) (a) No action, proceeding or suit to set aside, vacate or amend any order of the department or to enjoin the enforcement thereof, shall be brought unless the plaintiff shall have applied to the department for a hearing thereon at the time and as provided in s. 101.02 (6) (e) to (i), and in the petition theretofore shall have raised every issue raised in such action.

(b) Every order of the department shall, in every prosecution for violation thereof, be conclusively presumed to be just, reasonable and lawful, unless prior to the institution of prosecution for such violation a proceeding for judicial review of such order shall have been instituted, as provided in ch. 227.

(9) A substantial compliance with the requirements of ss. 101.01 to 101.25, shall be sufficient to give effect to the orders of the department, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

(10) Orders of the department under ss. 101.01 to 101.25 shall be subject to review in the manner provided in ch. 227.

(11) Proof by any person, firm or corporation employing a contractor to construct, repair, alter or improve any building or structure, that such contractor in performing such work has failed to comply with any applicable order or regulation of the department promulgated under this chapter shall constitute a defense to any action for payment by such contractor to the extent that it shall bar recovery for any part of the work which fails to comply. Advancements paid to the contractor for work which fails to comply as well as any reasonable amount expended to effectuate compliance with
any applicable order or regulation may be recovered from such contractor by way of counterclaim or in a separate action. This section shall not apply where plans or specifications were prepared by an architect or engineer licensed to do business in this state and the contract performed in accordance therewith.

(12) Every day during which any person, persons, corporation or any officer, agent or employee thereof, shall fail to observe and comply with any order of the department or to perform any duty enjoined by ss. 101.01 to 101.25, shall constitute a separate and distinct violation of such order, or of said sections as the case may be.

(13) (a) If any employer, employee, owner, or other person violates ss. 101.01 to 101.25, or fails or refuses to perform any duty lawfully enjoined, within the time prescribed by the department, for which no penalty has been specifically provided, or fails, neglects or refuses to obey any lawful order given or made by the department, or any judgment or decree made by any court in connection with ss. 101.01 to 101.25, for each such violation, failure or refusal, such employer, employee, owner or other person shall forfeit and pay into the state treasury a sum not less than $10 nor more than $100 for each such offense.

(b) It shall be the duty of all officers of the state, the counties and municipalities, upon request of the department, to enforce in their respective departments, all lawful orders of the department, insofar as the same may be applicable and consistent with the general duties of such officers.

(14) (a) The secretary or any examiner appointed by the secretary may hold hearings and take testimony.

(b) Each witness who appears before the department by its order shall receive for attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of properly verified vouchers approved by the secretary, and charged to the proper appropriation for the department. No witness subpoenaed at the instance of parties other than the department is entitled to compensation from the state for attendance or travel unless the department certifies that the testimony was material to the matter investigated.

(c) The department or any party may in any investigation cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in court circuits. The expense incurred by the state in the taking of such depositions shall be charged against the proper appropriations for the department.

(d) A full and complete record shall be kept of all proceedings had before the department on any investigation and all testimony shall be taken down by the stenographer appointed by the department.

(15) (a) The department has such supervision of every employment, place of employment and public building in this state as is necessary adequately to enforce and administer all laws and all lawful orders requiring such employment, place of employment or public building to be safe, and requiring the protection of the life, health, safety and welfare of every employee in such employment or place of employment and every frequenter of such place of employment, and the safety of the public or tenants in any such public building. This paragraph shall not apply to rural school buildings or, after June 29, 1975, to occupational safety and health issues covered by standards established and enforced by the federal occupational safety and health administration.

(b) To administer and enforce, so far as not otherwise provided for in the statutes, the laws relating to child labor, laundries, stores, employment, licensed occupations, school attendance, bakeries, employment offices, intelligence offices and bureaus, manufacture of cigars, sweatshops, corn shredders, woodshaving machines, fire escapes and means of egress from buildings, scaffolds, hoists, ladders and other matters relating to the erection, repair, alteration or painting of buildings and structures, and all other laws protecting the life, health, safety and welfare of employees in employment and places of employment and frequenters of places of employment.  

(c) Upon petition, after January 1, 1912, by any person that any employment or place of employment or public building is not safe, the department shall proceed with or without notice, to make such investigation as may be necessary to determine the matter complained of.

(d) After such hearing as may be necessary, the department may enter such order relative thereto as may be necessary to render such employment or place of employment or public building safe.

(e) Whenever the department shall learn that any employment or place of employment or public building is not safe it may of its own motion, summarily investigate the same, with or without notice, and enter such order as may be necessary relative thereto.

(f) To investigate, ascertain and determine such reasonable classifications of persons, employments, places of employment and public buildings, as shall be necessary to carry out the purposes of ss. 101.01 to 101.25.

(g) Any commissioner, the secretary or any deputy of the department may enter any place of employment or public building, for the purpose of collecting facts and statistics, examining the provisions made for the health, safety and welfare of the employees, frequenters, the public or tenants therein and bringing to the attention of every employer or owner any law, or any order of the department, and any failure on the part of such employer or owner to comply therewith. No employer or owner may refuse to admit any commissioner, the secretary or any deputy of the department to his or her place of employment or public building.

(h) To investigate, ascertain, declare and prescribe what safety devices, safeguards or other means or methods of protection are best adapted to render the employees of every employment and place of employment and frequenters of every place of employment safe, and to protect their welfare as required by law or lawful orders.

(i) To ascertain and fix such reasonable standards and to prescribe, modify and enforce such reasonable orders for the adoption of safety devices, safeguards and other means or methods of protection to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life, health, safety and welfare of employees in employments and places of employment and frequenters of places of employment.

(j) To ascertain, fix and order such reasonable standards, rules or regulations for the construction, repair and maintenance of places of employment and public buildings, as shall render them safe. No such standard, rule or regulation may increase the maximum energy use, as defined in s. 101.08 (1) (f), allowed for a fluorescent lamp ballast, as defined in s. 101.08 (1) (g), under s. 101.08 (2) or decrease the minimum energy efficiency required for a fluorescent lamp ballast, as defined in s. 101.08 (1) (g), under s. 101.08 (2).

(jm) Paragraphs (a) to (j) do not apply to public employe occupational safety and health issues covered under s. 101.055.

(k) Every employer and every owner shall furnish to the department all information required by it to carry into effect
(i) Any employer receiving from the department any blanks calling for information required by it to carry into effect ss. 101.01 to 101.25, with directions to fill the same, shall return the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case he is unable to answer any question, he shall give a good and sufficient reason for such failure, and said answer shall be verified under oath by the employer, or by the president, secretary or other managing officer of the corporation, if the employer is a corporation, and returned to the department at its office within the period fixed by the department.

(16) The department shall comply with the requirements of ch. 160 in the administration of any program, responsibility or activity assigned or delegated to it by law.

101.03 Testimonial powers of commissioners, secretary and deputy. Each of the commissioners, secretary or deputy secretary may certify to official acts, and take testimony.

101.04 Labor and industry review commission. (1) The commission shall issue its decision in any case where petition for review is filed under ch. 120 or 122 or s. 66.191, 1981 stats., or s. 40.65 (2), 56.07 (7), 61.21, 101.22, 101.223 (4) or 111.39.

(2) Notwithstanding s. 227.11, the commission may not promulgate rules except that it may promulgate its rules of procedure.

101.05 Exempt buildings. No building code adopted by the department under this chapter shall affect buildings located on research or laboratory farms of public universities or other state institutions and used primarily for housing livestock or other agricultural purposes. A bed and breakfast establishment, as defined under s. 40.65 (2), 56.07 (7), 56.21, 101.22, 101.223 (4) or 111.39.

101.055 Public employe safety and health. (1) INTENT. It is the intent of this section to give employees of the state, of any state agency and of any political subdivision of this state rights and protections relating to occupational safety and health equivalent to those granted to employees in the private sector under the occupational safety and health act of 1970 (5 USC 5108, 5314, 5315 and 7902; 15 USC 633 and 636; 18 USC 1114; 29 USC 553 and 651 to 678; 42 USC 3142-1 and 49 USC 1421).

(2) DEFINITIONS. In this section, unless the context requires otherwise:

(a) "Agency" means an office, department, independent agency, authority, institution, association, society or other body in state government created or authorized to be created by the constitution or any law, and includes the legislature and the courts.

(b) "Public employe" or "employe" means any employe of the state, of any state agency or of any political subdivision of the state.
“Public employee representative” or “employee representative” means an authorized collective bargaining agent, an employee who is a member of a workplace safety committee or any person chosen by one or more public employers to represent those employees.

(d) “Public employer” or “employer” means the state, any state agency or any political subdivision of the state.

(3) STANDARDS. (a) The department shall adopt, by administrative rule, standards to protect the safety and health of public employees. The standards shall provide protection at least equal to that provided to private sector employees under standards promulgated by the federal occupational safety and health administration, but no rule may be adopted by the department which defines a substance as a “toxic substance” solely because it is listed in the latest printed edition of the national institute for occupational safety and health registry of toxic effects of chemical substances. The department shall revise the safety and health standards adopted for public employees as necessary to provide protection at least equal to that provided to private sector employees under federal occupational safety and health administration standards, except as otherwise provided in this paragraph. Notwithstanding ss. 35.93 and 227.21, if the standards adopted by the department are identical to regulations adopted by a federal agency, the standards need not be duplicated as provided in ss. 35.93 and 227.21 if the identical federal regulations are made available to the public at a reasonable cost, promulgated in accordance with ch. 227, except s. 227.21, and distributed in accordance with s. 35.84.

(b) Standards adopted by the department shall contain appropriate provisions for informing employees about hazards in the workplace, precautions to be taken and emergency treatment practices to be used in the event of an accident or overexposure to a toxic substance. Standards shall include provisions for providing information to employees through posting, labeling or other suitable means. Where appropriate, standards adopted by the department shall contain provisions for the use of protective equipment and technological procedures to control hazards.

(c) Standards adopted by the department relating to toxic substances or harmful physical agents, such as noise, temperature extremes and radiation, shall assure to the extent feasible that no employee will suffer material impairment of health or functional capacity through regular exposure. Where appropriate, standards adopted by the department relating to toxic substances and physical agents shall require the monitoring and measuring of employees’ exposure to the substance or agent.

(4) VARIANCES. (a) Procedure. A public employer may apply to the department for a temporary variance under par. (b), an experimental variance under par. (c) or a permanent variance under par. (d) to any standard adopted under sub. (b) by filing a written request with the department specifying the standard for which the public employer seeks a variance and the reasons for which the variance is sought. In addition, the public employer seeking the variance shall provide a copy of the application to the appropriate public employer representatives and post a statement at the place where notices to employees are normally posted. The posted statement shall summarize the application, specify a place where employees may examine the application and inform employees of their right to request a hearing. Upon receipt of a written request by the employer, an affected employee or a public employee representative, the department shall hold a hearing on the application for a variance and may make further investigations. If a hearing has been requested, the department may not issue a variance until a hearing has been held. A variance issued under par. (b), (c) or (d) shall prescribe the methods and conditions which the employer must adopt and maintain while the variance is in effect.

(b) Temporary variance. The department may grant a temporary variance before a standard goes into effect if the public employer complies with par. (a) and establishes that it is unable to comply with a standard by the standard’s effective date because of unavailability of professional or technical personnel or of necessary materials or equipment or because necessary construction or alteration of facilities cannot be completed by the effective date. The employer shall also show that it is taking all available steps to safeguard employees against the hazard covered by the standard from which the variance is sought and shall possess and describe a program for coming into compliance with the standard as quickly as possible. If a hearing is requested, the department may state in writing that noncompliance with the standard is permitted for 180 days or until a decision is made after the hearing, whichever is earlier. A temporary variance shall be in effect for the period of time needed by the employer to achieve compliance with the standard or for one year, whichever is shorter. A temporary variance may be renewed no more than twice, and only if the public employer files an application for renewal at least 90 days before expiration of the temporary variance and complies with this paragraph and par. (a).

(c) Experimental variance. The department may grant an experimental variance if the public employer complies with par. (a) and the department determines that the variance is necessary to permit the employer to participate in an experiment approved by the department to demonstrate or validate new or improved techniques to safeguard the health or safety of employees.

(d) Permanent variance. The department may grant a permanent variance if the public employer complies with par. (a) and the department finds the employer has demonstrated by a preponderance of the evidence that the conditions and methods the employer uses or proposes to use provide employment or a place of employment which is as safe and healthful as that provided under the standard from which the employer seeks a permanent variance. A permanent variance may be modified or revoked upon application by the employer, an affected employee, a public employee representative or the department and after opportunity for a hearing, but not sooner than 6 months after issuance of the permanent variance.

(5) INSPECTIONS. (a) A public employe or public employe representative who believes that a safety or health standard or variance is being violated, or that a situation exists which poses a recognized hazard likely to cause death or serious physical harm, may request the department to conduct an inspection. The department shall provide forms which may be used to make a request for an inspection. If the employee or public employe representative requesting the inspection so designates, that person’s name shall not be disclosed to the employer or any other person, including any state agency except the department. If the department decides not to make an inspection, it shall notify in writing any employee or public employe representative making a written request. A decision by the department not to make an inspection in response to a request under this subsection is reviewable by the department under sub. (6) (a) 3 and is subject to judicial review under sub. (6) (a) 4.

(b) An authorized representative of the department may enter the place of employment of a public employer at reasonable times, within reasonable limits and in a reasonable manner to determine whether that employer is complying
with safety and health standards and variances adopted
under subs. (3) and (4) or to investigate any situation which
poses a recognized hazard likely to cause death or serious
physical harm to a public employee regardless of whether a
standard is being violated. No public employer may refuse to
allow a representative of the department to inspect a place
of employment. If an employer attempts to prevent a representa-
tive of the department from conducting an inspection, the
department may obtain an inspection warrant under s.
66.122. No notice may be given before conducting an
inspection under this paragraph unless that notice is expressly
authorized by the secretary or is necessary to enhance the
effectiveness of the inspection.

(c) A representative of the employer and a public employe
representative shall be permitted to accompany a representa-
tive of the department on an inspection made under this
subsection to aid in the inspection and to notify the inspector
of any possible violation of a safety and health standard or
variance or of any situation which poses a recognized hazard
likely to cause death or serious physical harm to a public
employe. The public employe representative accompanying
the representative of the department on an inspection shall,
with respect to payment received or withheld for time spent
accompanying the department representative, receive treat-
ment equal to that afforded to any representative of the
employer who is present during an inspection, except that a
public employer may choose to allow only one public em-
ployee representative at a time to accompany the department
representative on an inspection without a reduction in pay. If
a representative of the employer does not accompany the
representative of the department on an inspection, at least
one public employe representative shall be allowed to accom-
pany the representative of the department on the inspection
without a loss of pay. Where no public employe representa-
tive accompanies the representative of the department on an
inspection, the representative of the department shall consult
with a reasonable number of employees concerning matters of
employe safety and health. The department shall keep a
written record of the name of any person accompanying the
department representative during the inspection, the name of
any employee consulted and the name of any authorized
collective bargaining agent notified of the inspection by the
public employer under sub. (7) (e).

(d) When making an inspection, a representative of the
department may question privately any public employer or
employe. No public employe shall suffer a loss in wages for
time spent responding to any questions under this paragraph.

(e) A representative of the department shall have access to
the records required under sub. (7) (a) and (b) and to any
other records maintained by a public employer which are
related to the purpose of the inspection.

(6) ENFORCEMENT. (a) Orders. 1. Issuance. If, as a result of
inspection, the department finds a violation of a safety and
health standard or variance or a condition which poses a
recognized hazard likely to cause death or serious physical
harm to a public employe, the department shall issue an order
to the employer. A public employer who is in compliance
with any standards or variances is deemed to be in compli-
ance to the extent of the condition, practice, means, method,
operation or process covered by that standard. The order
shall describe the nature of the violation and the period of
time within which the employer shall correct the violation.
The department shall send a copy of the order to the top
elected official of the political subdivision of which the public
employer is a part and to the appropriate collective bargain-
ing agent for the employees affected by the violation cited in
the order, if a collective bargaining agent exists. If the order is
issued as a result of an inspection requested by an employe or
public employe representative, the department shall also send
a copy of the order to that employe or public employe
representative. Upon receipt of an order, the employer shall
post the order at or near the site of violation for 3 days, or
until the violation is abated, whichever is longer. The order
shall be posted regardless of whether there has been a petition
for a variance under sub. (4) or for a hearing under subd. 3.
The employer shall ensure that the order is not altered,
defaced or covered by other materials.

2. Decision not to issue. If the department decides not to
issue an order in response to a request for inspection filed
under sub. (5) (a), it shall mail written notice of that decision
to the public employe or public employe representative who
requested the investigation. A decision under this subdivision
is reviewable by the department under subd. 3.

3. Review by department. A public employer or employe
affected by an order or decision issued by the department
under subd. 1 or 2 or sub. (5) (a) may obtain review of the
order or decision by filing with the department a petition
requesting a hearing and specifying the modification or
change desired in the order or decision. A petition for a
hearing must be filed with the department not later than 30
days after the order is issued or the written notification is
mailed. If the department denies the request for a hearing, the
denial shall be in writing and shall state the reasons for denial.
If the department holds a hearing, it shall issue an order
affirming, vacating or modifying the order or decision under
subd. 1 or 2 or sub. (5) (a), within 30 days after the close of the
hearing.

4. Judicial review. Orders and denials of requests for
hearings under subd. 3 are subject to judicial review under ch.
227.

(b) Injunction. Whenever a hazard exists in a public em-
ployer’s place of employment which could reasonably be
expected to cause death or serious physical harm before other
procedures under this section can be carried out, the depart-
ment may seek relief through an injunction or an action for
mandamus as provided in chs. 783 and 813. If the department
seeks an injunction or an action for mandamus, it shall notify
the affected public employer and public employes of the
hazard for which relief is being sought.

(7) EMPLOYER OBLIGATIONS FOR RECORDKEEPING AND NOTIF-
ICATION. (a) A public employer shall maintain records of
work-related injuries and illnesses and shall make reports of
these injuries and illnesses to the department at time intervals
specified by rule of the department. These records shall be
available to the department, the employer’s employes and the
employes’ representatives. This paragraph does not autho-
rise disclosure of patient health care records except as pro-
vided in ss. 146.82 and 146.83.

(b) A public employer shall maintain records of employe
exposures to toxic materials and harmful physical agents
which are required by safety and health standards adopted
under sub. (3) to be monitored or measured. A representati-
of the department and any affected public employe and his or
her public employe representative shall be permitted to
observe the monitoring and measuring and shall have access
to the employer’s records of the monitoring and measuring.
This paragraph does not authorize disclosure of patient
health care records except as provided in ss. 146.82 and
146.83.

(c) A public employer shall promptly notify a public
employe who has been or is being exposed to any toxic
material or harmful physical agent at a level which exceeds
that prescribed by the safety and health standards of the
department and shall inform that public employe of any corrective action being taken.

(d) A public employer shall notify its employees of their protections and rights under this section by posting a summary of these protections and rights in the place of employment where notices to employees are usually posted.

(e) When a representative of the department enters a public employer's place of employment to make an inspection, the employer shall notify an appropriate representative of any collective bargaining unit which represents the employer's employees. The employer shall give the name of the collective bargaining unit representatives notified of the inspection to the department representative making the inspection.

8. PROTECTION OF PUBLIC EMPLOYES EXERCISING THEIR RIGHTS. (a) No public employer may discharge or otherwise discriminate against any public employe it employs because the public employe filed a request with the department, instituted or caused to be instituted any action or proceeding relating to occupational safety and health matters under this section, testified or will testify in such a proceeding, reasonably refused to perform a task which represents a danger of serious injury or death or exercised any other right related to occupational safety and health which is afforded by this section.

(b) A state employe who believes that he or she has been discharged or otherwise discriminated against by a public employer in violation of par. (a) may file a complaint with the personnel commission alleging discrimination or discharge, within 30 days after the employe received knowledge of the discrimination or discharge. A public employee other than a state employe who believes that he or she has been discharged or otherwise discriminated against by a public employer in violation of par. (a) may file a complaint with the division of equal rights under this subsection are subject to judicial review under ch. 227.

(c) Upon receipt of a complaint, the personnel commission or the division of equal rights, whichever is applicable, shall investigate the complaint and shall determine whether there is probable cause to believe that a violation of par. (a) has occurred. If the personnel commission or the division of equal rights finds probable cause it shall attempt to resolve the complaint by conference, conciliation or persuasion. If the complaint is not resolved, the personnel commission or the division of equal rights shall hold a hearing on the complaint within 60 days after receipt of the complaint unless both parties to the proceeding agree otherwise. Within 30 days after the close of the hearing, the personnel commission or the division of equal rights shall issue its decision. If the personnel commission or the division of equal rights determines that there has been no violation of par. (a), it shall issue an order dismissing the complaint.

(d) Orders of the personnel commission and the division of equal rights under this subsection are subject to judicial review under ch. 227.

9. COORDINATION OF STATE SAFETY AND HEALTH PROGRAMS. The department shall coordinate state safety and health programs and shall plan and conduct comprehensive safety and health loss prevention programs for state employees and facilities.

10. EXCEPTION FOR CERTAIN POLITICAL SUBDIVISIONS. The department is not required to expend any resources to enforce this section in political subdivisions having 10 or less employees unless it has received a complaint.

History: 1981 c. 360, 391; 1985 a. 182 s. 57.

101.07 FLUSHING DEVICES FOR URINALS. The department shall not promulgate any rules which either directly or indirectly prohibit the use of manual flushing devices for urinals. The department shall take steps to encourage the use of manual flushing devices for urinals.

History: 1977 c. 418.

101.08 FLUORESCENT LAMP BALLAST ENERGY EFFICIENCY. (1) DEFINITIONS. In this section:

(b) "Ballast efficacy factor" means the ratio of the relative light output of a fluorescent lamp ballast containing a fluorescent lamp, expressed as a percent, to the power input, expressed in watts at the test conditions specified under the American National Standards Institute standard C82.2-1977.

(c) "Covered product" means any consumer product, as defined in 42 USC 6291 (a) (1), which is not designed solely for use in a recreational vehicle or other mobile equipment and which is subject to an energy conservation standard under sub. (2).

(d) "Energy" means electricity, fossil fuel or other fuel specified under 42 USC 6293.

(e) "Energy conservation standard" means either of the following:

1. A performance standard which prescribes a minimum level of energy efficiency, as defined in 42 USC 6291 (a) (5) or a maximum quantity of energy use for a consumer product, as defined in 42 USC 6291 (a) (1), determined under test procedures.

2. A design requirement which is related to energy use for any consumer product, as defined in 42 USC 6291 (a) (1).

(f) "Energy use" means the quantity of energy directly consumed by a consumer product, as defined in 42 USC 6291 (a) (1), at point of use, determined under test procedures.

(g) "Fluorescent lamp ballast" means a device designed to operate a fluorescent lamp by providing a starting voltage and current and limiting the current during normal operation.

(i) "F40T12" means a tubular fluorescent lamp which is a nominal 40 watts, which has a 48 inch tube length and a 1.5 inch diameter, and which conforms to the American National Standards Institute standard C78.1-1978.

(j) "F96T12" means a tubular fluorescent lamp which is a nominal 75 watts, which has a 96 inch tube length and a 1.5 inch diameter and which conforms to the American National Standards Institute standard C78.3-1978.

(k) "Manufacturer" means any person who manufactures, produces, assembles or imports into the customs territory of the United States any consumer product, as defined in 42 USC 6291 (a) (1).

(n) "Test procedure" means a test procedure prescribed by the secretary of the federal department of energy under 42 USC 6293.

