

Assembly Hearing Slip

(Please print plainly)

Date: 11-20-97

Bill No. AB 404

Or  
Subject \_\_\_\_\_

(Name) Tom Springer

(Street Address or Route Number) 107 North Capitol

(City & Zip Code) \_\_\_\_\_

(Representing) Father of Bill

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 11/20/97

Bill No. AB 404

Or  
Subject \_\_\_\_\_

(Name) Tom White

(Street Address or Route Number) \_\_\_\_\_

(City & Zip Code) \_\_\_\_\_

(Representing) DATCP

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 20 Nov 1997

Bill No. AB 404

Or  
Subject \_\_\_\_\_

(Name) Colleen Wilson

(Street Address or Route Number) 330 E Lakeside St  
Madison 53715

(City & Zip Code) \_\_\_\_\_

(Representing) State Medical Society

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

# Assembly Hearing Slip

(Please print plainly)

Date: 11/20/97

Bill No. AS 404

Or  
Subject \_\_\_\_\_

Andrea Williams  
(Name)

1019 Milmon St. # 204  
(Street Address or Route Number)

MADISON, 53715-1367  
(City & Zip Code)

SELF  
(Representing)

Speaking *in favor*:

Speaking *against*:

Registering *in favor*:

Registering *against*:

Speaking *for information only*:

Neither *for nor against*:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

# Assembly Hearing Slip

(Please print plainly)

Date: 11-20-97

Bill No. AB 404

Or  
Subject Product Safety Toys

Kessy Schumann  
(Name)

121 University Ave.  
(Street Address or Route Number)

MADISON, WI 53715  
(City & Zip Code)

WSPRG  
(Representing)

Speaking *in favor*:

Speaking *against*:

Registering *in favor*:

Registering *against*:

Speaking *for information only*:

Neither *for nor against*:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 11-18-97

Bill No. AB 404

Subject

SWT PROHIBIT

(Name)

103 E DOTH ST. #203

(Street Address or Route Number)

MADISON, WI 53703

(City & ZIP Code)

WT ACADEMY OF RURAL LAWYERS

(Representing)

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 11/20

Bill No. AB 404

Subject Toy Safety

Zack Corrigan

(Name)

412 W Main

(Street Address or Route Number)

Madison WI 53703

(City & ZIP Code)

Wisconsin Public Interest Research Group

(Representing)

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

Mickey's point is  
good - also -  
since many people  
- esp. today -  
never see a doctor -  
they only see  
p.a.'s & nurses,  
etc.

## Assembly

### Record of Committee Proceedings

#### Committee on Consumer Affairs

##### Assembly Bill 404

Relating to: requiring physicians to report injuries to, and deaths of, minors that they suspect are caused by articles intended for use by minors and requiring the secretary of agriculture, trade and consumer protection to publicize dangers created by such articles.

By Representatives Springer, Ott, Ourada, Huber, Ryba, Riley, Bock, Plale, R. Young, Notestein, Boyle, L. Young, Robson, Hasenohrl, Sykora, Kelso and Plouff; cosponsored by Senators Decker, Clausing, Wirch and Roessler.

June 4, 1997                      Referred to committee on Consumer Affairs.

November 20, 1997    **PUBLIC HEARING HELD**

Present:    (7)    Representatives Otte, Johnsrud, Ott, M. Lehman, Urban, Hasenohrl and Black.  
Absent:    (1)    Representative Williams.

##### Appearances for

- Representative Tom Springer, author
- Jon White, Department of Agriculture, Trade & Consumer Protection

##### Appearances against

- None.

##### Appearances for Information Only

- Colleen Wilson, Madison, State Medical Society

##### Registrations for

- Andrea Williams, Madison, self
- Kerry Schumann, Madison, WISPIRG
- Scott Froehle, Madison, Wisconsin Academy of Trial Lawyers
- Zach Corrigan, Madison, Wisconsin Public Interest Researching

##### Registrations against

- None.