(2) FLUORESCENT LAMP BALLASTS. (a) Except as provided in par. (b), the ballast efficacy factor of any fluorescent lamp ballast manufactured on or after May 3, 1988, for sale at retail in this state or for installation in this state under a construction contract may not be less than:

1. For one F40T12 with 40 total nominal lamp watts and a ballast input voltage of 120 or 277, 1.805.

2. For 2 F40T12 lamps each with 80 total nominal lamp watts operated together:

a. With a ballast input voltage of 120, 1.060.
b. With a ballast input voltage of 277, 1.050.
3. For 2 F96T12 lamps each with 150 total nominal lamp watts and with a ballast input voltage of 120 or 277 operated together, 0.570.

(b) Paragraph (a) does not apply to any fluorescent lamp ballast with any of the following characteristics:
1. A dimming capability.
2. Designed for use in ambient temperatures of zero degrees Fahrenheit or less.
3. Having a power factor of less than 0.75 prior to January 1, 1995.
4. Designed to operate a single lamp and having a power factor of less than 0.60 on or after January 1, 1995.

(6) CERTIFICATION. Beginning on the first day of the 4th month after any energy conservation standard under sub. (2) first takes effect for a consumer product manufactured for sale at retail in this state or for installation in this state under a construction contract, the manufacturer of that product shall submit a certification statement to the department for each type of model of that product manufactured on or after the date on which the energy conservation standard first takes effect for that product. The statement shall certify that the product is in compliance with that energy conservation standard. The manufacturer shall submit a revised certification statement on any model of that product the design of which is changed in any way that may reasonably be expected to affect energy use. The department shall prescribe the form and contents of the certification statement. The department shall compile and make available to the public a list of all products for which it has received a certification statement under this subsection.

(7) INVENTORIES AND SALES LIMITED. (a) Beginning on the first day of the 7th month after the effective date of any energy conservation standard under sub. (2), no person may order or purchase, for the purpose of installing in this state under a construction contract or selling at retail in this state, any covered product which has not been certified under sub. (6).

(b) Beginning on the first day of the 13th month after the effective date of any energy conservation standard under sub. (2), no person may:
1. Install in this state under a construction contract, sell or display for sale in this state any covered product manufactured on or after that effective date unless it has been certified under sub. (6).
2. Sell at retail in this state any covered product which is manufactured before that date and which does not meet the energy conservation standard applicable to that covered product unless the person informs the buyer, prior to sale of the covered product, that the covered product does not meet that energy conservation standard.
3. Contract to install in this state in any dwelling, as defined in s. 101.61 (1), as part of the construction of that dwelling, any covered product which is manufactured before that date and which does not meet the energy conservation standard applicable to that covered product unless the person informs the person contracting for the construction, prior to the closing of the contract, that the covered product does not meet that energy conservation standard.

(8) TESTING PROCEDURES. Every manufacturer shall provide for the testing of each type of model of any covered product which it manufactures, using test procedures which are applicable to that model and which have been established by the federal government or by the department if the federal government has not established any test procedure applicable to that model. The results obtained from the testing under this subsection shall be included in the certification statement of each type of covered product model as required under sub. (6).

(9) ENFORCEMENT. To ensure compliance with this section, the department of agriculture, trade and consumer protection shall respond to reasonable consumer complaints related to the requirements of this section and may conduct inspections of the business places of persons who sell covered products and construction sites where appliances are being installed. The department of agriculture, trade and consumer protection may act under ch. 93 to administer this subsection.

(10) PENALTIES. (a) Any person who violates this section, except sub. (6), or any rule promulgated under this section, except sub. (6), shall forfeit not less than $50 nor more than $200 for each violation. Each sale of a covered product which is not in compliance with the requirements of sub. (7) constitutes a single violation.

(b) Any manufacturer who submits a fraudulent certification statement under sub. (6) shall forfeit not less than $1,000 nor more than $10,000 for each violation.
and the location of any noncommercial storage tank which stores heating oil for consumptive use on the premises, required to be submitted to the department under par. (a), as confidential.

(4) ENFORCEMENT. (a) The department shall enforce this section.

(b) The department shall issue orders directing and requiring compliance with the rules and standards of the department adopted under this section whenever, in the judgment of the department, the rules or standards are threatened with violation, are being violated or have been violated.

(c) The circuit court for any county where violation of such an order occurs has jurisdiction to enforce the order by injunctive and other appropriate relief.

(5) PENALTIES. Any person who violates this section or any rule or order adopted under this section shall forfeit not less than $10 nor more than $1,000 for each violation. Each violation of this section or any rule or order under this section constitutes a separate offense and each day of continued violation is a separate offense.


101.11 Employer's duty to furnish safe employment and place. (1) Every employer shall furnish employment which shall be safe for the employees therein and shall furnish a place of employment which shall be safe for employees therein and for frequenters thereof and shall furnish and use safety devices and safeguards, and shall adopt and use methods and processes reasonably adequate to render such employment and places of employment safe, and shall do every other thing reasonably necessary to protect the health, life, safety, and welfare of such employees and frequenters. Every employer and every owner of a place of employment or a public building now or hereafter constructed shall so construct, repair or maintain such place of employment or public building as to render the same safe.

(2) (a) No employer shall require, permit or suffer any employee to go or be in any employment or place of employment which is not safe, and no such employer shall fail to furnish, provide and use safety devices and safeguards, or fail to adopt and use methods and processes reasonably adequate to render such employment and place of employment safe, and no such employer shall fail or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employees and frequenters; and no employer or owner, or other person shall hereafter construct or occupy or maintain any place of employment, or public building, that is not safe, nor prepare plans which shall fail to provide for making the same safe.

(b) No employee shall remove, displace, damage, destroy or carry off any safety device or safeguard furnished and provided for use in any employment or place of employment, or interfere in any way with the use thereof by any other person, nor shall any such employee interfere with the use of any method or process adopted for the protection of any employee in such employment or place of employment or frequenters of such place of employment, nor fail or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employees or frequenters.

(3) This section applies to community-based residential facilities as defined in s. 50.01 (1g).

History: 1971 c. 185; Stats. 1971 s. 101.11; 1975 c. 413; 1987 a. 161 s. 13m. See note to 895.045, citing Lovese v. Allied Development Corp. 45 W (2d) 340, 173 NW (2d) 196.

Where an apartment complex was managed for a fee by a management company, the company was carrying on a business there. Reduction of rent to one of the tenants for custodial services constituted employment on the premises. A tenant who fell on the icy parking lot after the caretaker knew of the condition need only prove negligence in maintaining the premises. Witkia v. Hartnell, 46 W (2d) 574, 175 NW (2d) 248.

A public sidewalk is not made a place of employment merely because an employer constructed it and kept it free of ice and snow. Petrovski v. Eaton Yale & Towne, Inc. 47 W (2d) 617, 178 NW (2d) 53.

It is not that a violation of the safe-place statute is found puts the burden on the owner to rebut the presumption of causation but does not establish as a matter of law that the defendant's negligence was greater than the plaintiff's. Freimond v. Hotel Investments, Inc. 49 W (2d) 429, 190 NW (2d) 588.

A store must be held to have had constructive notice of a dangerous condition when it displayed shaving cream in spray cans on a counter and a 70-year-old man fell and cut his lip on cream sprayed on the white floor. Steinbeers v. H. C. Orange Co. 48 W (2d) 679, 180 NW (2d) 525.

Mere existence of a step up into a hospital lavatory is not an unsafe condition. Weipp v. Wauau Memorial Hospital, 50 W (2d) 27, 183 NW (2d) 24.

Failure to light a parking lot can support a safe-place action but the evidence must show how long the light was burned out to constitute constructive notice of the violation. Low v. Siewert, 54 W (2d) 251, 195 NW (2d) 451.

A parking lot owned by a city which is a continuation of a store parking lot, used by the public for attending the city zoo and the store, even though maintained by the private property owner, is not a place of employment. Gordon v. Schulz Savo Stores, Inc. 50 W (2d) 692, 196 NW (2d) 633.

Detailed construction specifications and the presence of engineers to insure compliance does not manifest control over the project so as to make the commission liable. Berger v. Metropolitan Sewerage Comm. 56 W (2d) 741, 203 NW (2d) 87.

In a safe-place action the employee's contributory negligence is less when his act or omission has been committed in the performance of his duties. McCrossen v. Nekoosa-Edwards Paper Co. 59 W (2d) 245, 208 NW (2d) 148.

A pier at a beach opens to the public for a fee constitutes a place of employment. Any distinction between licensee and invitee is irrelevant, and the statute imposes a higher duty as to safety than the common law. Gould v. Allstar Ins. Co. 59 W (2d) 355, 208 NW (2d) 388.

A state road on the ground of a private race track which connected the track and a parking lot is subject to this section as to frequenters. Gross v. Denov, 61 W (2d) 20, 212 NW (2d) 3.

Negligence sustained where elevator had by-pass switch in violation of Wis. Adm. Code section Ind 4.60 (1e). Sampson v. Laskin, 66 W (2d) 318, 224 NW (2d) 394.

A one-eighth-inch variance in elevation between the sides of the ramp joint was too slight as a matter of law to constitute a violation of the safe-place statute. Balas v. St. Sebastian's Congregation, 66 W (2d) 421, 225 NW (2d) 426.

An employer may be held liable under the safe-place statute not only where he fails to construct or maintain safety-structures such as a fence, but also where he knowingly permits employees or frequenters to venture into a dangerous area. Kaiser v. Cook, 67 W (2d) 460, 227 NW (2d) 50.

Safe-place statute applies only to unsafe physical conditions, not to activities conducted on premises. Korenak v. Curative Workshop Adult Rehabilit. Cir. 71 W (2d) 77, 237 NW (2d) 43.

Discussion of contractor's liability under safe-place law for injury to subcontractor's employee. Barish v. Downey Co., Inc. 71 W (2d) 775, 239 NW (2d) 92.


Retention of control and supervision is required for recovery against general contractor by subcontractor's employee. Lemacher v. Circle Const. Co., Inc. 72 W (2d) 245, 240 NW (2d) 179.

The length of time a safe-place defect must exist, in order to impose constructive notice of it on an owner, varies according to the nature of the business and extent of the business activity involved. May v. Skyler Oil Co. 83 W (2d) 30, 264 NW (2d) 574 (1978).

See note to 895.045, citing Brens v. Bischoff, 89 W (2d) 80, 277 NW (2d) 854 (1979).

Indemnity in safe-place action creates effect identical to that of contributory negligence. Barrons v. J. H. Findorff & Sons, Inc. 89 W (2d) 444, 278 NW (2d) 827 (1979).

Non-negligent indemnifier was liable to indemnitee whose breach of safe-place duty was solely responsible for damages, under circumstances of case. Dykstra v. Arthur G. McKee & Co. 93 W (2d) 17, 254 NW (2d) 692 (Cl. App. 1979); aff'd 100 W (2d) 120, 301 NW (2d) 701 (1981).


Safe employment and safe place of employment distinguished. Leitner v. Milwaukee County, 94 W (2d) 186, 287 NW (2d) 803 (1980).

Evidence of prior accident was admissible to prove notice of unsafe condition. Sullivan v. Peters Construction Co. 94 W (2d) 225, 288 NW (2d) 146 (Cl. App. 1979).

101.111 Excavations; protection of adjoining property and buildings. (1) DEFINITION. In this section "excavator" means any owner of an interest in land making or causing to be made an excavation.

(2) CAVE-IN PREVENTION. Any excavator shall protect the excavation site in such a manner so as to prevent the soil of adjoining property from caving in or settling.

(3) LIABILITY FOR UNDERPINNING AND FOUNDATION EXTENSIONS. (a) If the excavation is made to a depth of 12 feet or less below grade, the excavator may not be held liable for the expense of any necessary underpinning or extension of the foundations of buildings on adjoining properties.
(b) If the excavation is made to a depth in excess of 12 feet below grade, the excavator shall be liable for the expense of any necessary underpinning or extension of the foundations of any adjoining buildings below the depth of 12 feet below grade. The owners of adjoining buildings shall be liable for the expense of any necessary underpinning or extension of the foundations of their buildings to the depth of 12 feet below grade.

(4) NOTICE. Unless waived by adjoining owners, at least 30 days prior to commencing the excavation the excavator shall notify, in writing, all owners of adjoining buildings of his or her intention to excavate. The notice shall state that adjoining buildings may require permanent protection. The owners of adjoining property shall have access to the excavation site for the purpose of protecting their buildings.

(5) EMPLOYEES NOT LIABLE. No worker who is an employee of an excavator may be held liable for his or her employer's failure to comply with this section.

(6) FAILURE TO COMPLY; INJUNCTION. If any excavator fails to comply with this section, any aggrieved person may commence an action to obtain an order under ch. 813 directing such excavator to comply with this section and restraining the excavator from further violation thereof. If the aggrieved person prevails in the action, he or she shall be reimbursed for all his or her costs and disbursements together with such actual attorney fees as may be approved by the court.

(7) APPLICATION OF THIS SECTION. (a) Subject to par. (b), this section applies to any excavation made after January 1, 1978.

(b) This section does not apply to any excavation made under a contract awarded on or before January 1, 1978.

History: 1977 c. 88.

101.12 Approval and inspection of public buildings and places of employment and components. (1) The department shall require the submission of essential drawings, calculations and specifications for public buildings, public structures and places of employment including the following components:

(a) Heating, ventilation, air conditioning and fire detection, prevention or suppression systems.
(b) Industrial exhaust systems.
(c) Elevators, escalators, ski lift and towing devices and power dumbwaiters.
(d) Stadiums, grandstands and bleachers.
(e) Amusement and thrill rides equipment.

(2) Plans of said buildings, structures and components shall be examined for compliance with the rules of the department and a statement of the examination returned to the designer and owner before construction is started. Nothing in this section shall relieve the designer of the responsibility for designing a safe building, structure or component.

(3) The department shall:

(a) Accept the examination of essential drawings, calculations and specifications in accordance with sub. (1) performed by cities of the 1st class provided the same are examined in a manner approved by the department.

(b) Accept the examination of essential drawings, calculations and specifications in accordance with sub. (1) for buildings containing less than 50,000 cubic feet of volume and alterations to buildings containing less than 100,000 cubic feet of volume performed by cities, villages, towns or counties, provided the same are examined in a manner approved by the department. The department shall determine and certify the competency of all such examiners.

(c) Determine and certify the competency of insurance company inspectors of boilers, unfired pressure vessels, refrigeration plants, elevators, escalators and power dumbwaiters.

(d) Accept inspections at no cost performed by insurance company inspectors for whom evidence of competency has been furnished to the department.

(e) Approve inspection service maintained or employed by owners or operators of boilers and unfired pressure vessels.

(f) Accept inspections at no cost performed by approved owner or operator inspection service and provide shop inspection service when deemed necessary.

(g) Accept inspection at no cost when performed by qualified and authorized inspectors in the employ of a city, village, town or county for the inspection of buildings and equipment located within the city, village, town or county. The department shall determine and certify the competency of all such inspectors.

(h) Require all local officers not authorized by the department to grant approvals as provided in pars. (a) and (b) to deny permits or licenses for construction or use of public buildings, public structures and places of employment until the required drawings and calculations have been examined by the department.

(5) (a) In this subsection:

1. “Plans” means construction plans, designs, specifications and related materials filed with the department, city, village, town or county concerning a structure.

2. “Secure structure” means a building or other structure of a type which the department, city, village, town or county determines to have extraordinary security requirements, including but not limited to structures used:

a. For the safekeeping of large sums of money, negotiable instruments, securities or other valuables;

b. As a jail, correctional facility or other secure facility for persons in detention;

c. For the safekeeping or evaluation of evidence in criminal proceedings or investigations;

d. For the safekeeping of weapons, ordnance or explosives;

e. In the generation, transmission or distribution of electric power, fuels or communications.

2. The department shall:

(a) A person requesting to inspect or copy plans shall submit a written application identifying the structure or proposed structure whose plans are sought to be inspected or copied, providing the full name and address of the requester and stating that any information obtained from the inspection or copying will not be used for any unlawful or unfair competitive purpose and that the information set forth in the application is true and correct. The department, city, village, town or county shall promptly transmit a copy of the application to the owner of the structure or proposed structure and the submitter of the plans being inspected or copied.

(c) If an application submitted under par. (b) requests inspection or copying of plans for a secure structure or proposed secure structure, the department, city, village, town or county shall consider the information supplied in the application and weigh the possible harm to the public interest which may result from permitting inspection and copying of the plans against the benefits of allowing such inspection or copying. If the department, city, village, town or county determines that the possible harm to the public interest outweighs the benefit to the requester and to the public interest of allowing such inspection or copying, it may deny the application or grant it upon such conditions as it determines are necessary to protect the public interest. This paragraph does not apply to an application submitted by a...
law enforcement agency or person authorized to have access to the plans by lawful subpoena.

(d) The department, city, village, town or county may charge a reasonable amount to defray its costs in providing copies of the plans.

History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 s. 101.12; 1973 c. 326; 1979 c. 64, 243; 1983 a. 27.

The state statutes and building code have not preempted the field as to school buildings; local building codes apply to the extent that they are not inconsistent. Hartford Union High School v. Hartford, 51 W (2d) 591, 187 NW (2d) 469.

See note to 1921, citing 67 Atty. Gen. 214.

101.121 State historic building code. (1) PURPOSE. It is the purpose of this section to provide alternative standards, when necessary, for the preservation or restoration of buildings or structures designated as historic buildings. The development and application of these alternative standards is a matter of statewide concern. These alternative standards are intended to facilitate the restoration of historic buildings so as to preserve their original or restored architectural elements and features, to encourage energy conservation, to permit a cost-effective approach to preservation and restoration and to provide for the health, safety and welfare of occupants and visitors in historic buildings.

(2) DEFINITIONS. In this section:

(a) "Certified local register of historic property" means a register of historic property which is part of a historic preservation ordinance promulgated by a city, village, town or county if the ordinance is certified by the state historical society under s. 44.44.

(b) "National register of historic places in Wisconsin" means the places in Wisconsin that are listed on the national register of historic places maintained by the U.S. department of the interior.

(c) "Qualified historic building" means a historic building which:

1. Is listed on, or has been nominated by the state historical society for listing on, the national register of historic places in Wisconsin;
2. Is included in a district which is listed on, or has been nominated by the state historical society for listing on, the national register of historic places in Wisconsin, and has been determined by the state historical society to contribute to the historic significance of the district;
3. Is listed on a certified local register of historic property; or
4. Is included in a district which is listed on a certified local register of historic property, and has been determined by the city, village, town or county to contribute to the historic significance of the district.

(3) RULES. (a) For any rule under this chapter or ch. 145 which applies to buildings, the department may provide an alternative rule which accomplishes the same general purpose and applies only to qualified historic buildings. These alternative rules shall permit, to the maximum extent possible, the use of original or duplicates of original materials, the maintenance of the original appearance of all components of a historic building and the use of original construction techniques. The department shall consult with the historic building code council regarding the development of alternative rules. All alternative rules taken together constitute the historic building code.

(b) In order to permit the proper preservation or restoration of a qualified historic building, the department may grant a variance to any rule or alternative rule under this chapter or ch. 145 if the owner demonstrates that an alternative proposed by the owner accomplishes the same purpose as the rule or alternative rule. With respect to any variances requested under this chapter or ch. 145, the department shall give priority to processing variance requests by owners of qualified historic buildings. The department shall maintain a list of variances granted under this paragraph to owners of qualified historic buildings.

(4) SELECTION. (a) Except as provided in par. (b), the owner of any qualified historic building may elect to be subject to the historic building code promulgated under sub. (3). Except as provided in s. 101.127, no owner who elects to be subject to the historic building code may be required to comply with any provision of any other building code, including but not limited to any county or municipal building code, or of any other local ordinance or regulation, if that provision concerns a matter dealt with in the historic building code.

(b) Paragraph (a) does not apply to any owner of a nursing home as defined in s. 50.01 (3), a hospital as defined in s. 50.33 (2) (a) and (c) or an approved public or private treatment facility for alcoholics as defined in s. 51.45 (2) (b) and (c).


101.122 Rental unit energy efficiency. (1) DEFINITIONS. In this section:

(a) "Dwelling unit" means a building or that part of a building which is used as a home or residence.

(b) "Energy conservation measure" means any measure which increases the energy efficiency of a rental unit, including, but not limited to, the installation of caulking, weather-stripping, insulation and storm windows.

(c) "Inspector" means a person certified under sub. (2) (c).

(d) "Owner" means any person having a legal or equitable interest in a rental unit.

(e) "Rental unit" means any rented dwelling units. "Rental unit" does not include:

1. Any building containing up to 4 dwelling units, one of which is owner-occupied.
2. Any building constructed after December 1, 1978, which contains up to 2 dwelling units and which is less than 10 years old.
3. Any building constructed after April 15, 1976, which contains more than 2 dwelling units and which is less than 10 years old.
4. Any dwelling unit not rented at any time from November 1 to March 31.

(f) "Thermal performance" means the gross heat loss from the building.

(i) "Transfer" means a conveyance of an ownership interest in a rental unit by deed, land contract or judgment or conveyance of an interest in a lease in excess of one year. "Transfer" does not include a conveyance under chs. 851 to 879.

(2) DEPARTMENTAL DUTIES. The department shall:

(a) 1. No later than January 1, 1983, adopt rules which establish a code of minimum energy efficiency standards for rental units. The rules shall require installation of specified energy conservation measures. The present value benefits of each energy measure, in terms of saved energy over a 5-year period after installation, shall be more than the total present value cost of installing the measures.
2. In the rules adopted under this paragraph, the department may include a separate standard based on thermal performance.
3. In the rules adopted under this paragraph, the department may not include any requirement for interior or exterior foundation insulation or basement ceiling insulation.
(b) Adopt rules setting standards for inspections and certifications under sub. (4), including but not limited to prescription of a standard certificate form.

(c) Adopt rules for the certification, including provisions for suspension and revocation thereof, of inspectors for the purpose of inspecting rental units subject to any rule under this section. The rules shall include a maximum fee schedule for inspection and certification of rental units under sub. (4) by inspectors not employed by the department.

(d) Provide training, assistance and information services to any inspector or person seeking to be certified as an inspector under par. (c).

(e) Review the rules adopted under this section at least once every 5 years.

(f) Issue special orders which it deems necessary to secure compliance with this section and enforce the same by appropriate administrative and judicial proceedings.

(g) Hear petitions regarding the enforcement of rules and special orders under this section according to the procedure established under s. 101.02 (6) (e) to (i) and (8).

(3) DEPARTMENTAL POWERS. The department may:

(a) In rules adopted under sub. (2) (a), incorporate nationally recognized energy efficiency standards and vary standards according to:

1. Classes of energy use systems, including, but not limited to, building envelopes; heating, ventilating and air conditioning systems; lighting systems; appliances; and other fixtures which consume energy resources.

2. Climatic regions.

(b) Hold hearings on any matter relating to this section and issue subpoenas to compel the attendance of witnesses and the production of evidence at the hearings.

(4) CERTIFICATION. (a) The rules adopted under sub. (2) (a) shall take effect on the first day of the 24th month after adoption of the rules. After the rules take effect, except as provided under pars. (b) and (c), no owner may transfer a rental unit unless, within the previous 5 years, an inspector has inspected the unit and has issued a certificate stating that the unit satisfies applicable standards under sub. (2) (a) 1 or 2.

(b) The department or an inspector employed by the city, village or town within which a rental unit scheduled for demolition is accompanied by the certificate required under sub. (4) (a). The department may establish a special fee under s. 101.19 (1) for an inspection under which it performs this subsection. If any inspector determines to issue a certificate, the inspector shall certify in writing the energy conservation measures necessary to make the rental unit comply with applicable standards under sub. (2) (a).

(5) PROOF OF CERTIFICATION OR EXCLUSION REQUIRED FOR RECORDATION. A register of deeds may not accept for recording any deed or other document of transfer of real estate which includes a rental unit unless the deed or document is accompanied by the certificate required under sub. (4) (a), a waiver under sub. (4) (b) or a stipulation under sub. (4) (c). The department shall prescribe for use under s. 77.22 (1) (b) a form setting forth the reasons why transferred real estate is not subject to certification under sub. (4) (a), waiver under sub. (4) (b) or stipulation under sub. (4) (c).