January 29, 1998

**EXECUTIVE SESSION**

Present: (8) Representatives Otte, Johnsrud, Ott, M.  
Lehman, Urban, Williams, Hasenohrl and  
Black.

Absent: (0) None.

Moved by Representative M. Lehman, seconded by Representative  
Urban, that **Assembly Amendment 1** be recommended for  
adoption.

Ayes: (8) Representative Otte, Johnsrud, Ott, M.  
Lehman, Urban, Williams, Hasenohrl and  
Black.

Noes: (0) None.

Absent: (0) None.

**ADOPTION RECOMMENDED, Ayes 8, Noes 0, Absent 0**

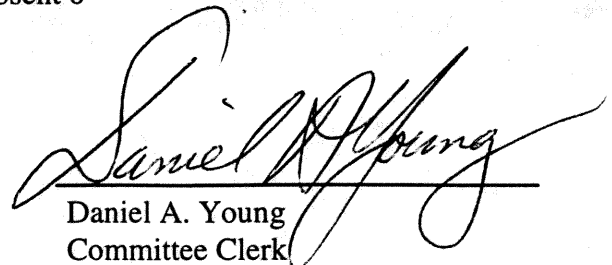
Moved by Representative Ott, seconded by Representative  
Hasenohrl, that **Assembly Bill 404** be recommended for passage as  
amended.

Ayes: (8) Representatives Otte, Johnsrud, Ott, M.  
Lehman, Urban, Williams, Hasenohrl and  
Black.

Noes: (0) None.

Absent: (0) None.

**PASSAGE AS AMENDED RECOMMENDED, Ayes 8, Noes 0,  
Absent 0**

  
Daniel A. Young  
Committee Clerk



# State Medical Society of Wisconsin

*Advancing the Science and Art of Medicine*

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**TO:** State Representative Cliff Otte, Chair  
Members, Assembly Committee on Consumer Affairs

**FROM:** M. Colleen Wilson, Legislative Counsel  
Government Relations

**RE:** Assembly Bill 404

**DATE:** November 20, 1997

The State Medical Society of Wisconsin appreciates the opportunity to offer comments with regard to Assembly Bill 404. AB 404 would require physicians to report injuries to and deaths of minors that the physician reasonably suspects were caused by a toy.

When Representative Springer authored this bill during the 1993-94 legislative session, he worked with the Medical Society to address some of our concerns, including giving a physician more discretion in deciding what injuries were to be reported to the Department of Agriculture, Trade and Consumer Protection. Physicians believe that further clarification of the reporting requirement to limit reports to serious injuries and deaths caused by the use of toys would prevent an overwhelming number of reports to DATCP. The Medical Society appreciates the Committee's consideration of an amendment to the bill to clarify that physicians are required to report to DATCP only serious injuries or deaths they reasonably suspect were caused by a toy.

SANDRA L. OSBORN, MD, *President*  
JOHN D. RIESCH, MD, *President-Elect*  
JOHN E. PATCHETT, JD, *Executive Vice President*  
JACK M. LOCKHART, MD, *Treasurer*



State of Wisconsin  
Tommy G. Thompson, Governor

## Department of Agriculture, Trade and Consumer Protection

Ben Brancel, Secretary

2811 Agriculture Drive  
Madison, Wisconsin 53718-6777

PO Box 8911  
Madison, WI 53708-8911

**Hearing Testimony - Assembly Bill 404**  
**Assembly Committee on Consumer Affairs**  
**Room 424 NE State Capitol**  
**Representative Clifford Otte, Chair**

**November 20, 1997**

Chairman Otte and Committee Members:

My name is Jon White. I am Chief of the Environment and Product Safety Section in the Bureau of Consumer Protection of the Department of Agriculture, Trade and Consumer Protection (DATCP). I coordinate the Wisconsin Consumer Product Safety Program in cooperation with the Bureau's regional offices.