(6) REPORT TO LEGISLATURE. Annually, before March 1, the department shall submit a written report to the chair clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), on the impact of the requirements of this section.

(6r) MUNICIPAL CODES. After the effective date of the rules under sub. (4) (a), no city or village may enforce a code of minimum energy efficiency standards for rental units in the city or village unless the requirements of the code are at least as strict as the requirements of the code under sub. (2) (a).

(6w) EXCEPTION. To the extent that the historic building code applies to the subject matter of this section, this section does not apply to a qualified historic building, as defined under s. 101.121 (2) (c), if the owner elects to be subject to s. 101.121.

(7) PENALTY. (a) Inspectors. Any inspector falsifying a certificate issued under sub. (4) shall have his or her certification revoked and may be required to forfeit not more than $500 per dwelling unit in the rental unit for which the certificate is issued.

(b) New owners. Any person who offers documents evidencing transfer of ownership for recordation and who, with intent to evade the requirements of this section, falsely states on the form under s. 77.22 (1) that the real property involved does not include a rental unit may be required to forfeit not more than $500 per dwelling unit in the rental unit being transferred.

(c) Waiver. Any person who fails to comply with the requirements of a waiver issued under sub. (4) (b) may be required to forfeit not more than $500 per dwelling unit in the rental unit for which the waiver is issued.

(d) Stipulation. Any person who fails to comply with the requirements of a stipulation under sub. (4) (c) may be required to forfeit not more than $500 per dwelling unit.


This section applies to state. OAG 47-87.
(c) "Office" means any area that serves as a place of work at which the principal activities consist of professional, clerical or administrative services.

(d) "Person in charge" means the person who ultimately controls, governs or directs the activities aboard a public conveyance or within a place where smoking is regulated under this section, regardless of the person's status as owner or lessee.

(e) "Public conveyance" means mass transit vehicles as defined by s. 340.01 (28m) and school buses as defined by s. 340.01 (56).

(f) "Restaurant" means an establishment defined in s. 50.50 (5) with a seating capacity of more than 50 persons.

(g) "Retail establishment" means any store or shop in which retail sales is the principal business conducted, except a tavern operating under a "Class B" intoxicating liquor license or Class "B" fermented malt beverage license, and except bowling alleys.

(h) "Smoking" means carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

(2) Regulation of smoking. (a) Except as provided in sub. (3), no person may smoke in the following places:

1. Public conveyances.
2. Educational facilities.
3. Inpatient health care facilities.
4. Indoor movie theaters.
5. Offices.
7. Restaurants.
8. Retail establishments.
10. Any enclosed, indoor area of a state, county, city, village or town building.

(b) The prohibition in par. (a) applies only to enclosed, indoor areas.

(c) This section does not limit the authority of any county, city, village or town to enact ordinances or of any school district to adopt policies that, complying with the purpose of this section, protect the health and comfort of the public.

(3) Exceptions. The regulation of smoking in sub. (2) does not apply to the following places:

(a) Areas designated smoking areas under sub. (4).
(b) Offices occupied exclusively by smokers.
(c) Entire rooms or halls used for private functions, if the arrangements for the function are under the control of the sponsor of the function.
(d) Restaurants holding a "Class B" intoxicating liquor or Class "B" fermented malt beverage license if the sale of intoxicating liquors or fermented malt beverages or both accounts for more than 50% of the restaurant's receipts.
(e) Offices that are privately owned and occupied.
(f) Any area of a facility used principally to manufacture or assemble goods, products or merchandise for sale.
(g) Prisons, secured correctional facilities, secure detention facilities.

(4) Designation of smoking areas. (a) A person in charge or his or her agent may designate smoking areas in the places where smoking is regulated under sub. (2) unless a fire marshal, law, ordinance or resolution prohibits smoking. Entire rooms and buildings may be designated smoking areas.

(b) If an entire room is designated a smoking area, the person in charge or his or her agent shall post notice of the designation conspicuously on or near all entrances to the room normally used by the public. If an entire building is designated a smoking area, notice of the designation shall be posted on or near all entrances to the building normally used by the public, but posting notice of the designation on or near entrances to rooms within the building is not required.

(c) The person in charge or his or her agent shall utilize, if possible, existing physical barriers and ventilation systems when designating smoking areas. This paragraph requires no new construction of physical barriers or ventilation systems in any building.

(d) This section requires the posting of signs only in areas where smoking is permitted.

(5) Responsibilities. The person in charge or his or her agent shall:

(a) Post signs identifying designated smoking areas; and
(b) Arrange seating to accommodate nonsmokers if smoking areas are adjacent to nonsmoking areas.

(6) Uniform signs. The department shall, by rule, specify uniform dimensions and other characteristics of signs used to designate smoking areas. These rules may not require the use of signs that are more expensive than is necessary to accomplish their purpose.

(7) Signs for state agencies. The department shall arrange with the department of administration to have the signs prepared and made available to state agencies for use in state facilities.

(8) Penalties. (a) On and after April 1, 1985, any person in charge or his or her agent who wilfully fails to comply with sub. (5) shall forfeit not more than $25.
(b) Sections 101.02 (13) (a) and 939.61 (1) do not apply to this section.
(c) A violation of this section does not constitute negligence as a matter of law.

(9) Injunction. After July 1, 1985, state or local officials or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of this section.

History: 1979 c. 221; 1983 a. 27.

101.124 Heated sidewalks prohibited. In this section “exterior pedestrian traffic surface” means any sidewalk, ramp, stair, step, entrance way, plaza or pedestrian bridge not fully enclosed within a building and “heated” means heated by electricity or energy derived from the combustion of fossil fuels, but not including the use of waste thermal energy. “Exterior pedestrian traffic surface” does not include any means of ingress and egress by the physically disabled required under s. 101.13 (2). No person may construct a heated exterior pedestrian traffic surface. The department or any city, village, town or county is prohibited from approving any plan under s. 101.12 which includes such heated surface.

The department shall order any existing heated exterior pedestrian traffic surface in operation after April 30, 1980, to be shut off. This section does not apply to any inpatient health care facility or community-based residential facility, as defined in s. 140.85 (1) or 140.86.

History: 1979 c. 221; 1983 a. 27.

101.125 Safety glazing in hazardous locations. (1) Definitions. In this section:

(a) "Building" means a "place of employment" as defined in s. 101.01 (2) (f) and a "public building" as defined in s. 101.01 (2) (g) and includes, without limitation because of enumeration, wholesale and retail stores, storerooms, office buildings, factories, warehouses, governmental buildings, hotels, hospitals, motels, dormitories, sanatoriums, nursing homes, retirement homes, theaters, stadiums, gymnasiums, amusement park buildings, schools and other buildings used for educational purposes, places of worship and other places of public assembly and all residences including mobile homes, manufactured or industrialized housing, lodging homes and
any other building used as a dwelling for one or more persons.
(b) “Entrance and exit door” means a hinged, pivoting,
revolving or sliding door which is used alone or in combi-
nation with other such doors on interior or exterior walls of a
residential, commercial or public building for passage, in-
gress or egress.
(c) “Fixed or operating, flat panels immediately adjacent
to an entrance or exit door” means the first fixed or oper-
ating, flat panel on either or both sides of an interior or
exterior door if:
1. The nearest vertical edge of such panel is located within
2 feet of the nearest vertical edge of the door; and
2. The lower horizontal edge of such panel is less than 2 feet
from the floor.
(d) “Hazardous location” means the location of a struc-
tural element in a building which is used as an entrance and
exit door to a compartment, room or building; the fixed or
operating, flat panels immediately adjacent to an entrance or
exit door; a sliding glass door unit; a storm or combination
exit door to a compartment, room or building; the fixed or
operating, flat panels immediately adjacent to an entrance or
exit door; a sliding glass door unit; a storm or combination
door; a shower and bathtub enclosure; and the adjacent
sidelites of a door. In the case of a public building, the term
also includes any other location designated by the depart-
ment.
(e) “Safety glazing material” means any transparent or
translucent material, including tempered glass, laminated
glass, wire glass and rigid plastic, which is constructed,
treated or combined with other materials to minimize the
likelihood of cutting or piercing injuries to humans, and
which is approved by rule of the department as meeting
requirements to facilitate the use of public buildings and
hazardous locations where safety glazing would be impracti-
cable because of the size of the lite required.
(b) The department may by rule exempt from the require-
ments of this section and, if it deems necessary, prescribe
other less stringent protective requirements for:
1. Any lite which is 8 inches or less in the least dimension,
or no more than 4 inches in either dimension, and which is
used in an application which the department finds is not
hazardous.
2. Leaded stained glass which is used in an application
which the department finds is not hazardous.
(c) Any mirror, framed glazed picture or similar decorative
object which is attached to a door or wall in a hazardous
location and which does not in whole or in part conceal any
opening in such door or wall is exempt from the requirements
of this section.
(4) LIABILITY OF EMPLOYERS AND SELLERS. (a) No employ-
of a person responsible for compliance with this section is
liable for the employer’s failure to comply.
(b) No seller of glazing materials is subject to the penalty
under sub. (5) or is liable for injuries occurring to any person
if the seller has exercised reasonable care to see that the
pointing materials sold by him or her are properly used.
(4m) EXCEPTION. To the extent that the historic building
code applies to the subject matter of this section, this section
does not apply to a qualified historic building, as defined
under s. 101.121 (2) (c), if the owner elects to be subject to s.
101.121.
(5) PENALTY. Whoever violates this section may be re-
quired to forfeit not less than $100 nor more than $500.
101.127 Building requirements for certain residential fa-
cilities. The department, after consultation with the depart-
ment of health and social services, shall develop a building
code for previously constructed buildings converted to use as
community-based residential facilities as defined in s. 50.01
(lg) which serve between 9 and 20 unrelated residents.
In setting standards, the department shall consider the criteria
enumerated in ss. 46.03 (25) and 50.02 (3) (b), and in addition
shall consider the relationship of the development and en-
forcement of the code to any relevant codes of the department
of health and social services. The objectives of the code shall
be to guarantee health and safety and to maintain insofar as
possible a homelike environment. The department shall
consult with the residential facilities council in developing the
code. Notwithstanding s. 101.121, a historic building as
defined in s. 101.121 (2) (am) which is converted to use as a
community-based residential facility serving between 9 and
20 unrelated residents is governed only by the building code
promulgated under this section.
History: 1975 c. 413; 1975 c. 422 s. 163; Stats. 1975 s. 101.125; s. 13.93 (1)
(b); Stats. 1975 s. 101.127; 1961 c. 341; 1987 a. 161 s. 13m.
101.13 Physically disabled persons; building require-
ments. (1) In this section, “access” means the physical
characteristics of a place which allow persons with functional
limitations caused by impairments of sight, hearing, coordi-
nation or perception or persons with semiambulatory or
nonambulatory disabilities to enter, circulate within and
leave a place of employment or public building and to use the
public toilet facilities and passenger elevators in the place of
employment or public building without assistance.
(1m) The department shall by rule provide minimum
requirements to facilitate the use of public buildings and
places of employment by physically disabled persons where
traffic might reasonably be expected by such persons.
(2) (a) Any place of employment or public building, the initial construction of which is commenced after July 1, 1970, but prior to May 27, 1976, shall be so designed and constructed as to provide reasonable means of ingress and egress by the physically disabled with the exception of:

1. Apartment houses with less than 20 units, row houses and rooming houses;
2. Convents and monasteries;
3. Jails or other places of detention;
4. Garages, hangars and boathouses;
5. All buildings classified as hazardous occupancies;
6. Warehouses;
7. State buildings specifically built for field service purposes such as but not limited to conservation fire towers, fish hatcheries, tree nursery buildings; and
8. University residence halls at universities which have at least 3 residence halls for men and 3 residence halls for women so constructed as to allow physically disabled persons reasonable means of ingress and egress to such buildings.

(b) The requirements of par. (a) may be accomplished by at least one ground or street level entrance and exit without steps, by ramps with slopes not more than one foot of rise in 12 feet, coated with a nonskid surface, or by elevator or such other arrangement as may be reasonably appropriate under the circumstances and which meets with the approval of the department or in lieu thereof with the approval of the municipality wherein the building is located. The doors of such entrance and exit must have a clear opening of at least 40 inches in width and shall otherwise conform to the department building code.

c) If any ground or street level entrance or exit is not so designed or constructed a sign shall be placed at such entrance or exit indicating the location of the entrance or exit available for wheelchair service.

d) Any place of employment or public building, unless exempted by rule of the department, the initial construction of which is commenced on or after May 27, 1976, shall be designed and constructed so as to provide reasonable means of access. Buildings, as defined in s. 703.02 (5), 1975 stats., of 2 stories or less in height shall be exempt from requirements relating to parking space, ramps and grade-level entrances.

e) The department shall by rule provide minimum regulations to ensure the access to and use of buildings prescribed in pars. (a) to (d).

(f) 1. Except as provided in subd. 2, no governmental unit may issue any authorization to occupy any place of employment or public building prescribed in pars. (a) to (d) unless the owner thereof files with that governmental unit a true certification of compliance with the rules under par. (e), applicable to that place of employment or public building relating to the reservation and marking of parking spaces for use by a motor vehicle used by a physically disabled person.

2. An authorization to occupy a place of employment or public building prescribed in pars. (a) to (d) may be issued prior to the completion of parking facilities for that place of employment or public building if the owner files a true certification that upon completion of any parking facility for that place of employment or public building that parking facility shall comply with the rules under par. (e) applicable to that place of employment or public building as specified in subd. 1.

(3) Any place of employment or public building subject to sub. (2) shall be so designed and constructed to allow physically disabled persons reasonable means of access from a parking lot, if any, ancillary to such buildings.

(4) The owner of any building who fails to meet the requirements of this section may be required to reconstruct the same by mandatory injunction in a circuit court suit brought by any interested person. Such person shall be reimbursed, if successful, for all costs and disbursements plus such actual attorney fees as may be allowed by the court.

(5) (a) Every place of employment and public building, except those described in sub. (2) (a) 1 to 8, the construction of which is begun after May 24, 1974 but prior to May 27, 1976, on each floor that is accessible to disabled persons, including persons in wheelchairs, which has public toilets shall have:

1. All public toilet rooms and at least one toilet compartment therein so designed and constructed that they will be suitable for entry and use by handicapped persons, including persons in wheelchairs;
2. The toilet compartment specified under par. (a) so designed and constructed to allow sufficient space between the front entrance of the compartment and adjacent furniture, fixtures or walls to permit the compartment door to open at least 95° and to allow a person in a wheelchair ample room to readily maneuver himself or the wheelchair into the compartment; and
3. At least one lavatory, sink, mirror and towel dispenser or hand drier in each public toilet room accessible to a disabled person, including a person in a wheelchair, if such item is provided.

(b) Within 90 days after May 24, 1974, the department shall adopt, by rule, specifications to effect the requirements of par. (a). The department, in so adopting rules, shall consider the specifications established in the most current revision of "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped", published by the American standards association of New York.

(6) (a) As used in this subsection, "remodeling" means to substantially improve, alter, extend or otherwise change the structure of a building or change the location of exits, but shall not include maintenance, redecoration, reroofing or alteration of mechanical or electrical systems.

(b) If more than 50% of the interior square footage of a public building is to undergo proposed remodeling, the entire building shall be made to conform to sub. (2) (d) and (e), notwithstanding whether the building was constructed prior to, on or after July 1, 1970, and any rules issued under this section.

(c) If 25% to 50% of the interior square footage of a public building is to undergo proposed remodeling, that part of the building which is to be remodeled shall conform to sub. (2) (d), notwithstanding whether the building was constructed prior to, on or after July 1, 1970, and any rules issued under this section.

(d) If less than 25% of the interior square footage of a public building is to undergo proposed remodeling, the remodeling is not subject to sub. (2) (d) and (e) unless the alteration involves work on doors, entrances, exits or public toilet rooms in which case such doors, entrances, exits or public toilet rooms shall be made to conform to sub. (2) (d) and (e), notwithstanding whether the building was constructed prior to, on or after July 1, 1970, and any rules issued under this section.

(e) If remodeling is undertaken pursuant to a plan whereby the project is done in stages which, taken together, add up to a portion of the public building subjected to the remodeling to the limits specified in par. (b) or (c), the appropriate paragraph shall be complied with by the time the remodeling under the plan is completed.
(f) In the case of remodeling in a building having vertical transportation with adequate elevator openings to meet disabled requirements:
1. If the building has 5 floors or less, accessible toilet room accommodations for each sex shall be provided for the disabled on at least one floor.

2. If the building has more than 5 floors, in addition to the accommodations required by subd. 1, accessible toilet room accommodations for each sex shall be provided to serve each additional 5 floors or fraction thereof, and shall be located conveniently throughout the building to facilitate their use.

(g) The owner of any public building who fails to comply with this subsection may be compelled to meet its requirements in a circuit court suit by any interested person. Such person shall be reimbursed, if successful, for all costs and disbursements, plus such actual attorney fees as may be allowed by the court.

(h) Each toilet room accommodation provided for disabled persons as required under this section shall be identified on its entrance as a disabled accommodation, and directions to such accommodations shall appear at the building's primary entrance.

(7) The international symbol of accessibility as adopted by the rehabilitation international in 1969 is established as the official state symbol designating buildings and facilities constructed and designed to be accessible. The symbol may be used only in buildings or other facilities, or parts thereof, which meet the standards for access established by rule of the department. If anyone uses or causes the use of the symbol in violation of department standards, the department shall order the discontinuance of such use until such standards are met. Whoever fails to comply with a department order under this subsection shall be fined $50.

(8) Any passenger elevator installed in a place of employment or public building after October 1, 1978 shall be equipped with raised letters and numerals on the operating panel and the external door frame on each floor, and the letters and numerals shall be designed and placed to maximize the ability of persons with functional limitations to use the passenger elevator without assistance.

(9) To the extent that the historic building code applies to the subject matter of this section, this section does not apply to a qualified historic building, as defined under s. 101.121 (2) (c), if the owner elects to be subject to s. 101.121.


While neither the U.S. nor Wisconsin Constitutions compels states to require public buildings and seats of government be constructed and maintained as to be accessible to the physically handicapped, the legislature has an affirmative duty to address this problem and assure equal access to all constitu classes of citizens, including the physically handicapped. 63 Am. J. C. 87.

101.14 Fire inspections, prevention, detection and suppression. (1) (a) The department may make reasonable orders for the repair or removal of any building or other structure which for want of repair or by reason of age or dilapidated condition or for any other cause is especially liable to fire, and which is so situated as to endanger other buildings or property and for the repair or removal of any combustible or explosive material or inflammable conditions, dangerous to the safety of any building or premises or the occupants thereof or endangering or hindering fire fighters in case of fire.

(b) The secretary and any deputy may at all reasonable hours enter into and upon all buildings, premises and public thoroughfares excepting only the interior of private dwellings, for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, or any violation of any law or order relating to the fire hazard or to the prevention of fire.

(c) The department is hereby empowered and directed to provide the form of a course of study in fire prevention for use in the public schools, dealing with the protection of lives and property against loss or damage as a result of preventable fires, and transmit the same by the first day of August in each year to the state superintendent of public instruction.

(d) The department may prepare and provide suitable forms for distribution to the school systems in the state, for the purpose of providing uniform reports on fire drills conducted during the year in accordance with s. 118.07 (2).

(2) (a) The chief of the fire department in every city, village or town, except cities of the 1st class, is constituted a deputy of the department, subject to the right of the department to relieve any such chief from duties as such deputy for cause, and upon such suspension to appoint some other person to perform the duty imposed upon such deputy. The department may appoint either the chief of the fire department or the building inspector as its deputy in cities of the 1st class.

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

(e) 1. Except as provided under subd. 2 and par. (cm), the chief of every fire department shall provide that the inspections required under par. (b) be made at least once in 6 months in all of the territory served by his or her fire department, and not less than once in 3 months in any territory which the common council has designated or thereafter designates as within the fire limits or as a congested district subject to conflagration, and oftener as the chief of the fire department directs. Each 6-month period shall begin on January 1 and July 1, and each 3-month period on January 1, April 1, July 1 and October 1 of each year.

2. In 1st class cities, the fire chief may establish the schedule of fire inspections in that city. The fire chief shall have the frequency of the inspections on hazardous classification, the proportion of public area, the record of fire code violations, the ratio of occupancy to size and any other factor the chief deems significant. Property other than residential property with 4 dwelling units or less shall be inspected at least once annually.

(cm) A fire department is not subject to par. (c) if it does all of the following:
1. Completes at least 80% of the total required fire prevention inspections specified in par. (c).

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

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

(d) The chief of every fire department, or, in 1st class cities, the building inspector appointed by the department under par. (a), shall designate a sufficient number of inspectors to make the inspections required under pars. (b) to (cm).

(e) Written reports of inspection shall be made and kept on file in the office of the chief of the fire department in the manner and form required by the department.

(f) Every inspection required under pars. (b) to (cm) is subject to the supervision and direction of the department, which shall, after audit, certify to the commissioner of insurance after the expiration of each calendar year each city, village or town where the inspections for the year have been
made, and where records have been made and kept on file as required under par. (e) and s. 101.575 (3) (a) 5.

(3) The department shall annually conduct training sessions and provide manuals and other materials and services to assist deputies and inspectors in the fulfillment of their duties under sub. (2).

(4) (a) The department shall make rules, pursuant to ch. 227, requiring owners of places of employment and public buildings to install such fire detection, prevention or suppression devices as will protect the health, welfare and safety of all employers, employees and frequenters of places of employment and public buildings.

(b) 1. Except as provided in subd. 2, the rules of the department shall require all such places and buildings over 60 feet in height, the construction of which is begun after July 3, 1974, to contain an automatic sprinkler system on each floor.

2. a. Subdivision 1 does not apply to any open parking structure, as defined by the department.

b. If the department determines that water would cause irreparable damage and undue economic loss if discharged in such places or buildings, it shall require a suppression device which has a substance other than water.

c. Subdivision 1 does not apply to any building over 60 feet in height the construction of which is completed or is begun prior to July 3, 1974.

(c) 1. The rules of the department governing such places and buildings under 60 feet in height shall be based upon but may vary from those provisions in the building officials and code administrators international, inc., building code which relate to fire detection, prevention and suppression in public buildings and places of employment.

2. Before the effective date of the rules promulgated under subd. 1, as affected by 1983 Wisconsin Act 295, section 3, the department may grant a variance to any rule relating to automatic fire sprinklers and mandated under chapter 320, laws of 1981, if the department first does both of the following:

a. Consults with the chief of the fire department having authority over the place of employment or public building.

b. Determines that the variance provides protection, substantially equivalent to that of the rules mandated by chapter 320, laws of 1981, of the health, safety and welfare of employers, employees and frequenters of the place of employment or public building.

(d) To the extent that the historic building code applies to the subject matter of this subsection, each qualified historic building, as defined under s. 101.14 (3) (a) 5, is exempt from this subsection if the owner elects to be subject to s. 101.121.

(dm) Each building required by rule under this subsection to contain fire detection, prevention and suppression devices shall have the necessary devices installed at the time of its construction.

(e) Whoever violates this subsection may be fined not less than $100 but not more than $500 for each day of violation.

(f) The department may inspect all buildings covered by this subsection and may issue such orders as may be necessary to assure compliance with it.

(g) As used in this subsection:

1. “Automatic sprinkler system” has the meaning provided in s. 145.01 (3).

2. “Fire detection, prevention and suppression devices” include but are not limited to manual fire alarm systems, smoke and heat detection devices, fire extinguishers, standpipes, automatic fire suppression systems and automatic fire sprinkler systems.