Thank you for this opportunity to discuss Assembly Bill 404, a proposal to require physician reports of injuries to children caused by products specifically intended for use by children.

Ensuring safe products for consumers is a key element of the Bureau of Consumer Protection's mission. As the principal product safety agency in the state, the Bureau protects consumers from unreasonable risk of illness or injury from consumer products by:

- Identifying product hazards;
- Eliminating unsafe products or reducing risks of exposure to them;
- Providing the public with information they need to identify product hazards; and
- Providing the public with information they need to compare and use products safely.

On a national level, we work very closely with the US Consumer Product Safety Commission (CPSC) and coordinate extensively with product safety programs in other states. I have attached a fact sheet that provides an overview of DATCP's product safety program.

We strongly support Assembly Bill 404 for three reasons:

1. It seeks extra protection for vulnerable members of the population, children, who are less likely to recognize or anticipate hazards and generally cannot seek remedies on their own;
2. By focusing on injuries that require treatment by a physician, the bill takes aim at the most serious hazards; and
3. The bill proposes a formal system of injury reporting, where none currently exists, that will greatly enhance our ability to identify hazards before large numbers of individuals are affected.



Assembly Bill 404 includes two specific provisions affecting DATCP's consumer product safety program:

1. Any physician who treats a minor for an injury reasonably suspected to have been caused by a consumer product intended for use by children must report the incident to DATCP.
2. If the secretary determines that a consumer product intended for use by children poses an unreasonable risk or imminent hazard to the public health, welfare or safety, DATCP will ensure adequate public notice of the hazard.

### **Injury Reporting**

Incident reports are essential to an effective product safety program. The capacity to gather information on product-related injuries is vital to effective identification of product hazards before they affect large numbers of consumers. Right now we rely on consumer complaints, news media reports, and a network of colleagues and contacts including police and fire departments, coroners, health care providers with a specific interest in product safety, and product safety staff in other states and at CPSC. There is no formal, comprehensive injury reporting system. While we learn of many product-related injuries, many more go unreported and undiscovered.

At the national level, CPSC does have a method for obtaining incident reports through a network of 101 hospital emergency rooms that comprise the National Electronic Injury Surveillance System (NEISS). The NEISS hospitals voluntarily report product-related injuries to the National Injuries Information Clearinghouse. CPSC reviews these reports and follows up on some with telephone interviews and on-site investigations to determine the causal relationship, if any, between the product and the injury. Unfortunately, Clearinghouse data is not shared routinely with states, nor is the available information uniform or complete. Although current hospital participation in NEISS generates approximately 300,000 injury reports each year to CPSC, it is important to note that NEISS is designed as a national probability sample rather than a comprehensive injury reporting system.

A meaningful consumer product injury reporting system in Wisconsin could potentially provide DATCP with the means to quickly and independently evaluate product safety concerns, as well as improve CPSC's injury reporting network.

### **Public Notice**

The proposed legislation would require DATCP to provide public notice of product hazards. This is entirely consistent with the Department's existing responsibilities under the Hazardous

DATCP Hearing Testimony  
Assembly Bill 404  
November 20, 1997  
Page 3

Substances Act, s. 100.37, Stats., and the Product Safety law, s. 100.42, Stats., and does not pose any new or cumbersome obligation for the Department.

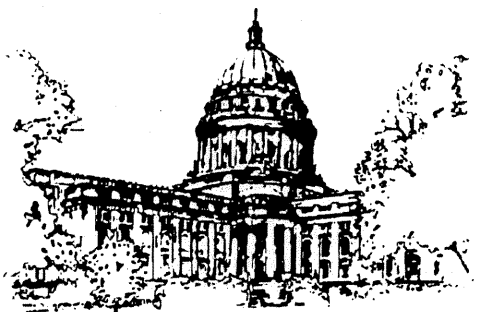
### **Work Load**

Injury reports will require some investigative follow-up by DATCP staff (interviews with health care professionals and patients, product analysis, on-site investigative work) to determine if a substantial product hazard exists. Based on our past experience with product safety investigations and CPSC's experience with NEISS reports, we estimate that injury reports generated by Assembly Bill 404 will result in approximately 1,400 hours of investigative work per year and another 475 hours of processing and administrative work (see DATCP's Fiscal Estimate). This new work load could be met largely through the addition of a 3/4 time investigator (0.75 FTE Regulation Compliance Investigator).