In addition to any fee charged by the department by rule for plan review and approval for the construction of a new or additional installation or change in operation of a previously approved installation for the storage, handling or use of flammable or combustible liquids, the department or its agent shall collect a groundwater fee of $100 for each plan review submittal. The moneys collected under this subsection shall be credited to the groundwater fund.


Cross Reference: See 66.122 for provision authorizing special inspection warrants.

See note to 893.80, citing Coffey v. Milwaukee, 74 W (2d) 526, 247 NW (2d) 132.
2. A subsidiary or parent corporation of the person specified under subd. 1.
   (f) "Petroleum product" means gasoline, gasoline-alcohol fuel blends, kerosene, fuel oil, burner oil, diesel fuel oil or used motor oil.
   (g) "Precision testing" means a testing method capable of detecting a release rate of at least 0.10 gallon per hour from any portion of a commercial petroleum product storage system or home oil tank determined with a probability of detection of 0.99 and a probability of false alarms of 0.01 and that controls or minimizes through proper design and test procedures the effects of product temperature changes, trapped vapor pockets, condensation, evaporation and tank deflection.
   (h) "Subsidiary or parent corporation" means a business entity, including a subsidiary, parent corporation or other business arrangement, that has elements of common ownership or control or that uses a long-term contractual arrangement with a person to avoid direct responsibility for conditions at a commercial petroleum product storage system site.
   (i) "Underground petroleum product storage tank system" means an underground storage tank used for storing petroleum products that is required to be registered under 42 USC 6991 and the regulations promulgated under that section or registered under this chapter and the rules promulgated under this chapter together with any on-site integral piping or dispensing system.

(2) DUTIES OF THE DEPARTMENT. (a) The department shall set the additional oil inspection fee under s. 168.12 (1m) at a level sufficient, considering funds in the petroleum storage environmental cleanup fund, to fund actual and projected awards and administrative costs under this section and administrative costs paid from the appropriation under s. 20.370 (2) (dw), but not more than $7,500,000 in a fiscal year.
   (b) The department shall promote the program under this section to persons who may be eligible for awards under this section.
   (c) The department shall keep records and statistics on the program under this section and shall periodically evaluate the effectiveness of the program.

(3) CLAIMS FOR PETROLEUM PRODUCT INVESTIGATION, REMEDIAL ACTION PLANNING AND REMEDIAL ACTION ACTIVITIES. (a) Who may submit a claim. An owner or operator or a person owning a home oil tank may submit a claim to the department for an award under par. (4) to reimburse the owner or operator or the person for the eligible costs under sub. (4) (b) that the owner or operator or the person incurs because of a petroleum products discharge from a commercial petroleum product storage system or home oil tank if all of the following apply:
   1. The owner or operator or the person is able to document that the source of a discharge is from a commercial petroleum product storage system or home oil tank as a result of actions under sub. (4) 4, 5 or 6.
   2. The remedial action activities are not eligible for funding under 42 USC 6991.
   3. The owner or operator or the person notifies the department, before conducting a site investigation or remedial action activity, of the discharge and the potential for submitting a claim under this section, except as provided under par. (g).
   4. The owner or operator registers the commercial petroleum product storage system or the home oil tank with the department under s. 101.09.
   5. The owner or operator or the person reports the discharge in a timely manner to the division of emergency government in the department of administration or to the department of natural resources, according to the requirements under s. 144.76.
   6. The owner or operator or the person investigates the extent of environmental damage caused by the commercial petroleum product storage system or home oil tank.
   7. The owner or operator or the person recovers any recoverable petroleum products from the commercial petroleum products storage system or home oil tank.
   8. The owner or operator or the person disposes of any residual solid or hazardous waste in a manner consistent with local, state and federal laws, rules and regulations.
   9. The owner or operator or the person follows standards for groundwater restoration in the groundwater standards in the rules promulgated by the department of natural resources under ss. 160.07 and 160.09 and restores the environment, to the extent practicable, according to those standards at the site of the discharge from a commercial petroleum product storage system or home oil tank.
   (b) Claims submitted by owners or operators who were not owners or operators, or a person owning a home oil tank when a petroleum product discharge occurred. An owner or operator who was not the owner or operator, or a person who owns a home oil tank who did not own the home oil tank, when a petroleum product discharge occurred and who meets the requirements of this section may submit a claim for an award under par. (4) unless the owner or operator or the person knew or should have known of the ineligibility of the previous owner or operator or of the person who previously owned the home oil tank as a result of actions under sub. (4) (g) 4, 5 or 6.
   (c) Investigations, remedial action plans and remedial action activities. Before submitting an application under par. (f), except as provided under par. (g), an owner or operator or the person shall do all of the following:
   1. Complete an investigation to determine the extent of environmental damage caused by a discharge from a commercial petroleum product storage system or home oil tank.
   2. Prepare a remedial action plan that identifies specific remedial action activities proposed to be conducted under subd. 3.
   3. Conduct all remedial action activities at the site of the discharge from the commercial petroleum product storage system or home oil tank necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge as required under s. 144.76.
   4. Receive written approval from the department of natural resources that the remedial action activities performed under subd. 3 meet the requirements of s. 144.76.
   (d) Review of site investigations, remedial action plans and remedial action activities. The department of natural resources shall, at the request of the claimant, review the site investigation and the remedial action plan and advise the claimant on the adequacy of proposed remedial action activities in meeting the requirements of s. 144.76. The advice is not an approval of the remedial action activities. The department of natural resources shall complete a final review of the remedial action activities within 60 days after the claimant notifies the department of natural resources that the remedial action activities are completed.
   (e) Notifications. The department of natural resources shall notify the department when it gives the claimant written approval under par. (c) 4. The department shall notify the department of natural resources of all notifications that it receives under par. (a) 3.
   (f) Application. A claimant shall submit a claim on a form provided by the department. The claim shall contain all of the following documentation of activities, plans and expenditures associated with the eligible costs incurred because of a
petroleum products discharge from a commercial petroleum product storage system:
1. A record of investigation results and data interpretation.
2. A remedial action plan.
3. Contracts for eligible costs incurred because of the discharge and records of the contract negotiations.
4. Accounts, invoices, sales receipts or other records documenting actual eligible costs incurred because of the discharge.
5. The written approval of the department of natural resources under par. (c) 4.
6. Other records and statements that the department determines to be necessary to complete the application.

(g) Emergency situations. Notwithstanding pars. (d) 1 and 2, an owner or operator or the person may submit a claim for an award under sub. (4) after notifying the department under par. (a) 3, without completing an investigation under par. (c) 1 and without preparing a remedial action plan under par. (c) 2 if any of the following apply:
1. An emergency existed which made the investigation under par. (c) 1 and the remedial action plan under par. (c) 2 inappropriate.
2. The owner or operator or the person acted in good faith in conducting the remedial action activities and did not willfully avoid conducting the investigation under par. (c) 1 or the remedial action plan under par. (c) 2.

(b) Initial eligibility review. When an owner or operator or the person notifies the department under par. (a) 3, the department shall provide the owner or operator or the person with information on the program under this section and the department’s estimate of the eligibility of the owner or operator or of the person for an award under this section.

(4) AWARDS FOR PETROLEUM PRODUCT INVESTIGATION, REMEDIAL ACTION PLANNING AND REMEDIAL ACTION ACTIVITIES.
(a) Awards. 1. If the department finds that the claimant meets all of the requirements of this section and any rules promulgated under this section, the department shall issue an award to reimburse a claimant for eligible costs incurred because of a petroleum products discharge from a commercial petroleum product storage system or home oil tank.
2. The department may not issue an award before all eligible costs have been incurred and written approval is received under sub. (3) (e) 4, unless the department determines that the delay in issuing the award would cause a financial hardship to the owner or operator or the person.
3. If the department issues an award at the time specified under subd. 2, the department may not reimburse the claimant at that time for more than 75% of the eligible costs.
4. Except as provided in subd. 5, if the department projects that the funds available for awards under this subsection will be insufficient to pay all awards under this subsection, the department shall issue awards according to a priority system. The department shall consider all of the following in developing a priority system:
a. The severity of the environmental contamination.
b. The impact of the discharge on public health.
c. The estimated number of people adversely affected by the environmental contamination.
d. The timeliness and thoroughness of the remedial action activities conducted by the claimant.
e. The financial condition of the claimant.
5. The department shall allocate $500,000 in each fiscal year to make awards for home oil tank discharges, and shall make awards in the order that applications are received. The department may conditionally approve awards which exceed the total of $500,000 in any fiscal year, and make those awards first in the following fiscal year.

(b) Eligible costs. Eligible costs for an award under par. (a) include actual costs for the following items:
1. Precision testing to determine tightness of tanks and lines.
2. Removal of petroleum products from commercial petroleum product storage systems and home oil tanks, surface waters, groundwater or soil.
3. Investigation and assessment of contamination caused by a commercial petroleum product storage system or a home oil tank.
4. Preparation of remedial action plans.
5. Removal of contaminated soils.
6. Soil treatment and disposal.
7. Environmental monitoring.
8. Laboratory services.
9. Maintenance of equipment for petroleum product recovery or remedial action activities.
10. Restoration or replacement of a private or public potable water supply.
11. Restoration of environmental quality.
12. Contractor costs for remedial action activities.
13. Inspection and supervision.
14. Other costs identified by the department as necessary for proper investigation, remedial action planning and remedial action activities to meet the requirements of s. 144.76.
(c) Exclusions from eligible costs. Eligible costs for an award under par. (a) do not include the following:
2. Costs of retrofitting or replacing a commercial petroleum product storage system or home oil tank.
3. Other costs that the department determines to be associated with, but not integral to, the eligible costs incurred because of a petroleum products discharge from a commercial petroleum product storage system or home oil tank.
4. Costs which the department determines to be unreasonable or unnecessary to carry out the remedial action activities as specified in the remedial action plan.
(d) Awards for applicants who complete investigations, remedial action plans and remedial action activities during the grace period. 1. The department shall issue an award for a claim filed before August 1, 1989, for eligible costs, under par. (b), incurred on or after August 1, 1987, and before August 1, 1989, by an owner or operator.
2. The department shall issue the award under this paragraph without regard to fault for each commercial petroleum product storage system in an amount equal to 75% of the amount of the eligible costs that exceeds a deductible amount of $5,000. An award issued under this paragraph may not exceed $146,250.
(e) Awards for claims filed after the grace period. 1. The department shall issue an award for a claim filed after July 31, 1989, for eligible costs, under par. (b), incurred on or after August 1, 1987, by an owner or operator.
2. The department shall issue the award under this paragraph without regard to fault for each commercial petroleum product storage system in an amount equal to 50% of the amount of the eligible costs that exceeds a deductible amount of $5,000. An award issued under this paragraph may not exceed $97,500.
(em) Awards for claims for home oil tank discharges. 1. The department shall issue an award for a claim filed after May 17, 1988, for eligible costs, under par. (b), incurred on or after August 1, 1987, by a person who owns a home oil tank.
2. The department shall issue the award under this paragraph without regard to fault for each home oil tank in an amount equal to 75% of the amount of the eligible costs. An award issued under this paragraph may not exceed $7,500.
(f) **Contributory negligence.** Contributory negligence shall not be a bar to submitting a claim under this section and no award under this section may be diminished as a result of negligence attributable to the claimant or any person who is entitled to submit a claim.

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

1. The claim is not within the scope of this section.
2. The claimant submits a fraudulent claim.
3. The claimant has been grossly negligent in the maintenance of the commercial petroleum product storage system or home oil tank.
4. The claimant intentionally damaged the commercial petroleum product storage system or home oil tank.
5. The claimant falsified storage records.
6. The claimant willfully failed to comply with laws or rules of this state concerning the storage of petroleum products.

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

(b) **Action to recover awards.** The attorney general shall take action as is appropriate to recover awards to which the state is entitled under par. (a). The department shall request the attorney general take action if the department discovers a fraudulent claim after an award is issued.

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

(6) **REQUIREMENT FOR PROOF OF FINANCIAL RESPONSIBILITY.**

(a) If after July 1, 1988, an owner or operator fails to pay for an investigation or remedial action planning or remedial action activity for a commercial petroleum product storage system that the owner or operator used in a business operation, the owner or operator may not continue to conduct business at that business operation or start a new business that uses a commercial petroleum product storage system unless all of the following requirements and conditions are met:

1. The owner or operator establishes proof of financial responsibility in the amount of $100,000 by obtaining a bond or irrevocable letter of credit, making a deposit or establishing an escrow account made payable to or established for the benefit of the department, or by giving a financial commitment satisfactory to the department.
2. The department approves the owner's or operator's proof of financial responsibility under subd. 1.
3. The owner or operator maintains the proof of financial responsibility under subd. 1.
4. (b) The department shall enforce this subsection by the revocation of any existing petroleum storage tank use permit issued by the department or by the refusal to issue a new petroleum storage tank use permit under s. 101.09.

(7) **LIABILITY.**

(a) **No common law liability,** and no statutory liability which is provided in a statute other than this section, for damages resulting from a commercial petroleum product remedial action program under this section or any home oil tank site, whether or not the person files a claim under this section, the claim and remedial action activity conducted are not evidence of liability or an admission of liability for any potential or actual environmental pollution.

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

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

(a) Advise the secretary on any rules which may be promulgated under this section.
(b) Review and advise the secretary and the secretary of natural resources on the implementation of the petroleum product remedial action program established under this section.

History: 1987 a. 399.

101.145 **Smoke detectors.** (1) **DEFINITIONS.** As used in this section:

(a) "Residential building" means any public building which is used for sleeping or lodging purposes and includes any apartment house, rooming house, hotel, children's home, community-based residential facility or dormitory but does not include a hospital or nursing home.

(b) "Sleeping area" means the area of the unit in which the bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate sleeping areas but bedrooms or sleeping rooms separated by a bathroom are not separate sleeping areas.

(c) "Smoke detector" means a device which detects particles or products of combustion other than heat.

(d) "Unit" means a residential building or that part of a residential building which is intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(2) **APPROVAL.** A smoke detector required under this section shall be approved by underwriters laboratory.

(3) **INSTALLATION AND MAINTENANCE.** A smoke detector required under this section shall be installed according to the directions and specifications of the manufacturer and maintained in good working order.

(4) **REQUIREMENT.** The owner of a residential building of which construction is commenced on or after May 23, 1978 shall install and maintain a smoke detector in each sleeping area of each unit, in the basement and at the head of the stairway on each floor level of the building.

(5) **PENALTY.** Whoever violates this section shall forfeit to the state not more than $50 for each day of violation.

(6) **DEPARTMENT INSPECTION AND ORDERS.** The department may inspect all residential buildings and may issue orders as may be necessary to ensure compliance with this section.


NOTE: 1987 Wis. Act 376, repeals and recreates sub. (3) and amends sub. (4), eff. 11-1-89 to read:

"(3) **Installation and maintenance.** The owner of a residential building shall install any smoke detector required under this section according to the directions and specifications of the manufacturer of the smoke detector and maintain any such smoke detector which is located in a common area of that residential building. The occupant of a unit in a residential building shall maintain any smoke detector in that unit, except that if an occupant who is not an owner gives written notice to the owner that a smoke detector in his or her unit is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional."

(4) **Requirement.** The owner of a residential building of which construction is commenced on or after May 23, 1978, shall install and maintain a functional smoke detector in the basement and at the head of any common stairway on each floor level of the building and shall install a functional smoke detector in each sleeping area of each unit or elsewhere in the unit but no more than 6 feet from the doorway of each sleeping area."
101.15 Mines, tunnels, quarries and pits. (1) If any shaft or workings of a mine, or any tunnel, trench, caisson, quarry, or gravel or sand pit is being operated or used in violation of the safety orders of the department applicable thereto, the owner or operator upon receiving notice of such violation from the department shall immediately cease such operation or use. The operation or use of such shaft or workings of a mine, or of such tunnel, trench, caisson, quarry or gravel or sand pit, shall not be resumed until such safety orders have been complied with.

(2) (a) For the purpose of this section:
1. “Excavation” or “workings” means any or all parts of a mine excavated or being excavated, including shafts, tunnels, drifts, crosscuts, raises, winzes, stopes and all other working places in a mine.
2. “Mineral” means a product recognized by standard authorities as mineral, whether metalliferous or nonmetalliferous.
3. “Shaft” means an opening made for mining minerals, for hoisting and lowering persons or material, or for ventilating underground workings.
(b) No excavation of a shaft may be commenced unless a permit is first issued therefor by the department. Permits for such excavation shall be issued upon fee payment and application filed with the department, if the department is satisfied that the shaft or the excavation and workings will be in compliance with the safety orders adopted by the department and applicable thereto. Application shall be made upon forms prescribed by the department and shall be furnished upon request.
(c) Paragraph (b) does not apply to shafts which will be less than 50 feet in depth wherein persons are not employed, or which are not equipped with power driven hoists used for hoisting persons in and out of the shafts, or which are not covered with a flammable building.
(d) The department may:
1. Employ additional mining inspectors, who shall have had at least 10 years experience in underground mining or be a graduate of a recognized college with a degree in mining engineering.
2. Cause the inspection of all underground mines, quarries, pits, zinc works or other excavations.
(e) The department shall promulgate rules to effect the safety of mines, explosives, quarries and related activities. Such rules shall provide for the establishment of uniform limits on permissible levels of blasting resultants to reasonably assure that blasting resultants do not cause injury, damage or unreasonable annoyance to any person or property outside any controlled blasting site area.
(f) 1. The department shall cause the inspections of mines and similar establishments at least once every 2 months. In the making of the inspections the owner and the labor union identified as the bargaining representative of the employees of the mine or establishment shall be permitted to accompany the inspector engaged in the tour of inspection. The department shall cause a report of any inspection so made, to be submitted to representatives of the operator and of the employees.
2. The department may apply to a court of record for the closing of any underground mine, quarry, pit, zinc works or other excavation where the same is being operated in violation of any of its rules or orders, and the owners or operators have failed within a reasonable time to correct any unsafe methods of operation. The failure of any owner or operator to comply with the order or judgment of the court subjects the party or parties to contempt proceedings.

101.16 Liquefied petroleum gas. (1) The term “liquefied petroleum gas” as used in this section, shall mean and include any material which is composed predominantly of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes, normal butane or isobutane and butylenes.

(2) The department shall ascertain, fix and order such reasonable standards, rules or regulations for the design, construction, location, installation, operation, repair and maintenance of equipment for storage, handling, use, and transportation by tank truck or tank trailer of liquefied petroleum gases for fuel purposes, and for the odorization of said gases used therewith, as shall render such equipment safe. The promulgation, effect and review of standards, rules and regulations adopted under this section shall be controlled by this chapter.

(3) No person, firm or corporation, except the owner thereof and those duly authorized by the owner so to do, shall fill, refill or use in any manner a liquefied petroleum gas container or receptacle for any purpose whatsoever.

(4) Every person, firm, association or corporation actually performing the work of installing, on and after the effective date of regulations promulgated by the department pursuant to this section, equipment utilizing liquefied petroleum gas for fuel purposes, shall furnish the customer or user of said equipment, a statement, the form of which shall be prescribed by the department, showing that the design, construction, location and installation of said equipment conforms with the rules and regulations adopted by the department pursuant to this section.

(5) Any person, firm, association or corporation violating this section, or any standard, rule or regulation adopted by the department pursuant to this section, or issuing a false certificate, or any certificate issued thereunder, shall be subject to the forfeiture of $25 per violation, or imprisoned not less than 30 days nor more than 6 months.

(6) This section shall not apply to railroads engaged in interstate commerce or to equipment used by them.

History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16.

101.17 Machines and boilers, safety requirement. No machine, mechanical device, or steam boiler shall be installed or used in this state which does not fully comply with the requirements of the laws of this state enacted for the safety of employees and frequenters in places of employment and public buildings and with the orders of the department adopted and published in conformity with ss. 101.01 to 101.25. Any person violating this section shall be subject to the forfeitures provided in s. 101.02 (12) and (13).

History: 1971 c. 185 ss. 1, 7; 1971 c. 228 ss. 19, 43; Stats. 1971 s. 101.17.

101.175 Local energy resource systems. (1) In this section:
(a) “Local energy resource system” means a solar energy system, a wind energy system or a wood energy system.
(b) “Solar energy system” means equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy.
(c) “Wind energy system” means equipment which converts and then transfers or stores energy from the wind into usable forms of energy.
(d) “Wood energy system” means woodburning stove or furnace.
(1m) The purpose of this section is to establish statewide local energy resource system standards to promote accurate consumer evaluation of local energy resource systems and components thereof.

(2) Any manufacturer or retailer prior to the sale in this state of any local energy resource system or components thereof may request the department to issue a seal of quality for each system or component which meets or exceeds the quality standards established by the department under sub. (4).

(3) The department, in consultation with the department of agriculture, trade and consumer protection, shall establish by rule quality standards for local energy resource systems which do not impede development of innovative systems but which do:

(a) Promote accurate consumer evaluation of local energy resource systems and components thereof.
(b) Conform, where feasible, with national performance standards promulgated or recognized by the federal government for local energy resource systems.
(c) Promote the production, marketing and installation of local energy resource systems.

(4) The quality standards under sub. (3) shall include but are not limited to:

(a) The requirement of a warranty and minimum requirements for the contents thereof.
(b) The requirement of an operation and maintenance manual and minimum requirements for the contents thereof.
(c) Minimum specifications for materials, workmanship, durability and efficiency.

(5) Upon request by any manufacturer or retailer of any local energy resource system or components thereof which meet or exceed the quality standards established under sub. (4), the department shall issue an appropriate seal of quality. The department may charge a fee to cover the cost of the seal and to cover the cost of examining the system or its components.

(6) Misrepresentation, misuse or duplication of the department seal of quality or of registration for equipment listed in subsection (2) (b).

(7) At the request of any buyer of a local energy resource system the department may inspect any local energy resource system necessary to ascertain compliance with this section.

(101.18 Electric fences. The department shall ascertain, fix and order such reasonable standards, rules or regulations for the erection, construction, repair and maintenance of electric fences as shall render them safe.

History: 1971 c. 185 s. 1; 1971 c. 228 s. 2202 (25); 1985 a. 120.

101.19 Fees and records. (1) The department, by rule promulgated under ch. 227, shall fix and collect fees which shall, as closely as possible, equal the cost of providing the following services:

(a) The examination of plans for public buildings, public structures, places of employment and the components thereof.
(b) The required inspection of boilers, pressure vessels, refrigeration plants, petroleum and liquefied petroleum gas vessels, anhydrous ammonia tanks and containers, elevators, ski towing and lift devices, escalators, dumbwaiters and amusement or thrill rides but not of amusement attractions.
(c) Determining and certifying the competency of inspectors, blasters and welders.
(d) Each inspection of a facility conducted to ensure that the construction is in accordance with the plans approved by the department.

(2) The review of plans, construction inspections, department labels and licensing of manufacturers of manufactured homes and mobile homes.

(3) Defraying the cost of the manufactured dwelling and one- and two-family dwelling programs.

(4) The inspection and investigation of accidents.

(b) Inspections of mines, tunnels, quarries, pits and explosives.

(j) Inspecting and certifying rental units under s. 101.122 (4) and certifying and training inspectors under s. 101.122 (2) (c) and (d).

(i) The licensing and inspection of fireworks manufacturers under s. 167.10 (6m).

(k) The certification of appliances under s. 101.08 (6).

(2) The department shall issue and record required certificates of inspection or of registration for equipment listed in sub. (1) (b).

(3) In this section:

(a) "Amusement attraction" means any game of skill, show, or exhibition that does not constitute an amusement or thrill ride entertainment device.

(b) "Amusement or thrill ride" means any device that carries frequenters in an unusual, entertaining or thrilling mode of motion or any vehicle providing entertainment or transportation to, from or within an amusement area.