### **Conclusion**

We believe Assembly Bill 404 would establish a practical, reliable source of injury reports for serious hazards that affect children. Serious hazards and protecting children are both high priorities for DATCP's Product Safety program. Therefore, the Department supports this bill.

I would be happy to answer any questions the Committee members may have about the effect of Assembly Bill 404 on our product safety program.



STATE REPRESENTATIVE  
**TOM SPRINGER**

MADISON OFFICE  
P.O. BOX 8953  
MADISON, WI 53708  
(608) 266-1182

LEGISLATIVE HOTLINE  
1-800-362-9472

**Testimony of Representative Tom Springer**  
Before the Assembly Committee on Consumer Affairs  
Assembly Bill 404

November 20, 1997

Good morning Chairperson Otte and committee members.

I am before you today to testify on Assembly Bill 404. This legislation would require physicians to report the injuries or deaths of children that they reasonably suspect may be caused by a product that is intended for use by minors. It would also require the Secretary of Agriculture, Trade and Consumer Protection to give adequate notice to the public of products that create an unreasonable risk of injury or an imminent hazard.

I would like to add that this bill passed the Consumer Affairs committee the last time it was introduced in 1993. It went on to pass the Joint Finance committee and the full Assembly. Unfortunately, the session ended before action was taken in the Senate.

We all have fond childhood memories of playing with birthday gifts or other toys that we received on special occasions. Now, as adults, we give our children, nieces, nephews and grandchildren toys that we believe to be safe. However, the sad fact is that children in the United States die or are injured every year playing with toys.

In 1996, 13 deaths involving toys were reported. However, since there is not a mechanism for reporting in every state, that number may be low.

There were also 140,700 emergency room visits reported where children were injured by toys. Half of those were to children under the age of five and 80% were to children under the age of fifteen. Again, these are only "reported" cases.

Currently, there is no consistent system in Wisconsin to inform parents about toys that may be dangerous to their children. Parents must rely on the media to report dangerous toys, or wait for the industry to recall an item that has been found to be dangerous.

With this bill, DATCP can analyze current and accurate data. When there is a product that has been reported to cause injury, DATCP can make parents aware of potential dangers before buying a toy or give parents the choice to remove a toy from a child out of concern for their safety.

If there is a very serious threat of a defective toy harming children, DATCP would be able to use its power under Wisconsin State Statute 100.42 (3) to ban the sale of items that present an unreasonable risk of injury or imminent hazard.

The Department could also use its powers under 100.42 to ensure that the products are made safe or force the manufacturer to recall, replace or refund the products.

But the collection of data about product hazards is the first critical step in preventing deaths and injuries. By having a system of reporting, collecting and analyzing data relating to injuries and deaths of children by their toys and other product designed for use by children, Wisconsin would be taking an important step toward protecting our kids.

DATCP will be providing testimony on AB404 shortly. As you see in the fiscal estimate, this bill does not pose any new or special obligations on the department. In fact, this bill would be consistent with DATCP's current responsibilities under Wisconsin's product safety laws.

As the holiday season approaches, I am asking you for your support on this bill today so that we can begin to provide an extra measure of protection and safety for our kids.

Thank you for your time and consideration.