History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 s. 101.19; 1975 c. 39; 1977 c. 29; 1979 c. 221; 1983 a. 27, 446; 1987 a. 343.

101.21 Lunchrooms. The department shall require a suitable space in which lunch may be eaten in any place of employment if found by the department to be reasonably necessary for the protection of the life, health, safety and welfare of employees therein.

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; Stats. 1971 s. 101.211; 1977 c. 29.

101.22 Equal rights. (1) INTENT. It is the intent of this section to render unlawful discrimination in housing. It is the declared policy of this state that all persons shall have an equal opportunity for housing regardless of sex, race, color, sexual orientation as defined in s. 111.32 (13m), handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry and it is the duty of the local units of government to assist in the orderly prevention or removal of all discrimination in housing through the powers granted under s. 66.433. The legislature hereby extends the state law governing equal housing opportunities to cover single-family residences which are owner-occupied. The legislature finds that the sale and rental of single-family residences constitute a significant portion of the housing business in this state and should be regulated. This section shall be deemed an exercise of the police powers of the state for the protection of the welfare, health, peace, dignity and human rights of the people of this state.

(1m) Definitions. In this section unless the context requires otherwise:

(a) "Condominium" means property subject to a condominium declaration under ch. 703.

(b) "Condominium association" means an association as defined in s. 703.02 (1m).

(c) "Discriminate" and "discrimination" mean to segregate, separate, exclude or treat any person or class of persons unequally because of sex, race, color, handicap, sexual orientation as defined in s. 111.32 (13m), religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry. It is intended that the factors set forth herein shall be the sole bases for prohibiting discrimination.
(b) “Handicap” means any physical disability or developmental disability as defined under s. 51.01 (5) (a).

(bm) “Housing” means any improved property, including any mobile home as defined in s. 66.058, which is used or occupied, or is intended, arranged or designed to be used or occupied, as a home or residence.

(c) “Unimproved residential lot” means any residential lot upon which no permanent building or structure containing living quarters has been constructed.

(2) DISCRIMINATION PROHIBITED. It is unlawful for any person to discriminate:

(a) By refusing to sell, lease, finance or contract to construct housing or by refusing to discuss the terms thereof.

(b) By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease, financing or rental of housing.

(c) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.

(d) By publishing, circulating, issuing or displaying, or causing to be published, circulated, issued or displayed, any communication, notice, advertisement or sign in connection with the sale, financing, lease or rental of housing, which states or indicates any discrimination in connection with housing.

(e) For a person in the business of insuring against hazards, by refusing to enter into, or by exacting different terms, conditions or privileges with respect to, a contract of insurance against hazards to a dwelling.

(f) By refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant.

(2g) EXCEPTIONS. (a) Nothing in this section shall prohibit discrimination on the basis of age in relation to housing designed specifically for persons with a handicap or designed to meet the needs of elderly individuals.

(b) Nothing in this section shall prohibit a person from exacting different or more stringent terms or conditions for financing housing based on the age of the individual applicant for financing if the terms or conditions are reasonably related to the individual applicant.

(c) Nothing in this section shall prohibit the development of housing designed specifically for persons with a handicap and discrimination on the basis of handicap in connection to such housing.

(2m) REPRESENTATIONS DESIGNED TO INDUCE PANIC SALES.

No person may induce or attempt to induce any person to sell, rent or lease any dwelling by representations regarding the present or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sexual orientation or economic status, or by representations to the effect that such present or prospective entry will or may result in: a) the lowering of real estate values in the area concerned; b) a deterioration in the character of the area concerned; c) an increase in criminal or antisocial behavior in the area concerned; or d) a decline in the quality of the schools or other public facilities serving the area.

(2p) ANIMALS ASSISTING THE HANDICAPPED. (a) If an individual’s vision, hearing or mobility is impaired, it is discrimination on the basis of handicap for any person to refuse to rent or sell housing to the individual, cause the eviction of the individual from rental housing or a condominium, require extra compensation from an individual as a condition of continued residence in rental housing or a condominium or engage in the harassment of the individual because he or she keeps an animal specially trained to lead or assist individuals with impaired vision, hearing or mobility if all of the following apply:

1. Upon request, the individual shows to the lessor, seller or representative of the condominium association credentials issued by a school recognized by the department as accredited to train animals for individuals with impaired vision, hearing or mobility.

2. The individual accepts liability for sanitation with respect to, and damage to the premises caused by, the animal.

(b) Paragraph (a) does not apply in the case of rental of an owner-occupied dwelling if the owner or a member of his or her immediate family occupying the dwelling possesses and, upon request, presents to the individual a certificate signed by a physician which states that the owner or family member is allergic to the type of animal the individual possesses.

(3) DEPARTMENT TO ADMINISTER. This section shall be administered by the department through its division of equal rights. The department may promulgate such rules as are necessary to carry out this section. No rule may prohibit the processing of any class action complaint or the ordering of any class-based remedy, or may provide that complaints may be consolidated for administrative convenience only. No publicity shall be given a complaint in those cases where the department obtains compliance with this section or the department finds that the complaint is without foundation.

(4) POWERS. (a) The department may receive and investigate a complaint charging a violation of this section if the complaint is filed with the department no more than 300 days after the alleged discrimination occurred. A complaint shall be a written statement of the essential facts constituting the discrimination charged, and shall be verified.

(b) In carrying out this section the department and its duly authorized agents may hold hearings, subpoena witnesses, take testimony and make investigations as provided in this chapter. The department, upon its own motion, may test and investigate for the purpose of establishing violations of this section, and may make, sign and file complaints alleging violations of this section, and initiate investigations and studies to carry out the purposes of this section.

(c) The department shall employ such examiners as are necessary to hear and decide complaints of discrimination and to assist in the effective administration of this section. The examiners may make findings and orders under this section.

(d) If the department finds probable cause to believe that any discrimination has been or is being committed in violation of this section, it may endeavor to eliminate such discrimination by conference, conciliation and persuasion. If the department determines that such conference, conciliation and persuasion has not eliminated the alleged discrimination, the department shall issue and serve a written notice of hearing, specifying the nature and acts of discrimination which appear to have been committed, and requiring the person named, in this section called the “respondent”, to answer the complaint at a hearing before an examiner. The notice shall specify a time of hearing, not less than 10 days after service of the complaint, and a place of hearing within the county in which the act of discrimination is alleged to have occurred. The testimony at the hearing shall be recorded by the department. In all hearings before an examiner, except those for determining probable cause, the burden of proof is on the party alleging discrimination. If, after the hearing, the examiner finds by a fair preponderance of the evidence that the respondent has engaged in discrimination in violation of this section, the examiner shall make written findings and order such action by the respondent as will effectuate the purpose of this section. The department shall serve a certified copy of the examiner’s findings and order on the respondent and complainant, the order to have
the same force as other orders of the department and be
enforced as provided in this section except that the enforce-
ment of the order is automatically stayed upon the filing of a
petition for review with the commission. If the examiner
finds that the respondent has not engaged in discrimination
as alleged in the complaint, the department shall serve a
certified copy of the examiner’s findings on the complainant
and the respondent together with an order dismissing the
complaint. If the complaint is dismissed, costs in an amount
to not exceed $100 plus actual disbursements for the attend-
ance of witnesses may be assessed against the department in
the discretion of the department.
(e) At any time after a complaint is filed, the department
can file a petition in the circuit court for the county in
which the act of discrimination allegedly occurred, or for the county
in which a respondent resides or transacts business, seeking
appropriate temporary relief against the respondent, pending
final determination of proceedings under this section, includ-
ing an order or decree restraining the respondent from
performing an act tending to render ineffectual an order the
department may enter with respect to the complaint. The
court may grant such temporary relief or restraining order as
it deems just and proper.
(4m) INTERFERENCE, COERCION OR INTimidATION. No per-
son may coerce, intimidate, threaten or interfere with any
person in the exercise or enjoyment of any right granted or
protected by this section, or with any person who has aided or
encouraged another person in the exercise or enjoyment of
any right granted or protected by this section.
(4n) ReQuIRING references. Nothing in this section pro-
hibits an owner or agent from requiring that any person who
seeks to buy, rent or lease housing supply information
concerning family, marital, financial and business status but
not concerning race, color, physical condition, developmen-
tal disability as defined in s. 51.01 (5), sexual orientation or
creed.
(4p) PetITION for review. (a) Any respondent or com-
plainant who is dissatisfied with the findings and order of the
examiner may file a written petition with the department for
review by the commission of the findings and order.
(b) The commission shall either reverse, modify, set aside
or affirm the findings and order in whole or in part, or direct
the taking of additional evidence. Such action shall be based
on a review of the evidence submitted. If the commission is
satisfied that a respondent or complainant has not been
prejudiced because of exceptional delay in the receipt of a
copy of any findings and order it may extend the time another
21 days for filing the petition with the department.
(c) On motion, the commission may set aside, modify or
change any decision made by the commission, at any time
within 28 days from the date thereof if it discovers any
mistake therein, or upon the grounds of newly discovered
evidence. The commission may on its own motion, for
reasons it deems sufficient, set aside any final decision of the
commission within one year from the date thereof upon
grounds of mistake or newly discovered evidence, and re-
mand the case to the department for further proceedings.
(d) If no petition is filed within 21 days from the date that
a copy of the findings and order of the examiner are mailed to
the last-known address of the respondent and complainant,
the findings and order shall be considered final.
(5) JUDICIAL review. Within 30 days after service upon all
parties of any order of the commission under this section the
respondent or complainant may appeal the order to the
circuit court for the county in which the alleged discrimina-
tion took place by the filing of a petition for review.
The respondent or complainant shall receive a new trial on all
issues relating to any alleged discrimination and a further
right to a trial by jury, if so desired. The department of justice
shall represent the commission. In any such trial the burden
shall be to prove discrimination by a fair preponderance of
the evidence. Costs in an amount not to exceed $100 plus
actual disbursements for the attendance of witnesses may be
taxed to the prevailing party on the appeal.
(6) PenALTy. (a) Any person who wilfully violates this
section or any lawful order issued under this section shall, for
the first violation, forfeit not less than $100 nor more than
$1,000.
(b) Any person adjudged to have violated this section
within 5 years after having been adjudged to have violated
this section, for every violation committed within the 5 years,
shall forfeit not less than $1,000 nor more than $10,000.
(c) Payment of a forfeiture under this section shall be
stayed during the period in which any appeal may be taken
and during the pendency of an appeal under sub. (5).
(7) CIVIL actions. (a) Any person, including the state,
alleging a violation of this section may bring a civil action for
appropriate injunctive relief, for damages including punitive
damages, and for court costs and reasonable attorney fees in
the case of a prevailing plaintiff. The attorney general shall
represent the department in any action to which the depart-
ment is a party.
(b) An action commenced under par. (a) may be brought in
the circuit court for the county where the alleged violation
occurred, or for the county where the person against whom
the civil complaint is filed resides or has a principal place of
business, and shall be commenced within one year after the
alleged violation occurred.
(c) The remedies provided for in this subsection shall be in
addition to any other remedies contained in this section.
(8) DiscriminATion by licensed or chartered persons.
(a) If the department finds probable cause to believe that an
act of discrimination has been or is being committed in
violation of this section by a person taking an action enumer-
ated under sub. (2) for which the person is licensed or
chartered under state law, the department shall notify the
licensing or chartering agency of its findings, and shall file a
complaint with such agency together with a request that the
agency initiate proceedings to suspend or revoke the license
or charter of such person or take other less restrictive
disciplinary action.
(b) Upon filing a complaint under par. (a), the department
shall make available to the appropriate licensing or charter-
ing agency all pertinent documents and files in its custody,
and shall cooperate fully with such agency in the agency’s
proceedings.
History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; 
Stats. 1971 s. 101.22; 1975 c. 94, 275, 421, 422; 1977 c. 29; 1977 c. 418 s. 929
(55); 1979 c. 110; 1979 c. 177 s. 85; 1979 c. 188, 221, 255; 1981 c. 112, 180; 1981
s. 391 s. 210; 1983 a. 27, 199; 1985 a. 238, 319; 1987 a. 262.
"Harassment" under (2) (f) includes sexual harassment as defined in 111.32
(13). Compensable damages discussed. Chomicki v. Wittkind, 128 W 2d
168, 381 NW (2d) 561 (Ct. App. 1983).
Under (3) the department is precluded from actively publicizing complaints
only at those stages before the department finds that conference, conciliation
and persuasion have not eliminated the alleged discrimination. 60 Atty. Gen.
47 (1980).
Wisconsin open housing law permits, but does not require, department to
receive and process class action complaints of housing discrimination. 70
Atty. Gen. 250.
Insurer of apartment had duty to defend owner and manager for liability
creed, color, sexual orientation or national origin, to the end
that this state will be a better place in which to live.

(2) The council shall give consideration to the practical
operation and application of ss. 101.22 to 101.222 and report
to the proper legislative committee its view on any pending
bill relating to the subject matter of ss. 101.22 to 101.222.

History: 1971 c. 185 s. 1; 1971 s. 228; Stats. 1971 s. 101.221; 1981 c. 112.

101.222 Division of equal rights. (1) The division of equal
rights may investigate a complaint of discrimination in public
places of accommodation or amusement, as defined in s.
942.04 (2) if the complaint is filed with the department no
more than 300 days after the alleged discrimination occurred.
The department may seek conciliation in any case where it
believes discrimination occurred.

(2) The division shall encourage and assist local units of
government in guaranteeing all persons an equal opportunity
for housing.

(3) All gifts, grants, bequests and devises to the division for
its use for any of the purposes mentioned in s. 101.221 are
valid and shall be used to carry out the purposes for which
made and received.

(4) The division shall review complaints of discrimination
against public employes exercising their rights with respect to
occupational safety and health matters, under s. 101.055 (8).

(5) The division shall receive complaints of discharge or
discrimination under s. 46.90 (4) (b) and shall process the
complaints in the same manner that employment discrimination
complaints are processed under s. 111.39.

History: 1971 c. 185 ss. 1, 7; Stats. 1971 s. 101.222; 1977 c. 29; 1981 c. 360; 1983 s. 398.

101.223 Postsecondary education: prohibition against
discrimination on basis of physical condition or develop-
mental disability. (1) Subject to sub. (3), no school, university
or other institution offering courses or programs in post-
school education or vocational training which is sup-
ported wholly or in part by public funds may refuse to admit
any person to any school, institution, course or program or
any curricular or extracurricular activity, or may otherwise
discriminate against any person, solely on the basis of physi-
cal condition or developmental disability as defined in s.
51.01 (5).

(2) If admission to any such school, university, institution,
program or course requires that a prospective enrollee take a
standardized aptitude examination and the prospective en-
rollee is unable to take such an examination under standard
conditions because of physical condition or developmental
disability as defined in s. 51.01 (5), the school, university or
institution shall offer a modified examination to demonstrate
aptitude. The failure of any school, university or institution to make such a mod-
ified examination is discrimination within the meaning of this
section.

(3) The prohibition against discrimination under sub. (1)
does not apply to:

(a) Courses, programs or activities involving the handling
or operation of hazardous substances, machines or appli-
cances if there is no feasible way in which the physical safety of
the disabled student or of other persons can be adequately
protected; or

(b) The admission of a person who does not meet the
minimum physical standards which are reasonably necessary
for a particular course, program or activity. The school,
university or other institution has the burden of proving that
such minimum physical standards are reasonably necessary.

(4) The department shall receive and investigate com-
plaints charging discrimination or discriminatory practices in
particular cases, and publicize its findings with respect
thereto. The department has all powers provided under s.
111.39 with respect to the disposition of such complaints.
The findings and orders of examiners may be reviewed as
provided under s. 101.22 (4p).

(b) Findings and orders of the commission under this
section are subject to review under ch. 227. Upon such
review, the department of justice shall represent the
commission.

History: 1975 c. 275, 421; 1977 c. 29; 1977 s. 418 s. 929 (55); 1979 c. 221;
1981 c. 334 s. 25 (2).

101.225 Discrimination in education prohibited. No child
may be excluded from or discriminated against in admission
to any public school or in obtaining the advantages, privileges
and courses of study of such public school on account of sex,
race, religion or national origin.

History: 1975 c. 94.

101.23 Public employment offices. (1) The department
shall establish and conduct free employment agencies, license
and supervise the work of private employment offices, do all
in its power to bring together employers seeking employees
and working people seeking employment, make known the
opportunities for self-employment in this state, aid in procuring
employment for the blind adults of the state, aid in
inducing minors to undertake promising skilled employ-
ments, provide industrial or agricultural training for vagrants
and other persons unsuited for ordinary employments, and
encourage wage earners to insure themselves against distress
from unemployment. It shall investigate the extent and
causes of unemployment in this state and the remedies
therefor in this and other countries, and it shall devise and
adopt the most efficient means within its power to avoid
unemployment, to provide employment, and to prevent dis-
tress from involuntary idleness.

(2) Any county, city, town or village may enter into an
agreement with the department for such period of time as
may be deemed desirable for the purpose of establishing and
maintaining local free employment offices, and it shall be
lawful for any county, city, town or village to appropriate and
expend the necessary money and to permit the use of public
property for the joint establishment and maintenance of such
employment offices as may be agreed upon, or in counties containing
250,000 inhabitants or more in any city, town or village
therein to purchase a site and construct necessary buildings.
Provided, that in any county, city, village or town therein,
wherein there is a citizens' committee on unemployment, such
committee may rent, lease, purchase or construct necessary
buildings for the joint establishment and maintenance of such
free employment office, subject to the approval of such plans
by the department. The department may establish such free
employment offices as it deems necessary to carry out the
purposes of ch. 108. All expenses of such offices, or all
expenses not defrayed by the county, city, town or village in
which an office is located, shall be paid from the appropria-
tions to the department provided in s. 20.445 (1) (ga) and (n).

(3) The department may rent, furnish and equip, except as
provided in sub. (2), such offices as may be needed in cities for
the conduct of its affairs. All payments arising under this
section shall be charged against the proper appropriation for
the department.

(4) The legislature hereby accepts the provisions of an act
of congress, approved June 6, 1933, entitled "An act to
provide for the establishment of a national employment
system and for cooperation with the states in the promotion of such system, and for other purposes."

(5) The department is authorized and directed to cooperate with the U.S. employment service in the administration of said act and in carrying out all agreements made thereunder.

(6) All moneys made available to this state under said act shall, upon receipt thereof, be paid into the federal administrative financing account under s. 20.445 (1) (a).

(7) The department may, by rule, fix and collect fees for provision of employment services authorized but not funded by the U.S. employment service.

History: 1971 c. 185 ss. 1, 7; 1971 c. 228 ss. 25, 42; Stats. 1971 s. 101.23; 1973 c. 96 ss. 559, 1979 c. 34 ss. 2102 (25) (a), 1981 c. 36 s. 45; 1983 a. 27; 1985 s. 29 ss. 1650, 3202 (29).

101.24 Labor disputes. The department shall do all in its power to promote the voluntary arbitration, mediation and conciliation of disputes between employers and employees, and to avoid the necessity of resorting to lockouts, boycotts, blacklists, discriminations and legal proceedings in matters of employment. In pursuance of this duty it may appoint temporary boards of arbitration, provide necessary expenses of such boards, order reasonable compensation not exceeding $5 per day for each member engaged in such arbitration, prescribe rules of procedure for such arbitration boards, conduct investigations and hearings, publish reports and advertisements, and do all other things convenient and necessary to accomplish the purposes directed in ss. 101.01 to 101.25. The department shall designate a deputy to be known as chief mediator and may detail other deputies from time to time to act as his assistants, for the purpose of executing these provisions. Deputies may act on temporary boards without extra compensation.

History: 1971 c. 185 ss. 1, 5; 1971 c. 228; Stats. 1971 s. 101.24.

101.25 Veterans job training. The department shall cooperate with the federal veterans administration in the performance of functions prescribed in P.L. 79-679, 60 Stat. 934 and any acts amendatory thereof or supplementary thereto. The secretary may with the approval of the governor take all necessary steps in the making of leases or other contracts with the federal government in the adoption and execution of plans, methods and agreements to effectuate P.L. 79-679.

History: 1971 c. 185 s. 1; 1971 c. 228; Stats. 1971 s. 101.25; 1977 c. 29, 272.

101.26 Employment and training programs. (1) The department shall cooperate with the federal government in carrying out the purposes of the federal job training partnership act, 29 USC 1501 to 1781. In administering the programs authorized by that act the department shall, in cooperation with other state agencies and with private industry councils, establish a statewide coordinated employment and training delivery system to meet the employment, training and educational needs of persons in this state.

(2) (a) In this subsection:

1. "Economically disadvantaged individual" means an individual to whom at least one of the following applies:
   a. The individual receives, or is a member of a family which receives, cash welfare payments under a federal, state or local welfare program.
   b. The individual has, or is a member of a family which has, received a total family income for the 6-month period prior to application for the program involved, excluding unemployment compensation, child support payments and welfare payments, which in relation to family size did not exceed the higher of the poverty level determined in accordance with criteria established by the director of the federal office of management and budget or 70% of the lower living standard income level.
   c. The individual receives food stamps pursuant to the food stamp act of 1977.
   d. The individual is a foster child on behalf of whom state or local government payments are made.
   e. In cases permitted by regulations of the U.S. secretary of labor, the individual is an adult handicapped individual whose own income meets the requirements of subd. 1. a or b, but who is a member of a family whose income does not meet those requirements.
   2. "Eligible youth participant" means an individual between the ages of 14 and 21 who is either of the following:
   a. At least one year behind his or her high school entering class in academic credit.
   b. Excused from compulsory school attendance under s. 118.15 (1) (c).
   3. "Handicapped individual" means an individual who has a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment.

(b) In carrying out its responsibilities under this section, the department shall coordinate services authorized under 29 USC 1533 and provided by the department of public instruction and the board of vocational, technical and adult education to provide programs to help eligible youth participants, at least 75% of whom shall be economically disadvantaged individuals. At least 50% of the federal moneys received under 29 USC 1602 (b) (1) shall be used for programs under this subsection.

(3) (a) To ensure that the governor's coordination and special services plan proposed by the state job training coordinating council and each job training plan proposed by a private industry council pursuant to the federal job training partnership act, 29 USC 1501 to 1781, coordinate with and consider programs and services provided or proposed by other bodies with a direct interest in employment, training and human resources utilization and respond to concerns of interested citizens, employment and training service providers and members of the business community, the state job training coordinating council and each private industry council shall make their proposed plans available to the public and after reasonable notice hold at least one public hearing before submittal to the governor under par. (c). The state job training coordinating council or private industry council shall provide notice of the public hearing and a copy of the proposed plan or a summary of it to the appropriate standing committees under par. (b). The public hearing shall be held sufficiently in advance of the date each council must submit its plan to the governor to permit the council to address concerns raised at its hearing. The public hearing shall be held at a reasonable time in a place accessible to the public, including handicapped persons.

(b) 1. The state job training coordinating council shall submit notice of public hearing and a copy of the proposed governor's coordination and special services plan or a summary of it to the standing committees dealing with education, economic development and employment and to any other appropriate standing committee in each house of the legislature at least 120 days before the beginning of the first of 2 program years covered by the plan.

2. Each private industry council shall submit its notice of public hearing and a copy of its proposed job training plan or a summary of it to the standing committees dealing with education, economic development and employment and to any other appropriate standing committee in each house of the legislature. The private industry council shall submit notice and the plan or summary at least 120 days before the beginning of the first of 2 program years covered by the plan.
pursuant to 29 USC 1515 (a) (1) (B), and according to procedures established by the department.

(c) After the public hearing under par. (a), the state job training coordinating council or the private industry council shall submit its proposed plan to the governor according to procedures established by the department. The state job training coordinating council or the private industry council shall include all of the following with the proposed plan submitted to the governor:

1. A copy of any written testimony presented to the council.
2. A summary of any oral testimony presented to the council.
3. A discussion of testimony presented in opposition to the council's proposed plan, including whether the council has addressed or will address the opposing parties' concerns and a justification of any decision by the council not to address those concerns.

History: 1985 a. 29 ss. 43, 45 to 48, 50, 51, 1651 to 1653, 3202 (22).

101.27 Assistance for dislocated workers. (1) Definitions. In this subsection:
(a) "Dislocated worker" means an individual to whom any of the following applies:
1. The individual has been terminated or laid off or has received a notice of termination or lay-off from employment, is eligible for or has exhausted his or her entitlement to unemployment compensation and is unlikely to return to his or her previous industry or occupation.
2. The individual has been terminated, or has received a notice of termination of employment, as a result of any permanent closure of a plant or facility.
3. The individual is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an older individual who may have substantial barriers to employment by reason of age.
(b) "Farmer" means an adult whose primary employment is the operation of farm premises.
(2) PERMANENT CLOSURE. A farmer is terminated, or has received notice of termination of employment, as a result of any permanent closure of a facility if both of the following apply:
1. The individual has been terminated or laid off or has received a notice of termination or lay-off from employment, is eligible for or has exhausted his or her entitlement to unemployment compensation and is unlikely to return to his or her previous industry or occupation.
2. The farm has not realized a profit during the 12 months immediately preceding.
(3) GRANTS. From the appropriation under s. 20.445 (1) (ma), (mb) and (mc), all moneys received under 29 USC 1651 to 1658 shall be expended to fund grants and operations under this section.

History: 1985 a. 153; 1987 a. 27.

NOTE: This section is created by 1985 Act 153. Section 2 of Act 153 is entitled "Legislative purpose and intent."

101.28 Notification of position openings. (1) In this section, "company" means any business operated for profit.
(2) Any company which receives a loan or grant from a state agency, as defined in s. 20.001 (1), or an authority under ch. 231 or 234 shall notify the department and the area private industry council under the job training partnership act, 29 USC 1501 to 1798, of any position in the company to be filled or for which the company plans to hire.


101.29 Local labor market information. (1) The department shall collect information concerning local labor markets and periodically prepare reports dealing with labor forces at a local level in this state for general circulation.
(2) The collection and distribution of local labor market information under sub. (1) shall be funded only from the appropriations under s. 20.445 (1) (m), (ma) and (n).

History: 1987 a. 27.

101.30 Work incentive demonstration program; AFDC recipients. The department may contract with the department of health and social services for the provision of supportive and employment services under the work incentive demonstration program under s. 49.50 (7). Fees charged for the...
contractual services provided shall be credited to the appropriations under s. 20.445 (1) (kg) and (kk).

**History:** 1977 c. 418; 1983 a. 27.

**101.35 Pilot Wisconsin job opportunity business subsidy program. (1) Definitions.** In this section:

(a) “Business” means any person engaged in a business enterprise for profit in this state.

(b) “Eligible county” means a county described in sub. (2) (a) or designated under sub. (2) (b).

(c) “Eligible job applicant” means an individual who the department determines meets the requirements of sub. (9).

(d) “Local service agency” means an organization designated under sub. (3).

(e) “Minority business” has the meaning given in s. 560.036 (1) (c).

(f) “Small business” has the meaning given in s. 227.485 (2) (c).

(g) “Urban county” means a county located in a federal standard metropolitan statistical area.

(h) “Wisconsin job opportunity business subsidy program” means the program administered under this section.

(2) Designated counties. (a) The department shall provide funds under sub. (4) for wage subsidies to a local service agency located in an urban county with the most unemployed persons in this state.

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

1. The number of unemployed persons in the county.
2. The county’s unemployment rate and the change in the unemployment rate during the preceding 12 months.
3. Major plant or business closings or announced closings.
   3m. Closing of a major production line by a business, causing a significant negative impact on the county’s economy.
4. The number of persons who are laid off as a result of a closing, or may be laid off as a result of announced plant closings, under subd. 3.
5. The percentage of the workforce made up of individuals who are, or may be, laid off under subd. 4.

(c) The department shall give greatest emphasis to the factors in par. (b) 3 to 5 when it designates the 2 counties under sub. (4) for wage subsidies to a local service agency. The department shall give the 2 counties the most emphasis.

(d) The department may designate an organization which shall be designated a local service agency. The department shall give consideration to cost estimates when reviewing proposals submitted under par. (a). The department may select a job service office in an eligible county to provide administrative services together with the designated local service agency.

(e) A nonprofit organization may be designated a local service agency if the nonprofit organization is organized under par. (a). The department shall select a job service office in an eligible county to provide administrative services together with the designated local service agency.

(f) The department may designate an organization which is a private industry council under the federal job training partnership act, 29 USC 1501 to 1781, as a local service agency.

(3) Local service agencies. (a) The department shall request proposals for the administration of the Wisconsin job opportunity business subsidy program from organizations described in par. (c) and (d) and job service offices located in an eligible county. A proposal submitted by a job service office shall be submitted jointly with an organization described in par. (c) or (d). A proposal shall include an estimate of the cost of administering the Wisconsin job opportunity business subsidy program and a plan for at least the following activities:

1. Marketing and promoting the Wisconsin job opportunity business subsidy program, including recruiting participation from qualified businesses.
2. Coordinating with a county social services agency to meet the guidelines under sub. (10) (c).
3. Any other activities the department considers relevant.

(b) After reviewing the proposals submitted under par. (a), the department shall designate a local service agency for an eligible county from among the organizations submitting proposals. The department shall give emphasis to cost savings when reviewing proposals submitted under par. (a). The department may select a job service office in an eligible county to provide administrative services together with the designated local service agency.

(c) A nonprofit organization may be designated a local service agency if the nonprofit organization is organized primarily to do one or more of the following:

1. Recruit low-income clients for participation in employment and training programs.
2. Vocational counseling or training.
3. Job training or development.
4. Any other activity the department considers appropriate.

(d) The department may designate an organization which is a private industry council under the federal job training partnership act, 29 USC 1501 to 1781, as a local service agency.

(4) Allocation among counties. (a) Subject to par. (b), the department shall distribute funds to local service agencies in eligible counties as follows:

1. Fifty percent of the amount appropriated under s. 20.445 (1) (e) in each year to the local service agency for the county described in sub. (2) (a) to create at least 300 new jobs.
2. Thirty-three percent of the amount appropriated under s. 20.445 (1) (e) in each year to the local service agency in the urban county designated under sub. (2) (b) to create at least 200 new jobs.
3. Seventeen percent of the amount appropriated under s. 20.445 (1) (e) in each year to the local service agency in the rural county designated under sub. (2) (b) to create at least 100 new jobs.

(b) The department shall provide to each local service agency funds in a manner established by the department.

(c) If a local service agency in any eligible county has not fully expended, encumbered or otherwise committed the funds allocated to it under par. (b) by March 31 of any year, the department may reallocate the funds among the local service agencies in the other eligible counties.

(d) A local service agency may retain not more than 10% of the funds distributed to it under this subsection for administrative expenses associated with the Wisconsin job opportunity business subsidy program.

(5) Wage subsidies. A local service agency may subsidize wages paid to an eligible job applicant by a business, as provided under sub. (6).

(6) Conditions of subsidy. A local service agency may subsidize wages under sub. (5) if all of the following apply:

(a) The wage subsidy is for an eligible job applicant hired for a position described in sub. (8) by a business that qualifies under sub. (7).

(b) Except as provided in subd. 2, the amount of the subsidy for a wage does not exceed $4 per hour.

2. For an eligible job applicant in the urban county designated under sub. (2) (b) who receives aid to families with dependent children and participates in grant diversion under s. 49.50 (7g) (em), the amount of the subsidy for a wage does not exceed $6 per hour.

(d) Except as provided in subd. 2, the subsidy is paid for a period not to exceed 26 weeks and for not more than 1,040 hours.

(e) If the eligible job applicant is enrolled in a job training program, the subsidy is paid for a period not to exceed 52 weeks and for not more than 1,040 hours.

(f) The local service agency evaluates and approves the plan submitted under sub. (7) (a).
(7) Qualifed Businesses. A local service agency may determine that a business is a qualified business for the purposes of sub. (6) (a) if all of the following apply:

(a) The business submits to the local service agency a plan containing all of the following:

1. A description of the duties of and wages paid for each position that the business intends to fill with an eligible job applicant.

2. A description of how the wage subsidy will help the business succeed and lead to the continued employment of the eligible job applicant.

(b) The business enters into a contract with the local service agency and agrees to do all of the following:

1. Use any funds received for wage subsidies exclusively for wages paid to eligible job applicants who fill positions described in sub. (8).

2. Provide eligible job applicants whose wages are subsidized under this section with wages equal to those paid to employees of the business who perform the same duties.

3. Cooperate with the local service agency in collecting data to assess the result of Wisconsin job opportunity business subsidy program.

4. Repay funds received under this section as required in sub. (11).

(c) The business certifies to the local service agency that the business would not have created a position subsidized under this section without a wage subsidy.

(8) Nature of Subsidized Position. The local service agency may subsidize wages paid to an eligible job applicant who fills a position with a business qualified under sub. (7) if all of the following apply:

(a) The position is a new position and results in an increase in the number of jobs provided by the business.

(b) The position does not displace a current employe or reduce the number of hours, other than overtime, worked by or available to a current employe.

(c) The position does not include duties which are the same as, or substantially similar to, the duties of any employe who the business has laid off.

(9) Eligible Job Applicant. The local service agency shall determine that an individual is an eligible job applicant if all of the following apply:

(a) The individual has been a resident of this state for at least one month.

(b) The individual is unemployed.

(c) The local service agency determines that the individual will likely be available to fill a position with a business qualified under sub. (7) for the duration of the position, or at least 12 months after the subsidy ends, whichever is longer.

(10) Priorities. (a) When allocating funds among businesses qualified for wage subsidies under sub. (7), a local service agency shall give priority to a business if the local service agency determines any of the following:

1. That the business is an existing business with low employe turnover.

2. That the business is a small business with a high potential for growth.

3. That the positions for which the business is seeking a subsidy are likely to be long-term.

4. That the business is at least 51% owned, controlled and actively managed by a woman or women.

5. That the business is a minority business.

6. That the position for which the business is seeking a subsidy will pay at least $4 per hour and provide fringe benefits.

(b) A local service agency shall expend at least 80% of the funds allocated to it under sub. (4) for wage subsidies to eligible job applicants to whom any of the following applies:

1. The eligible job applicant lives in a household with no source of earned income.

2. The eligible job applicant is eligible for general relief administered under s. 49.02.

3. The eligible job applicant is eligible for aid to families with dependent children under s. 49.19.

4. The person lives in a farm household and demonstrates severe financial need under a standard promulgated by the department by rule.

(c) A local service agency shall try to obtain grant diversion funding under s. 49.50 (7g) for at least 30% of the individuals whose wages it subsidizes under this section.

(d) A local service agency shall emphasize subsidizing wages for positions in areas of an eligible county with the greatest unemployment.

(11) Repayment. (a) If an eligible job applicant leaves the employ of a business that received funds to subsidize the wages of the eligible job applicant under sub. (5), the business shall repay the following percentage of the funds:

1. If the eligible job applicant leaves while the position is subsidized, 70%.

2. If the eligible job applicant leaves less than 12 months after the subsidy ended, a percentage between 70% and 0%, decreasing proportionally to 0% 12 months after the subsidy has ended.

3. If the eligible job applicant leaves 12 months or more after the subsidy ended, 0%.

(b) A business need not repay funds under par. (a) if the business replaces the departing eligible job applicant with another eligible job applicant who remains employed with the business for at least 12 months after the subsidy paid to the departing eligible job applicant would have ended.

(c) The secretary may waive all or part of a repayment required under par. (a) if the secretary determines that waiving the repayment is in the best interests of the state.

(d) The local service agency shall use the amounts repaid under this subsection for additional wage subsidies.

(12) Annual Report. On or before April 1 of each year, beginning in 1989, the department shall submit a report concerning the Wisconsin job opportunity business subsidy program to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2). The report shall include all of the following information for the period covered by the report:

(a) The average wage paid to an eligible job applicant when hired and 60 days after the subsidy for the eligible job applicant ends.

(b) The number of qualified businesses and eligible job applicants participating in each eligible county.

(c) The number of eligible job applicants meeting the criteria in subs. (10) (b) and (c).

(d) Any other information the department considers relevant.

(13) Final Report. On or before September 1, 1991, the department shall submit a final report concerning the Wisconsin job opportunity business subsidy program to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2). The report shall include all of the following information for the period covered by the report:

(a) The average wage paid to an eligible job applicant at the following times:
1. When hired.
2. Sixty days after the subsidy for the eligible job applicant ends.
3. Fourteen months after the subsidy for the eligible job applicant ends.

(b) The number of qualified businesses and eligible job applicants that participated in each eligible county.

(c) The age, education level, family status, gender, race and work experience of each eligible job applicant.

(d) The number of eligible job applicants who met the criteria in sub. (10) (b) and (c).

(e) Any other information the department considers relevant.

(14) SUNSET. Subsections (1) to (12) do not apply after June 30, 1991.

History: 1987 a. s. 399.

101.40 Public works, unemployment. The department of health and social services shall ascertain from the various departments and state institutions tentative plans for such extension of public works of the state as shall be best adapted to supply increased opportunities for advantageous public work during periods of temporary unemployment, together with estimates of the amount, character and duration of such employment, and the number of employees that could profitably be used therein, and the rates of wages and such other information as the department of health and social services deems necessary.

History: 1971 c. 164 s. 89.

101.42 Department of health and social services, expenditures to relieve depression. In the event that the department of industry, labor and human relations reports to the governor that a condition of extraordinary unemployment caused by industrial depression exists in the state, the department of health and social services may make such disposition of funds to be used for said purposes among the several departments and for such extension of the public works of the state under the charge or direction thereof, including the purchase of materials and supplies necessary therefor, as shall, in the judgment and discretion of the department of health and social services, be best adapted to advance the public interest by providing the maximum of public employment, in relief for the existing conditions of extraordinary unemployment, consistent with the most useful, permanent and economic extension of the works aforesaid.

101.43 Depression, applicants for public employment. Immediately upon publication of a finding that a period of extraordinary unemployment due to industrial depression exists throughout the state, the department shall cause to be prepared by the various institutions and departments approved lists of applicants for public employment and secure from such applicants full information as to their industrial qualifications and submit the same to the department of health and social services. Preference for employments under sub. (1) and funds remaining under par. (b), withhold .5% and certify to the state treasurer the proper amount to be paid from the appropriation under s. 20.445 (1) (L) to each city, village or town entitled to fire department dues under s. 101.575. Annually, on or before August 1, the state treasurer shall pay the amounts certified by the department to the cities, villages and towns eligible under s. 101.575.

(b) The amount withheld under par. (a) shall be disbursed to correct errors of the department or the commissioner of insurance or for payments to cities, villages or towns which are first determined to be eligible for payments under par. (a) after May 1. The department shall certify to the state treasurer, as near as is practical, the amount which would have been payable to the municipality if payment had been properly disbursed under par. (a) on or prior to May 1, except the amount payable to any municipality first eligible after committing any other illegal acts, and which is of such a magnitude as to result in any of the following:

1. Extraordinary utilization of off-duty local law enforcement personnel.
2. Declaration of a public emergency by the governor.
3. The calling of the national guard or other troops.

(2) DEATH AND DISABILITY BENEFITS. If the department finds that the injury or death of a state or local government officer or employee arose out of the performance of duties in connection with a public insurrection, and finds that death or disability benefits are payable under ch. 102, a supplemental award equal to the amount of the benefits (other than medical expense) payable under ch. 102 shall be made to the persons and in the same manner provided by ch. 102, except that when benefits are payable under s. 102.49, a supplemental award equal to one-half the benefits payable under that section shall be made.

(3) PAYMENTS. All payments under this section shall be made from the general fund.

(4) BENEFITS ADDITIONAL TO ALL OTHERS. Death and disability benefits under this section are in addition to all other benefits provided by state law or by action of any municipality or public agency.

History: 1971 c. 40; 1973 c. 199; 1975 c. 404 s. 7; 1975 c. 405 s. 7; Stats. 1975 s. 101.47; 1977 c. 29 s. 1651.

101.55 Executive agreements to control sources of radiation. When the legislative council determines that it is in the interest of the state to enter into agreement with the government of the United States to provide for the discontinuance of certain of the federal government's responsibilities with respect to sources of ionizing radiation and the assumption thereof by the state pursuant to authority granted by P.L. 86-373, it shall convey its determination to the governor together with its estimate of the initial and ultimate cost of the assumption of this responsibility by the state and the governor, on behalf of the state, may, after a finding by both the governor and the U.S. nuclear regulatory commission as to the adequacy of the state's program of regulation, enter into such an agreement.

History: 1977 c. 29.

101.573 Fire dues distribution. (1) The department shall include in the compilation and certification of fire department dues under sub. (3) 2% of the premiums paid to the state fire fund for the insurance of any public property, other than state property. The department shall notify the state treasurer of the amount certified under this subsection and the state treasurer shall charge the amount to the state fire fund.

(3) (a) On or before May 1 in each year, the department shall compile the fire department dues paid by all insurers under s. 601.93 and the dues paid by the state fire fund under sub. (1) and funds remaining under par. (b), withhold .5% and certify to the state treasurer the proper amount to be paid from the appropriation under s. 20.445 (1) (L) to each city, village or town entitled to fire department dues under s. 101.575. Annually, on or before August 1, the state treasurer shall pay the amounts certified by the department to the cities, villages and towns eligible under s. 101.575.

(b) The amount withheld under par. (a) shall be disbursed to correct errors of the department or the commissioner of insurance or for payments to cities, villages or towns which are first determined to be eligible for payments under par. (a) after May 1. The department shall certify to the state treasurer, as near as is practical, the amount which would have been payable to the municipality if payment had been properly disbursed under par. (a) on or prior to May 1, except the amount payable to any municipality first eligible after
May I shall be reduced by 1.5% for each month or portion of a month which expires after May 1 and prior to the eligibility determination. The state treasurer shall pay the amount certified to the city, village or town. The balance of the amount withheld in a calendar year under par. (a) which is not disbursed under this paragraph shall be included in the total compiled by the department under par. (a) for the next calendar year. If errors in payments exceed the amount set aside for error payments, adjustments shall be made in the distribution for the next year.

(4) The department shall transmit to the treasurer of each city, village and town entitled to fire department dues, a statement of the amount of dues payable to it under this section and the commissioner of insurance shall furnish to the state treasurer, upon request, a list of the insurers paying dues under s. 601.93 and the amount paid by each.

History: 1981 c. 20 s. 1752; Stats. 1981 s. 101.58; 1981 c. 364 s. 3; Stats. 1981 s. 101.573; 1987 a. 27.

101.575 Entitlement to dues. (1) Every city, village or town maintaining a fire department which complies with sub. (3) is entitled to a proportionate share of all fire department dues collected under ss. 101.573 and 601.93 after deducting the administrative expenses of the department under s. 101.573, based on the equalized valuation of real property improvements upon land within the city, village or town, but not less than the amount the municipality received under s. 601.93 (3), 1977 stats., and chapter 26, laws of 1979, in calendar year 1979.

(b) Every city, village or town which contracts for fire protection and fire prevention services which comply with s. 101.14 (2) from another city, village or town is entitled to the dues specified in par. (a) if a certified copy of the contract, ordinances or resolutions constituting the agreement is filed with the department and the department determines that the fire department furnishing the protection has sufficient equipment to and can provide the agreed protection without endangering property within its own limits and the fire prevention services comply with s. 101.14 (2). All such contracts, ordinances or resolutions shall describe the territory protected by township or section lines.

(c) Any city, village or town, not maintaining a fire department, which purchases not less than the minimum fire fighting equipment required for eligibility under sub. (3), and which for the purpose of obtaining fire protection and prevention services for itself enters into an agreement with another city, village or town for the fire department of the other city, village or town to house and operate the equipment, is entitled to the dues specified in par. (a) if a certified copy of the contract constituting the agreement, containing a complete description of the fire fighting equipment purchased by the municipality receiving protection, and a description by township or section lines of the territory protected, is filed with the department and the department determines that the equipment meets the requirements of sub. (3) and the fire prevention services comply with s. 101.14 (2). Two or more municipalities which together have purchased not less than the minimum fire fighting equipment required for eligibility under sub. (3) and have entered into a fire protection agreement in the manner prescribed in this paragraph shall each be entitled to dues under par. (a).

(2) If a city or village contracts to provide fire protection and the services of its fire department outside of its boundaries, it is subject to the same liability for property damage and personal injury when responding to calls and providing services outside of its boundaries as when providing the same services within its boundaries.

(3) No city, village or town is entitled to receive dues under this section unless the city, village or town complies with pars. (a) and (b).

(a) No city, village or town may receive fire department dues under this section unless it has a fire department which satisfies all of the following requirements:

1. Is organized to provide continuous fire protection in that city, village or town and has a designated chief.

2. Singly, or in combination with another fire department under a mutual aid agreement, has a total active membership of at least 22 fire fighters and can ensure the response of at least 4 fire fighters, none of whom are the chief, to a first alarm for a building.

3. Provides at least 4 hours of training per month for each active member of the department with fire fighting duties.

4. Provides facilities capable, without delay, of receiving an alarm and dispatching fire fighters and apparatus.

5. Maintains written records as prescribed by the department by rule, in consultation with the fire prevention council.

6. Maintains at least one piece of apparatus which conforms to the general criteria of National Fire Protection Association standard NFPA 1901, automotive fire apparatus. The apparatus shall have a permanently mounted pump capable of delivering 500 gallons per minute or more at 150 pounds per square inch and a water tank with at least a 300-gallon capacity.

7. Maintains any other apparatus or equipment required by the department by rule, in consultation with the fire prevention council.

8. Provides for a building to house the apparatus and equipment required under subs. 6 and 7 which will protect the apparatus and equipment from the weather.

(b) Each city, village or town eligible for dues under this section shall maintain either a voluntary fire department with not less than 22 active members which holds a meeting at least once each month, or a paid or partly paid fire department with sufficient personnel ready for service at all times to operate the equipment specified in par. (a).

(4) No city, village or town may be paid any fire department dues for any year unless the department determines that the city, village or town complies with s. 101.14 (2), including the performance of inspections as required by s. 101.14 (2). If dues which would have been paid into any fire fighter’s pension fund or other special funds for the benefit of disabled or superannuated fire fighters are withheld under this subsection, an amount equal to the fire department dues withheld shall be paid into the pension fund from any available fund of the city, village or town, and if no fund is available, an amount equal to the amount withheld shall be included in and paid out of the next taxes levied and collected for the city, village or town.

(5) No city, village or town which has contracted with another city, village or town or any part thereof for fire protection may be paid any fire department dues unless the contract or contracts are sufficient to provide fire protection to the entire city, village or town for which the fire protection service is being provided.

(6) Dues received under s. 101.573 and this section shall be used by the city, village or town only for fire inspection, prevention or protection, or to fund wholly or partially fire fighters’ pension funds or other special funds for the benefit of disabled or superannuated fire fighters.

History: 1971 c. 185 s. 7; 1975 c. 94 s. 91 (9); 1975 c. 372 s. 15; Stats. 1975 s. 601.95; 1977 c. 29; 1979 c. 34, 221; 1981 c. 20 ss. 1754 to 1758, 2202 (26) (b); Stats. 1981 s. 101.29; 1981 c. 364 s. 3; Stats. 1981 s. 101.575; 1987 a. 399.
101.581 Notice requirements. (1) Employer. An employer who uses, studies or produces a toxic substance, infectious agent or pesticide shall post in every workplace at the location where notices to employees are usually posted a sign which informs employees that the employer is required, upon request, to provide an employee or employee representative with all of the following:

(a) The identity of any toxic substance or infectious agent which an employer works with or is likely to be exposed to.