# **WISPIRG**

1121 University Ave., Madison, WI 53715 608-251-1918

November 20, 1997

## **Testimony of Kerry Schumann, WISPIRG State Director**

I am testifying in favor of AB404, a bill that will increase physician reporting of injuries and deaths of minors where the injury or death appears to be caused by a consumer product targeted at minors. Each year, WISPIRG researches and releases a report highlighting unsafe toys that are presently on the market. Although we have seen improvement in both the labeling and safety of toys, there are still many toys in stores that pose hazards to children. Because these unsafe products still exist, it's very important that hazardous toys and other products are reported and publicized. Parents need to be able to make informed decisions about the products they buy for their children.

According to the U.S. Consumer Product Safety Commission (CPSC), 13 toy-related deaths were reported in 1996, 10 of which were caused by children aged 12 months to 11 years choking on small toy parts or balloons. Also in 1996, 140,700 hospital emergency room visits were attributed to toy-related injuries. Almost one-half of those injuries were to children under the age of five, while almost 80 percent were to children under the age of 15. Since 1990, unsafe toys have caused 147 reported child deaths.

Children are needlessly dying or suffering injuries due to unsafe or improperly labeled products. Each year, WISPIRG researches and releases a report entitled, "Trouble in Toyland." The work of WISPIRG and other State PIRG's around the country to protect families from unsafe toys has resulted in recalls or other action taken on 50 toys in the past 12 years. Those 50 toys have been voluntarily recalled by the manufacturers, relabeled for hazards, or the CPSC has stopped their sale and distribution.

Obviously children should not be suffering or dying because of the very products that are meant to bring them joy. Products should be safe for children, and they should be properly labeled so that parents can make good, informed decisions when buying toys and other products for their children. Reports like WISPIRG's "Trouble in Toyland" help get unsafe toys off the market, and give parents the information to make good decisions. My experience with the PIRG Toy Safety report has been that after the report is released we receive numerous calls from parents around the country telling us their personal experiences with unsafe toys.

AB404 forces reporting of injuries and deaths caused by unsafe products, rather than waiting for parents to call different agencies with their personal anecdotes. Without this type of reporting it's very difficult to know what products are unsafe and make that information available to the public. WISPIRG supports AB404 because it provides a mechanism for reporting and making public information on toys and other products that have injured or killed children.

####

WISPIRG, the Wisconsin Public Interest Research Group, is a nonpartisan, nonprofit, consumer and environmental watchdog organization with over 16,000 supporters across the state.

WISPIRG's annual "Trouble in Toyland" report will be released Tuesday, November 25. For a copy of the report, please call the WISPIRG office at 251-1918.

## **Bureau of Consumer Protection Overview of the Product Safety Program**

### **Program Purpose**

Ensuring safe products for consumers is a key element of the Bureau of Consumer Protection's mission. As the principal product safety agency in the state, the Bureau protects consumers from unreasonable risk of illness or injury from consumer products by:

- Identifying product hazards.
- Eliminating unsafe products or reduce risks of exposure to them.
- Providing the public with information they need to identify product hazards.
- Providing the public with information they need to compare and use products safely.

### **Legal Authority**

The Bureau's product safety responsibilities are contained in five statutes: Hazardous Substances, s. 100.37; Antifreeze, s. 100.38; Flammable Fabrics, s. 100.41; Product Safety, s. 100.42; and Poison Prevention Packaging, s. 100.43. Under these statutes and general powers conveyed under Chapter 93 of the statutes, the Bureau has various compliance tools at its disposal. The Bureau may require special labels, order recalls or other corrective actions, restrict the method of sale for products, or summarily ban particularly hazardous products. The Bureau has established Chapter ATCP 139 which regulates the labeling of hazardous household products, sets standards for toys and other articles intended for use by children and establishes standards to ban the sale of certain products.

### **Administration and Enforcement**

All consumer product safety compliance, investigation, and outreach activities are undertaken by the general consumer protection staff of the Bureau of Consumer Protection. However, the Environment and Product Safety Section provides central coordination and program expertise.

Each product safety statute has its own particular requirements and compliance options.