(b) A description of any hazardous effect of the toxic substance or infectious agent.

(c) Information regarding precautions to be taken when handling the toxic substance or infectious agent.

(d) Information regarding procedures for emergency treatment in the event of overexposure to the toxic substance or infectious agent.

(e) Access to the information contained on the label of any pesticide with which the employee works or to which the employee is likely to be exposed.
101.581 INDUSTRY, LABOR AND HUMAN RELATIONS

(2) AGRICULTURAL EMPLOYER. An agricultural employer who uses pesticides shall post in a prominent place in the workplace a sign which informs employees that the agricultural employer is required, upon request, to provide an employee or employee representative with access to the information contained on the label of any pesticide with which the employee works or to which the employee is likely to be exposed.

(3) MINOR EMPLOYEE. If an employee is a minor, an employer or agricultural employer shall send to the employee’s parent or guardian, at the address provided by the employer, notice of the employee’s rights under sub. (1) or (2).


“Produces” under (1) means to create, bring forth, or cause hazardous substances to exist in work place. Door Cty. Highway Dept. v. DILHR, 137 W. 2d 289, 424 NW 2d 548 (Ct. App. 1987).

101.583 Toxic substance information requirements; employer to employee. (1) RETENTION OF INFORMATION; LISTS. Except as provided by department rule under s. 101.598, an employer shall:

(a) Retain any material safety data sheet relating to a toxic substance and containing the information required to be provided to employees under sub. (2) for 30 years after the date upon which the employee last received the toxic substance in the workplace; or

(b) 1. Maintain a written list identifying any toxic substance present in a workplace on or after May 10, 1984, except as provided in subd. 2, and the dates that the toxic substance is received in the workplace. If a list is maintained, each toxic substance required to be on the list shall be included on the list until 30 years after the last date on which the substance is received in the workplace. Within 30 days after a written request by an employer or employee representative, exclusive of weekends and legal holidays, the employer shall provide to the employee or employee representative a copy of any list maintained for the employee’s workplace or the workplace of the employees represented by the employee representative.

2. a. A toxic substance need not be included on a list if in the area in which any employee usually works the toxic substance is received in packages of one kilogram or less and if no more than 10 kilograms of the toxic substance are used in or purchased for that area per year.

b. A toxic substance need not be included on a list if it is a mixture containing one or more mineral dusts listed in 29 CFR 1910.1000, table z-3.

(1m) Any employer with less than 10 employees and less than $750,000 in gross sales in the most recent calendar or fiscal year, whichever the employer uses for income tax purposes, is not subject to the requirements of sub. (1).

(2) INFORMATION. (a) Except as provided in s. 101.589, within 15 days after a written request by an employee or employee representative, exclusive of weekends and legal holidays, the employer shall provide to the employee or employee representative in writing the following information regarding any toxic substance with which the employee works or worked or to which the employee is likely to be exposed:

1. The trade name of the toxic substance.

2. The chemical name and any commonly used synonym for the toxic substance and the chemical name and any commonly used synonym for its major components.

3. The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids and appearance and odor of the toxic substance.

4. The flash point and flammable limits of the toxic substance.

5. Any permissible exposure level, threshold limit value or other established limit value for exposure to the toxic substance.

6. The stability of the toxic substance.

7. Recommended fire extinguishing media, special fire fighting procedures and any unusual fire and explosion hazard information for the toxic substance.

8. Any effect of overexposure to the toxic substance, emergency and first aid procedures and a telephone number to be called in an emergency.

9. Any condition or material which is incompatible with the toxic substance and must be avoided.

10. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the toxic substance.

11. Procedures for the handling, cleanup and disposal of toxic substances leaked or spilled.

(b) An employer is not required to provide information regarding a toxic substance under par. (a) if the employee or employee representative making the request has requested information about the toxic substance under par. (a) within the preceding 12 months, unless the employee’s job assignment has changed or there is new information available concerning any of the subjects about which information is required to be provided.


101.585 Infectious agent information requirements; employer to employee. (1) Except as provided in s. 101.589 (1) and (3), within 72 hours after a written request by an employee or employee representative, exclusive of weekends and legal holidays, an employer shall provide in writing to the employee or employee representative the following information regarding any infectious agent which the employee works with or is likely to be exposed to if the infectious agent is present in the workplace when the request is made or at any time during the 30 days immediately preceding the request:

(a) The name and any commonly used synonym of the infectious agent.

(b) Any method or route of transmission of the infectious agent.

(c) Any symptom or effect of infection, emergency and first aid procedures and a telephone number to be called in an emergency.

(d) Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the infectious agent.

(e) Procedures for handling, cleanup and disposal of infectious agents leaked or spilled.

(2) An employer is not required to provide information regarding an infectious agent under sub. (1) if the employee or employee representative making the request has requested information about the infectious agent under sub. (1) within the preceding 12 months, unless the employee’s job assignment has changed or there is new information available concerning any of the subjects about which information is required to be provided.

History: 1981 c. 364.

101.586 Pesticide information requirements; employer or agricultural employer to employee. Within 72 hours of a request from an employee or employee representative, exclusive of weekends and legal holidays, an employer or agricultural employer shall provide the requesting employee or employee representative with access to the container label or the information required by the federal environmental protection
agency or the department of agriculture, trade and consumer protection to be on the container label, for any pesticide with which the employee works or to which the employee is likely to be exposed.


101.587 Information requirements; employer or agricultural employer to department. The department or the department of health and social services may request the information required to be provided to employees under ss. 101.583, 101.585 and 101.586. The employer or agricultural employer shall provide the information within the time periods provided in ss. 101.583, 101.585, 101.586 and 101.589.

History: 1981 c. 364.

101.588 Information collection and maintenance; department. If an employer ceases business operations in this state, the employer shall provide the department with the information required under ss. 101.583 or 101.585 relating to that employer. The department shall maintain that information and provide it to any employee upon request.

History: 1983 a. 392.

101.589 Extended time periods; exceptions. (1) If an employer has not obtained the information required to be provided under ss. 101.583 (2) (a) and 101.585 (1) at the time of a request made under s. 101.583 (2) (a) or 101.585 (1), the employer shall provide the information within 30 days after the request, exclusive of weekends and legal holidays.

(2) If a toxic substance was present in the workplace at any time on or after December 1, 1982, but is not present in the workplace when a request is made under s. 101.583 (2) (a), the employer shall provide the information within 30 days after the request, exclusive of weekends and legal holidays.

(3) An employer who has requested from the manufacturer or supplier of a toxic substance or from the supplier of an infectious agent any information required to be provided under s. 101.583 (2) (a) or 101.585 (1), but who has not received and does not already have that information, is not required to provide the information but shall notify any requesting employer or employee representative that the employer has requested, has not received and does not otherwise have the information.


101.59 Manufacturer, supplier; requirements. Within 15 days, exclusive of weekends and legal holidays, after receipt of a request from an employer, any manufacturer or supplier of a toxic substance transported or sold for use in this state, or any supplier of an infectious agent transported or sold for use in this state, shall provide to that employer the information the employer is required to provide employees under s. 101.583 (2) (a) or 101.585 (1).

History: 1981 c. 364.

101.592 Confidential information. (1) A manufacturer or supplier of a toxic substance, a supplier of an infectious agent or an employer may declare that information required to be provided under ss. 101.583, 101.585, 101.59 or 101.597, except information described in ss. 101.583 (2) (a) 7 to 11, 101.585 (1) (b) to (e) and 101.597 (5) (a) 2 to 7 and (b) 2 and 3, relates to a process or production technique which is unique to, or is information the disclosure of which would adversely affect the competitive position of, the manufacturer, supplier or employer. If an employer, employee or employer representative requests information under ss. 101.583, 101.585 or 101.59 that is confidential, the manufacturer, supplier or employer shall inform the requester that part of the requested informa-

tion is confidential, but shall provide any part of the requested information that is not confidential or that, under this subsection, may not be declared confidential. When a manufacturer, supplier or employer declares information confidential, it shall notify the department and shall state the general use of the toxic substance or infectious agent and the items of information which it did and did not provide to the requester.

(2) Notwithstanding sub. (1), a manufacturer, supplier or employer shall provide the information specified in s. 101.583 (2) (a) 1 and 2 or 101.585 (1) (a) upon a request from an employee's authorized physician stating that the information is necessary for medical treatment of the employee. No physician receiving information under this subsection may disclose it to any person without the written consent of the patient and of the manufacturer, supplier or employer.


101.595 Employee rights. (1) NOT TO WORK WITH TOXIC SUBSTANCE, INFECTIOUS AGENT OR PESTICIDE. Except as provided in ss. 101.589 (3) and 101.592, if an employee has requested information about a toxic substance, infectious agent or pesticide under s. 101.583, 101.585 or 101.586 and has not received the information required to be provided under s. 101.583, 101.585, 101.586 or 101.589 (1) or (2), the employer may refuse to work with or be exposed to the toxic substance, infectious agent or pesticide until such time as the employer or agricultural employer supplies the information under s. 101.583, 101.585 or 101.586 to the employee who has made the request.

(2) RETALIATION PROHIBITED. No employer or agricultural employer may discharge or otherwise discipline or discriminate against any employee because the employee has exercised any rights under ss. 101.58 to 101.599 or has testified or is about to testify in any proceeding related to those sections.

(3) WAIVER PROHIBITED. No person may request or require any employer to waive any rights under ss. 101.58 to 101.599.


101.597 Education and training programs. (1) BY EMPLOYER; TOXIC SUBSTANCE, INFECTIOUS AGENT OR PESTICIDE. Except as provided in sub. (5) (b), prior to an employee's initial assignment to a workplace where the employee may be routinely exposed to any toxic substance, infectious agent or pesticide, an employer shall provide the employee with an education or training program under sub. (5) (c). The employer shall provide additional instruction whenever the employee may be routinely exposed to any additional toxic substance or infectious agent.

(2) BY AGRICULTURAL EMPLOYER; PESTICIDE. Prior to an agricultural employer's initial assignment to a workplace where the employee may be routinely exposed to a pesticide, an agricultural employer shall provide the employee with an education or training program under sub. (5) (c). The agricultural employer shall provide additional instruction whenever the employee may be routinely exposed to any additional pesticide.

(3) BY DEPARTMENT. The department shall inform manufacturers, suppliers, employers, agricultural employers and employees of their duties and rights under ss. 101.58 to 101.599. As part of this program, the department shall cooperate with the departments of development and revenue to notify any employer commencing operations on or after May 8, 1982, of that employer's duties and rights.

(4) DEFINITION. In this section, "routinely exposed to any toxic substance" means exposure of at least 30 days per year at exposure levels exceeding 50% of the permissible exposure level established by the federal occupational safety and health...
administration, or any exposure exceeding 100% of the permissible exposure level, regardless of the exposure period.

(5) PROGRAM CONTENTS. (a) Toxic substances and infectious agents. For each toxic substance or infectious agent to which the employee may be routinely exposed, the education or training program shall include:

1. a. For a toxic substance, the trade name, generic or chemical name and any commonly used synonym for the toxic substance and the trade name, generic or chemical name and any commonly used synonym for its major components.
   b. For an infectious agent, its name and any commonly used synonym.
   2. The location of the toxic substance or infectious agent.
   3. Any symptom of acute or chronic effect of overexposure to the toxic substance or infectious agent.
   4. For a toxic substance, the potential for flammability, explosion and reactivity.
   5. Proper conditions for safe use of and exposure to the toxic substance or infectious agent.
   6. Special precautions to be taken and personal protective equipment to be worn or used, if any, when handling or coming into contact with the toxic substance or infectious agent.
   7. Procedures for handling, cleanup and disposal of toxic substances or infectious agents leaked or spilled.

(b) Toxic substances and infectious agents; exception. In an area where employees usually work with a large number of toxic substances or infectious agents which are received in packages of one kilogram or less and no more than 10 kilograms of which are used or purchased per year, the employer may provide a general education or training program in lieu of the education or training program described in par. (a). The general training program shall be provided prior to an employee's initial assignment to the area and shall include:

1. The information specified in par. (a) 1 and 2.
2. The nature of the hazards posed by the toxic substances or infectious agents or both.
3. General precautions to be taken when handling or coming into contact with the toxic substances or infectious agents.

(c) Pesticides. For each pesticide to which the employee may be routinely exposed the education or training program shall include:

1. The trade name, generic or chemical name and any commonly used synonym for the pesticide and the trade name, generic or chemical name and any commonly used synonym for its major ingredients.
2. The location of the pesticide and the location where it is used.
3. Any symptom of acute or chronic effect of overexposure to the pesticide.
4. Proper conditions for safe use of and exposure to the pesticide.
5. Special precautions to be taken and personal protective equipment to be worn or used, if any, when handling or coming into contact with the pesticide.
6. Procedures for handling, cleanup and disposal of leaks or spills of the pesticide.


101.598 Rules. (1) The department shall, by rule, identify as an infectious agent any bacterial, mycoplasmal, fungal, parasitic or viral agent which causes illness in humans or human fetuses or both. The department shall consult with the department of health and social services in promulgating these rules.
security interest derived solely from the extension of credit to permit construction or remodeling of the dwelling or purchase of the dwelling by a 3rd party.

History: 1975 c. 404; 1979 c. 89, 148.

Code applies to additions of any buildings initially constructed after the effective date of the one- and two-family dwelling code act. 67 Atty. Gen. 191.

**101.62 Dwelling code council; power.** The dwelling code council shall review the standards and rules for one- and 2-family dwelling construction and recommend a uniform dwelling code for adoption by the department which shall include rules providing for the conservation of energy in the construction and maintenance of dwellings and for costs of specific code provisions to home buyers to be related to the benefits derived from such provisions. Upon its own initiative or at the request of the department, the council shall consider and make recommendations to the department pertaining to rules and any other matters related to this subchapter. The council shall recommend variances for different climate and soil conditions throughout the state.

History: 1975 c. 404.

**101.63 Departmental duties.** The department shall:

1. Adopt rules which establish standards for the construction and inspection of one- and 2-family dwellings and components thereof. Where feasible, the standards used shall be those nationally recognized and shall apply to the dwelling and to its electrical, heating, ventilating, air conditioning and other systems, including plumbing, as defined in s. 145.01 (10). No set of rules may be adopted which has not taken into account the conservation of energy in construction and maintenance of dwellings and the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions. No standard under this subchapter may increase the maximum energy use, as defined in s. 101.08 (1) (f), allowed for a fluorescent lamp ballast, as defined in s. 101.08 (1) (g), under s. 101.08 (2) or decrease the minimum energy efficiency required for a fluorescent lamp ballast, as defined in s. 101.08 (1) (g), under s. 101.08 (2).

(1m) Adopt a rule which requires any one- and 2-family dwelling which uses electricity for space heating to be superinsulated.

2. Adopt rules for the certification, including provisions for suspension and revocation thereof, of inspectors for the purpose of inspecting building construction, electrical wiring, heating, ventilating, air conditioning and other systems, including plumbing, as defined in s. 145.01 (10), of one- and 2-family dwellings under sub. (1). Persons certified as inspectors may be employees of the department, a city, village, town, county or an independent inspection agency. The department may not adopt any rule which prohibits any city, village, town or county from licensing persons for performing work on a dwelling in which the licensed person has no legal or equitable interest.

3. Contract to provide inspection services, at municipal expense, to any municipality which requires such service under s. 101.65 or 101.651.

4. Biennially review the rules adopted under this subchapter.

5. Issue special orders which it deems necessary to secure compliance with this subchapter and enforce the same by all appropriate administrative and judicial proceedings.

6. Prescribe and furnish to municipalities a standard building permit form for all new one- and 2-family dwellings.

7. Hear petitions regarding the dwelling code, rules and special orders in accordance with s. 101.02 (6) (e) to (i) and (8).

**101.65 municipal authority.** Except as provided by s. 101.651, cities, villages, towns and counties:

9. Establish by rule a schedule of fees sufficient to defray the costs incurred under this subchapter.

History: 1975 c. 404; 1979 c. 221; 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (8); 1987 c. 343.

101.64 Departmental powers. The department may:

1. Hold hearings on any matter relating to this subchapter and issue subpoenas to compel the attendance of witnesses and the production of evidence at such hearings.

2. At the request of the owner or renter enter, inspect and examine dwellings, dwelling units or premises necessary to ascertain compliance with the rules and special orders under this subchapter.

3. Revise the rules under this subchapter after consultation with the dwelling code council.

4. Provide for or engage in the testing, approval and certification of materials, devices and methods of construction.

5. Collect and publish data secured from the building permits.

6. Adopt rules prescribing procedures for approving new building materials, methods and equipment.

7. Enter into reciprocal agreements with other states regarding the approval of building materials and methods where the standards of the other state meet the intent of the dwelling code and the rules promulgated under this subchapter.

8. Study the operation of the dwelling construction code and other laws related to the construction of dwelling units to determine their impact upon the cost of building construction and their effectiveness upon the health, safety and welfare of the occupants.

History: 1975 c. 404.

101.645 Smoke detectors. (1) Definition. The definition of “smoke detector” under s. 101.145 (1) (c) also applies to this section.

2. Approval; Installation and Maintenance. A smoke detector required under this section shall be approved, installed and maintained as required under s. 101.145 (2) and (3).

3. Requirement. The owner of a multi-unit dwelling the initial construction of which was commenced on or after May 23, 1978 shall install and maintain a smoke detector in the basement of the dwelling and on each floor level except the attic or storage area of each dwelling unit.

4. Inspection. The department or a municipal authority may inspect new dwellings and may inspect dwellings at the request of the owner or renter to ensure compliance with this section.

History: 1977 c. 388; 1983 a. 189 s. 329 (4); 1987 a. 376.

NOTE: 1987 Wis. Act 376 renumbers and amends sub. (3) and creates (3) (b), eff. 11-1-89, to read:

"(3) Requirement. (a) The owner of a dwelling the initial construction of which was commenced on or after May 23, 1978, shall install a functional smoke detector in the basement of the dwelling and on each floor level except the attic or storage area of each dwelling unit. The occupant of such a dwelling unit shall maintain any smoke detector in that unit, except that if any occupant who is not the owner gives written notice to the owner that the smoke detector is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional.

(b) Notwithstanding par. (a), the owner of any dwelling which was constructed prior to May 23, 1978, shall install a functional smoke detector in the basement of that dwelling and on each floor level of that dwelling except the attic or storage area of each dwelling unit. The occupant of such a dwelling unit shall maintain any smoke detector in that unit, except that if any occupant who is not the owner gives written notice to the owner that the smoke detector is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional."
101.65 INDUSTRY, LABOR AND HUMAN RELATIONS

(1) May:
(a) Exercise jurisdiction over the construction and inspection of new dwellings by passage of ordinances, provided such ordinances meet the requirements of the one- and 2-family dwelling code adopted in accordance with this subchapter. Except as provided by s. 101.651, a county ordinance shall apply in any city, village or town which has not enacted such ordinance.
(b) Under s. 66.30, jointly exercise the jurisdiction granted under par. (a).
(c) By ordinance establish and collect fees to defray the cost of jurisdiction exercised under par. (a) or (b).
(d) By ordinance provide remedies and penalties for violation of the jurisdiction exercised under par. (a) or (b).

(2) Shall contract with the department for those inspection services which the municipality does not perform or contract for under sub. (1) (a) or (b) and reimburse the department for its reasonable and necessary expenses incurred in the performance of such services pursuant to s. 101.63 (9).

(3) Shall use the standard building permit form prescribed and furnished by the department and file a copy of each such permit issued with the department.

History: 1975 c. 404; 1979 c. 221 s. 2025 (12); 1979 c. 355 s. 238; 1981 c. 20.

101.651 Certain municipalities excepted. (1) In this section, “municipality” means a city, village or town with a population of 2,500 or less.

(2) Except as provided under sub. (6), a municipality is exempt from:
(a) The requirements under s. 101.65 (2) and (3).
(b) Any rule adopted under s. 101.63 (1) regarding suspension or revocation of standard building permits.
(c) The department or a county may not enforce this subchapter or an ordinance adopted under s. 101.65 (1) (a) or provide inspection services in a municipality unless requested to do so by a person with respect to a particular dwelling or by the municipality. A request by a person or a municipality with respect to a particular dwelling does not give the department or a county authority with respect to any other dwelling. Costs shall be collected under s. 101.65 (1) (c) or ss. 101.63 (9) and 101.65 (2) from the person or municipality making the request.
(d) Any other criteria determined necessary by the department.

(3) Municipalities shall furnish statistical data relating to housing starts to the department as requested by the department.

(4) This section does not affect the applicability of rules or an ordinance adopted under this subchapter to builders, designers and owners of dwellings located in a municipality.

(5) Any dwelling not inspected under s. 101.65 shall comply with the rules adopted under s. 101.63 (1) which take into account the conservation of energy in construction and maintenance of dwellings and the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions.

History: 1981 c. 20.

101.655 Pilot lights prohibited on gas appliances. (1) In this section:
(a) “Class of gas appliances” means a group of gas appliances all of which perform a similar function.
(b) “Gas appliance” means any furnace or heater requiring electrical supply for operation, air conditioner, refrigerator, stove having an electrical supply cord, dishwasher, dryer, swimming pool heater or other similar appliance or device used in a private residence or private dwelling, which uses a gaseous fuel for operation and is automatically ignited for operation by means of a pilot light or other ignition device.
(c) “Intermittent ignition device” means an ignition device which is actuated only when a gas appliance is in operation.
(d) “Manufacturer” means any person who manufactures, produces or assembles gas appliances.

(2) The department shall, on or before July 1, 1978, develop the specifications for certifying intermittent ignition devices. Development of the specifications shall proceed with the cooperation of representatives designated by the department from the affected gas appliance industry and consumers. The development of specifications shall make the fullest possible use of nationally recognized standards and testing procedures for intermittent ignition devices.

(3) The specifications for certification shall be developed with consideration for:
(a) The conservation of primary energy resources.
(b) Provisions necessary for public health and safety.
(c) Initial consumer costs, including installation and maintenance costs.
(d) Any other criteria determined necessary by the department.

(4) The department shall demonstrate that an intermittent ignition device operates according to the established specifications. Based upon this demonstration, the department may determine that an intermittent ignition device is feasible and may so certify the device.

(5) Within 90 days after an intermittent ignition device has been certified by the department, the department shall notify all gas appliance manufacturers doing business in this state of the prohibition of affected pilot lights, including the effective date of the prohibition, and shall inform manufacturers of gas appliances of which comply with established specifications.

(6) No person may sell, distribute or install or cause to be sold, distributed or installed in this state a new gas appliance that is not equipped with a certified intermittent ignition device, beginning 24 months after any intermittent ignition device has been certified by the department under sub. (5) as feasible for the class of gas appliances to which the gas appliance belongs, but no earlier than July 1, 1980.

(b) Commencing 24 months after an intermittent ignition device has been certified by the department, but no earlier than July 1, 1980, the department shall have all the powers conferred by s. 101.02 for purposes of enforcing this section.

(c) The department may seek a forfeiture or initiate a civil action for a temporary or permanent injunction for any violation of this section or any rule promulgated under this section.

(d) Any person who violates this section or any rule promulgated under this section shall be subject to a forfeiture of not more than $400 for each day of violation.

(7) Commencing May 20, 1981, the department shall include in the biennial report required under s. 15.04 (1) (d), a description of its enforcement activities under this section.

(8) The department shall make rules as it deems necessary to carry out its duties under this section.
101.66 Compliance and penalties. (1) Every builder, designer and owner shall use building materials, methods and equipment which are in conformance with the one- and two-family dwelling code.

(2) All inspections shall be by persons certified by the department.

(3) Whoever violates this subchapter shall forfeit to the state not less than $25 nor more than $500 for each violation. Each day that such violation continues constitutes a separate offense.

History: 1975 c. 404.

SUBCHAPTER III

MANUFACTURED BUILDING CODE

101.70 Purpose. The purpose of this subchapter is to establish statewide standards and inspection procedures for the manufacture and installation of manufactured buildings for dwellings and to promote interstate uniformity in standards for manufactured buildings by authorizing the department to enter into reciprocal agreements with other states which have equivalent standards.

History: 1975 c. 405.

101.71 Definitions. In this subchapter:

(1) “Closed construction” means any building, building component, assembly or system manufactured in such a manner that it cannot be inspected before installation at the building site without disassembly, damage or destruction.

(2) “Dwelling” means any building the initial construction of which was commenced on or after December 1, 1978, which contains one or more dwelling units. “Dwelling unit” means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(3) “Insignia” means a device or seal approved by the department to certify compliance with this subchapter.

(4) “Installation” means the assembly of a manufactured building on-site and the process of affixing a manufactured building to land, a foundation, footing or an existing building.

(5) “Manufacture” means the process of making, fabricating, constructing, forming or assembling a product from raw, unfinished, semifinished or finished materials.

(6) (a) “Manufactured building” means any structure or component thereof which is intended for use as a dwelling and:

1. Is of closed construction and fabricated or assembled on-site or off-site in manufacturing facilities for installation, connection, or assembly and installation, at the building site; or

2. Is a building of open construction which is made or assembled in manufacturing facilities away from the building site for installation, connection, or assembly and installation, on the building site and for which certification is sought by the manufacturer.

(b) “Manufactured building” does not mean any manufactured home or mobile home under s. 101.94 or any building of open construction which is not subject to par. (a) 2.

(7) “Open construction” means any building, building component, assembly or system manufactured in such a manner that it can be readily inspected at the building site without disassembly, damage or destruction.

History: 1975 c. 405; 1979 c. 89; 1983 a. 27, 188.

101.72 Dwelling code council. The dwelling code council shall review the standards and rules for manufactured buildings for dwellings and recommend a statewide manufactured building code for adoption by the department which shall include rules providing for the conservation of energy in the construction and maintenance of dwellings. Such rules shall take into account the conservation of energy in construction and maintenance of dwellings and the costs to home buyers of specific code provisions in relation to the benefits derived therefrom. Upon its own initiative or at the request of the department, the council shall consider and make recommendations to the department pertaining to rules and any other matters related to this subchapter.

History: 1975 c. 405.

101.73 Departmental duties. The department shall:

(1) Adopt rules which establish standards for the use of building materials, methods and equipment in the manufacture and installation of manufactured buildings for use as dwellings or dwelling units. Where feasible, the standards used shall be those nationally recognized and shall apply to the dwelling and to its electrical, heating, ventilating, air conditioning and other systems. Such rules shall take into account the conservation of energy in construction and maintenance of dwellings and the costs to home buyers of specific code provisions in relation to the benefits derived therefrom. No standard under this subchapter may increase the maximum energy use, as defined in s. 101.08 (1) (f), allowed for a fluorescent lamp ballast, as defined in s. 101.08 (1) (g), under s. 101.08 (2) or decrease the minimum energy efficiency required for a fluorescent lamp ballast, as defined in s. 101.08 (1) (g), under s. 101.08 (2).

(1m) Adopt a rule which requires any manufactured building which uses electricity for space heating to be superinsulated.

(2) Adopt rules for the examination of plans and specifications and for periodic in-plant and on-site inspections of manufacturing facilities, processes, fabrication, assembly and installation of manufactured buildings to ensure that examinations and inspections are made in compliance with the rules adopted for construction, electrical wiring, heating, ventilating, air conditioning and other systems under ss. 101.70 to 101.77 and with the rules for indoor plumbing adopted by the department under ch. 145.

(3) Provide for examination of plans and specifications and in-plant inspections when contracted for by the manufacturer under s. 101.75 (1) and shall contract to provide on-site inspection services for the installation of manufactured buildings for dwellings, at municipal expense, for any municipality which requires such service under s. 101.76 or 101.761.

(5) Adopt rules for the certification, including provisions for suspension and revocation thereof, of independent inspectors of the installation of manufactured buildings for dwellings. Persons certified as on-site inspectors may be employees of the department, a city, village, town or county or an independent agency.

(6) Adopt rules for the certification, including provisions for suspension and revocation thereof, of independent inspection agencies to conduct in-plant inspections of manufacturing facilities, processes, fabrication and assembly of manufactured buildings for dwellings and to certify compliance with this subchapter.

(7) Issue or recognize an insignia of compliance for dwellings which conform to the manufactured building code.

(8) Biennially review the rules promulgated under this subchapter.
(9) Issue special orders which it deems necessary to secure compliance with this subchapter and enforce the same by all appropriate administrative and judicial proceedings.

(10) Prescribe and furnish to municipalities a standard building permit form for all new one- and 2-family dwellings.

(11) Hear petitions regarding the manufactured building code, rules and special orders in accordance with s. 101.02 (6) (e) to (i) and (8).

(12) Establish by rule a schedule of fees sufficient to defray the costs incurred under this subchapter.

History: 1975 c. 405; 1979 c. 221; 1981 c. 20; 1983 a. 27; 1987 a. 343.

101.74 Departmental powers. The department may:

(1) Hold hearings on any matter relating to this subchapter.

(2) At the request of the owner or renter enter, inspect and examine dwellings, dwelling units and premises necessary to ascertain compliance with the rules and special orders under this subchapter.

(2m) Study the operation of the dwelling construction code and other laws related to the construction of dwelling units to determine their impact upon the cost of building construction and their effectiveness upon the health, safety and welfare of the occupants.

(3) Revise the rules under this subchapter after consultation with the dwelling code council.

(4) Provide for or engage in the testing, approval and certification of materials, devices and methods for the manufacture or installation of manufactured buildings.

(5) Collect and publish data secured from the examinations and inspections under s. 101.73 (2) and (3), and from building permits.

(6) Adopt rules prescribing procedures for approving new building materials, devices and methods for the manufacture or installation of manufactured buildings for dwellings.

(7) Enter into reciprocal agreements with other states regarding the design, construction, inspection and labeling of manufactured buildings where the laws or rules of other states meet the intent of the manufactured building code and the rules promulgated under this subchapter.

History: 1975 c. 405.

101.745 Smoke detectors. (1) Definition. The definition of smoke detector under s. 101.145 (1) (c) also applies to this section.

(2) Approval. A smoke detector required under this section shall be approved by underwriters laboratory.

(3) Installation. A smoke detector required under this section shall be installed according to the directions and specifications of the manufacturer.

(4) Requirement. The manufacturer of a manufactured building manufactured on or after May 23, 1978 shall install a smoke detector on each floor level except the attic or storage area of each dwelling unit.

History: 1977 c. 385; 1983 a. 189 s. 329 (4); 1987 a. 376.

NOTE: 1987 Wis. Act 376 amends sub. (4), eff. 11-1-89 to read: "(4) REQUIREMENT. The manufacturer of a manufactured building manufactured on or after May 23, 1978, shall install a functional smoke detector on each floor level except the attic or storage area of each dwelling unit."

101.75 Inspections, insignia and alterations. (1) Inspections and compliance. Manufacturers of manufactured buildings shall conduct with a certified independent inspection agency or the department to conduct in-plant inspections and certify compliance with this subchapter. Manufacturers shall reimburse the independent inspection agency in accordance with the terms of the contract or reimburse the department in accordance with fees established under s. 101.73 (12).

All inspections shall be performed by persons certified by the department.

(2) Display of insignia required. All manufactured buildings manufactured, sold for initial use or installed within this state shall display, in a manner determined by the department, the insignia issued or recognized under ss. 101.73 (7) and 101.74 (7). All manufactured buildings bearing such insignia shall be deemed to comply with the requirements of all building ordinances and regulations of any local government except those related to zoning and siting requisites including but not limited to building setback, side and rear yard requirements and property line requirements.

(3) Department approval of alterations. No person shall alter an approved manufactured building in any way prior to or during installation without the approval of the department.

(4) Counterfeit insignia. No person may falsely or fraudulently make, forge, alter or counterfeit any insignia issued or recognized under ss. 101.73 (7) and 101.74 (7).

History: 1975 c. 405.

101.76 Municipal authority. Except as provided by s. 101.761, cities, villages, towns and counties:

(1) May:

(a) With the approval of the department, exercise jurisdiction over the installation of manufactured buildings for dwellings by passage of ordinances, provided such ordinances are in strict conformance with this subchapter and the on-site inspection is performed by persons certified by the department. Except as provided by s. 101.761, a county ordinance shall apply in any city, village or town which has not enacted such ordinance.

(b) Under s. 66.30, jointly exercise the jurisdiction granted under par. (a).

(c) By ordinance establish and collect fees sufficient to defray the cost of jurisdiction exercised under par. (a) or (b).

(d) By ordinance provide remedies and penalties for violation of the jurisdiction exercised under par. (a) or (b).

(2) Shall contract with the department for on-site installation inspection services which the municipality does not perform under sub. (1) (a) or (b) and reimburse the department for its reasonable and necessary expenses incurred in the performance of such services pursuant to s. 101.73 (12).

(3) Shall use the standard building permit form prescribed by the department and file a copy of each such permit issued with the department.

History: 1975 c. 405; 1981 c. 20.

101.761 Certain municipalities excepted. (1) In this section, "municipality" means a city, village or town with a population of 2,500 or less.

(2) Except as provided under sub. (6), a municipality is exempt from:

(a) The requirements under s. 101.76 (2) and (3).

(b) Any rule adopted under s. 101.73 regarding suspension or revocation of standard building permits.

(3) The department or a county may not enforce this subchapter or an ordinance adopted under s. 101.76 (1) (a) or provide inspection services in a municipality unless requested to do so by a person with respect to a particular manufactured building or by the municipality. A request by a person or a municipality with respect to particular manufactured building does not give the department or a county authority with respect to any other manufactured building. Costs shall be collected under s. 101.76 (1) (c) or ss. 101.73 (12) and 101.76 (2) from the person or municipality making the request.
(4) Municipalities shall furnish statistical data relating to housing starts to the department as requested by the department.

(5) This section does not affect the applicability of or ordinances adopted under this subchapter to manufacturers, builders and owners of manufactured buildings located in a municipality.

(6) Any dwelling not inspected under s. 101.76 shall comply with the rules adopted under s. 101.73 (1) which take into account the conservation of energy in construction and maintenance of dwellings and the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions.  

History: 1981 c. 20, s. 314.

101.77 Penalties. Whoever violates this subchapter shall forfeit to the state not less than $25 nor more than $500 for each violation and each day that such violation continues constitutes a separate offense.

History: 1975 c. 405.

SUBCHAPTER IV
INSPECTION OF ELECTRICAL CONSTRUCTION AND CERTIFICATION OF MASTER ELECTRICIANS

101.80 Definitions. In this subchapter:

(1) “Municipality” means city, town, village and county.

(2) “Public buildings” and “places of employment” have the meanings provided by s. 101.01 (2) and include all exterior wiring except wiring owned, leased, operated or maintained by a public utility including any electrical cooperative, in the exercise of its utility function.

History: 1979 c. 309; 1983 a. 189.

101.82 Departmental duties. The department shall:

(1) Adopt rules for the construction and inspection of electrical construction of public buildings and places of employment. Where feasible, the standards used shall be those nationally recognized. No rule may be adopted which does not take into account the conservation of energy in construction and maintenance of buildings.

(2) Adopt rules for the certification, including provisions for suspension and revocation thereof, of electrical inspectors for the purpose of inspecting the electrical wiring of public buildings and places of employment. Persons certified as inspectors may be employees of the department, a municipality or private inspection agency.

(3) Contract to provide inspection services, at municipal expense, to any municipality which requests such service under s. 101.86.

(3m) Provide inspection services in those municipalities which have not adopted and enforced ordinances providing for inspection of electrical construction under s. 101.86 and defray the cost of this inspection through fees charged to the owner of the inspected building.

(4) Establish by rule a schedule of fees sufficient to defray the costs incurred under this subchapter.

History: 1979 c. 309.

101.84 Departmental powers. The department may:

(1) Hold hearings on any matter relating to this subchapter and issue subpoenas to compel the attendance of witnesses and the production of evidence at the hearings.

(2) At the request of the owner or tenant, enter, inspect and examine the exterior and interior wiring of a public building or place of employment necessary to ascertain compliance with the rules promulgated under this subchapter.

History: 1979 c. 309.

101.86 Municipal authority. (1) Municipalities may:

(a) Exercise jurisdiction over electrical construction and inspection of electrical construction in public buildings and places of employment by passage of ordinances, providing such ordinances meet the minimum requirements of the department’s rules adopted under this subchapter. A county ordinance shall apply in any city, village or town which has not enacted such an ordinance.

(b) Under s. 66.30, jointly exercise the jurisdiction granted under par. (a).

(c) By ordinance, establish and collect fees to defray the cost of jurisdiction exercised under par. (a) or (b) or a contract under sub. (2).

(d) By ordinance, provide remedies and penalties for violation of the jurisdiction exercised under par. (a) or (b).

(2) A municipality may contract with the department for those inspection services which the municipality does not perform or contract for under sub. (1) (a) or (b) and reimburse the department for its reasonable and necessary expenses incurred in the performance of such services under s. 101.82 (4).

(3) The cost of inspection services provided by any county which has enacted an ordinance under sub. (1) or contracted under sub. (2) if not defrayed by fees shall be charged to or taxed upon the property within those cities, villages and towns in the county which have not enacted a local construction and inspection ordinance under sub. (1) or contracted under sub. (2), and no part of the cost of inspection services may be charged to or taxed against the property within any city, village or town which has enacted such an ordinance or contracted under sub. (2).

History: 1979 c. 309.

101.865 Regulation of electric wiring. (1) It is hereby made the duty of every contractor and other person who does any electric wiring in this state to comply with the Wisconsin state electrical code, and the company furnishing the electric current shall obtain proof of such compliance before furnishing such service; provided, that nothing therein contained shall be construed as prohibiting any municipality from making more stringent regulations than those contained in the above mentioned code. Proof of such compliance shall consist of a certificate furnished by a municipal or other recognized inspection department or officer, or if there is no such inspection department or officer it shall consist of an affidavit furnished by the contractor or other person doing the wiring, indicating that there has been such compliance.

(2) Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months.

History: 1983 a. 164 s. 4; Stats. 1983 s. 101.865.

101.87 Master electricians. (1) The department shall adopt rules establishing a uniform examination for the statewide certification of master electricians. The rules shall provide for the periodic administration of the examination, shall specify the certification period and examination fee and shall establish criteria for the suspension of the certificate by the department for violations of a municipality’s electrical code upon notification of such violations by the municipality.

(2) Any municipality which by ordinance requires the licensure of electrical contractors shall issue a license to any electrical contractor who wishes to perform electrical construction work in the municipality upon the submission by the electrical contractor of evidence that at least one of his or her full-time employees has been certified by the state as a
master electrician under sub. (1), and upon the payment of the municipality’s licensure fee and the posting of any required bond. The municipality’s licensure fee may not exceed the amount required to cover the administrative costs of issuing the license.

(3) If a municipality that requires the licensure of electrical contractors on March 28, 1984, thereafter ceases to require such license but requires state certification under sub. (1), a person licensed by the municipality may continue to perform electrical construction work in that municipality upon application to the department for restricted certification limited to that municipality. The department may charge a fee for such certification.

History: 1983 a. 164.

101.88 Compliance and penalties. (1) Every contractor, designer and owner shall use building materials, methods and equipment which are in conformance with the rules adopted by the department under this subchapter.

(2) All inspections shall be made by persons certified by the department.

(3) Except as provided under s. 101.865 (2), whoever violates this subchapter or any rule promulgated under this subchapter shall forfeit to the state not less than $25 nor more than $500 for each violation. Each day of violation constitutes a separate offense.


SUBCHAPTER V
MANUFACTURED HOMES AND MOBILE HOMES; REGULATION OF MANUFACTURERS

101.90 Purpose. The purpose of this law is to establish uniform construction standards, inspection procedures and licensing of manufacturers of manufactured homes and mobile homes and to promote interstate uniformity and the ability to enter into reciprocal agreements with other states and the federal government.

History: 1973 c. 116; 1983 a. 27 s. 2200 (25).

101.91 Definitions. In ss. 101.90 to 101.96:

(1) “Mobile home” means a vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of 45 feet.

“Mobile home” includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment carrying a manufacturer’s warranty.

(2) “Manufactured home” means either of the following:

(a) A structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.

(b) A structure which meets all the requirements of par. (a) except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 USC 5401 to 5425.

History: 1973 c. 116, 132; 1983 a. 27 s. 192.

101.92 Departmental powers and duties. The department:

(1) Shall adopt, administer and enforce rules for the safe and sanitary design and construction of manufactured homes and mobile homes manufactured, distributed, sold or offered for sale in this state.

(2) Shall license all manufacturers desiring to sell or distribute for sale manufactured homes or mobile homes in this state.

(3) Shall review annually the rules adopted under ss. 101.90 to 101.96, and may revise rules upon recommendation by the advisory committee appointed under s. 101.96.

(4) Shall provide for announced or unannounced inspection of manufacturing facilities, processes, fabrication and assembly of manufactured homes and mobile homes to ensure compliance with the rules adopted under ss. 101.90 to 101.96.

(5) Shall establish standards for certification of inspection and testing agencies which shall include standards for in-plant inspection of manufacturing facilities, processes, fabrication and assembly of manufactured homes and mobile homes and for issuance of or acceptance of a label of approval.

(6) May enter into reciprocal agreements with other states regarding the design, construction, inspection and labeling of mobile homes where the laws or rules of other states meet the intent of ss. 101.90 to 101.96 and where the laws or rules are actually enforced.

(7) Shall establish within the division of safety and buildings a staff for the administration and enforcement of ss. 101.90 to 101.96.

(8) May revoke the license of any manufacturer who violates ss. 101.90 to 101.96 or any rules promulgated thereunder.

History: 1973 c. 116; 1979 c. 221; 1983 a. 27 s. 1375pr, 1375q, 2200 (25).

101.925 Smoke detectors. (1) Definition. The definition of smoke detector under s. 101.145 (1) (c) also applies to this section.

(2) Approval. A smoke detector required under this section shall be approved by underwriters laboratory.

(3) Installation. A smoke detector required under this section shall be installed according to the directions and specifications of the manufacturer.

(4) Requirement. The manufacturer of a manufactured home shall install a smoke detector in each manufactured home manufactured or after May 23, 1978.

History: 1977 c. 388; 1983 a. 27 s. 2200 (25); 1983 a. 189 s. 329 (4); 1987 a. 376.

NOTE: Sub. (4) is amended by 1987 Wis. Act 376, eff. 11-1-89 by replacing “smoke detector” with “functional smoke detector”.

101.93 Departmental powers and duties. (1) The department shall adopt rules relating to plumbing in the design and construction of manufactured homes and mobile homes. The rules shall be consistent with s. 101.94 (1) to (3) and shall be reviewed annually.

(2) The department shall establish qualification requirements for and shall certify persons to perform inspections of the plumbing systems in manufactured homes and mobile homes.

(3) The department shall review plans and specifications for approval of plumbing systems in manufactured homes and mobile homes.

History: 1973 c. 116; 1979 c. 221; 1983 a. 27 s. 2200 (25).

101.94 Manufactured home and mobile home manufacturers, distributors and dealers: design and construction of manufactured homes and mobile homes. (1) Mobile homes manufactured, distributed, sold or offered for sale in this state shall conform to the code promulgated by the American
national standards institute and identified as ANSI 119.1, including all revisions thereof in effect on August 28, 1973, and further revisions adopted by the department and the department of health and social services. The department may establish standards in addition to those required under ANSI 119.1. This subsection applies to units manufactured or assembled after January 1, 1974, and prior to June 15, 1976.

(2) No person may manufacture, assemble, distribute or sell a manufactured home unless the manufactured home complies with 42 USC 5401 to 5425 and applicable regulations as in effect on June 15, 1976. The department may establish, by rule, standards for the safe and sanitary design and construction of manufactured homes for the purpose of enforcement of this subchapter, and those standards may include standards in addition to any standards established by the secretary of housing and urban development under 42 USC 5401 to 5425.

(3) Each manufactured home or mobile home manufacturer shall submit to the department typical construction plans and specifications for review. The department shall, by its own inspectors whether inside or outside this state, perform sufficient inspections of manufacturing premises and manufactured units to ensure compliance with this section. The department may contract for inspection services, as provided in sub. (4), for inspections outside this state. Each manufactured home or mobile home, upon final assembly, shall display a label which shall be prescribed by and be available only from the department, or similar agency of other states where units are manufactured, providing reciprocal agreements have been executed and are effective between this state and such other states indicating that the manufactured home or mobile home meets the requirements of ss. 101.90 to 101.96 or the applicable laws of the state with which a reciprocal agreement has been executed. No manufactured home or mobile home which bears such label shall be required by any person to comply with any building, plumbing, heating or electrical code or any construction standards other than those promulgated under this section.

(4) The department shall inspect manufactured homes and mobile homes manufactured in other states to be sold or intended to be sold in this state. For such out-of-state inspections, the department may contract for 3rd party inspection by an inspection agency which has been approved by the department. The department shall monitor inspections conducted by 3rd party inspection agencies to ensure the quality of those inspections. To obtain departmental approval, the inspection agency shall submit an application to the department accompanied by written materials evidencing that the agency is:

(a) Not under the jurisdiction or control of any manufacturer or supplier of the manufactured home or mobile home industry.

(b) Professionally competent to determine that a manufactured home or mobile home is in compliance with the requirements and standards of this section by having sufficient expertise to:

1. Inspect manufactured homes or mobile homes.
2. Review manufactured home or mobile home plans and specifications.
3. Evaluate manufactured home or mobile home manufacturer quality control procedures.
4. Submit detailed reports regarding all of its findings to the department.

(5) No manufactured home or mobile home after once being approved to display the label prescribed shall be altered in any way by a manufacturer, factory branch, distributor, distributor branch, dealer or salesman without first obtaining an approval from the department or its authorized agent.

(6) Fees for review of plans, construction inspections, department labels and licensing of manufacturers shall be established by department rule under s. 101.19.

(7) The department shall hear and decide petitions brought under ss. 101.90 to 101.96 in the manner provided under s. 101.02 (6) (e) to (i) and (8) for petitions concerning property.

(8) (a) A person who violates this subchapter or a rule or order issued under this subchapter shall forfeit not more than $1,000 for each violation. Each violation of this subchapter constitutes a separate violation with respect to each manufactured home or mobile home or with respect to each failure or refusal to allow or perform an act required by this subchapter, except the maximum forfeiture under this subsection may not exceed $1,000,000 for a related series of violations occurring within one year of the first violation.

(b) Any individual or a director, officer or agent of a corporation who knowingly and willfully violates this subchapter in a manner which threatens the health or safety of a purchaser shall be fined not more than $1,000 or imprisoned not more than one year or both.

101.95 Manufactured home and mobile home manufacturers regulated. The department shall by rule prescribe the manner by which a manufacturer shall be licensed for the manufacture, distribution or selling of manufactured homes or mobile homes in this state.

History: 1973 c. 116; 1979 c. 221 ss. 552 to 556, 2202 (25); 1983 a. 27 ss. 1375r to 1375s, 2200 (25).

101.96 Advisory committee. The department shall appoint an advisory committee of 5 members to review the rules and standards for manufactured homes and mobile homes and recommend changes. The committee shall be composed of 2 members representing the manufactured home or mobile home industry, 2 public members and one member from the department. The committee shall submit an annual report to the department and to the department of health and social services. The annual report shall include recommended changes in this subchapter reflecting amendments to 42 USC 5401 to 5425 and rules and regulations issued under 42 USC 5401 to 5425.

History: 1973 c. 116; 1979 c. 221; 1983 a. 27, 192.