#### ***1. The Hazardous Substances Act (s. 100.37, Stats.)***

Applicability and DATCP Authority. This law regulates the sale of household substances, including toys, that are toxic, corrosive, irritants, strong sensitizers, flammable, combustible, radioactive, which generate pressure from decomposition, or which pose an electrical, mechanical, or thermal hazard, if those substances or toys may cause substantial human injury or illness as a result of customary or reasonably foreseeable use. (The law provides for certain exemptions.) The law is modeled after a similar federal law administered by the U.S. Consumer Product Safety Commission.

Under this law, hazardous household substances must bear required cautionary labels. DATCP may adopt rules to do any of the following:

- Declare a substance to be hazardous if the Department finds that it poses a risk of substantial human injury or illness. This authority enables DATCP to resolve uncertainty consistent with the objectives of the law.
- Establish additional restrictions on the sale of a hazardous household substance including additional labeling requirements or restrictions on the method of sale.
- Prohibit the sale of a hazardous household substance if there is no other way to protect the public from an unreasonable health or safety risk.

- Prescribe package safety standards including packaging materials and safety closures for hazardous substances.
- Limit or ban the use of any ingredient or combination of ingredients in a hazardous substance.
- Grant reasonable exemptions from labeling requirements if the exemption is consistent with adequate protection for the public health and safety.

DATCP's rules on hazardous household substances are contained in Chapter ATCP 139 of the Wisconsin Administrative Code.

Enforcement Options. Enforcement options under the hazardous household substances laws are shown in Figure 1.

**Summary Orders.** As one option, DATCP may issue an order summarily banning the sale of a specific household substance or toy if that substance or toy poses a serious and imminent threat to public health or safety. An order banning a hazardous household substance must be issued by the DATCP Secretary or designee on the basis of a formal complaint and documentation filed by DATCP's Trade and Consumer Protection Division. The order is subject to a final trial-type hearing before an impartial hearing examiner and is also subject to judicial review.

**Holding Orders.** If DATCP's Trade and Consumer Protection Division has reasonable cause to believe that a household substance or toy is being sold in violation of the law or rules governing hazardous substances, the Division may issue a temporary holding order pending further analysis or examination of the substance. The holding order remains in effect for 14 days and prohibits the owner or custodian from selling or moving the substance without DATCP's permission. If, upon analysis or examination, the Division finds that the substance violates the hazardous substance law or rules, the division may file a formal administrative complaint and documentation with the Secretary asking the Secretary to issue a permanent ban.

**Other Options.** If any person sells a banned or misbranded substance, the seller must, upon the demand of any purchaser, accept the return of that substance and provide the purchaser with a full refund. If any person violates the hazardous substances law, or any DATCP rule or order issued under the law, DATCP may seek a court order enjoining the violation. Violations are also subject to a criminal penalty of up to \$5,000 or a year in jail, or both.

## 2. *Product Safety (s. 100.42, Stats.)*

Applicability and DATCP Authority. This law applies to products sold or distributed for use in or around the home, or for recreational purposes. It does not apply to certain exempt products such as motor vehicles and boats. The law prohibits any person from selling a consumer product in violation of federal rules adopted by the U.S. Consumer Product Safety Commission. It also authorizes DATCP to adopt consumer product safety standards that conform to federal standards.

Under this law, the DATCP Secretary or designee may issue an order which does any of the following:

- Summarily bans the sale of any consumer product that violates the law or rules issued under the law. Even if the product does not violate existing standards, an order may ban the sale of the product if DATCP determines that the product represents an unreasonable risk of injury or imminent hazard to the public health, welfare or safety.
- Orders a seller to bring the product into compliance, recall the product, or repair specified safety defects in products already sold.
- Orders a seller to replace the product with an equivalent non-defective product that complies with safety standards.



- Orders a seller to refund the purchase price of the product.

To obtain an order related to a hazardous consumer product, the Trade and Consumer Protection Divisions must file a formal administrative complaint and documentation with the Secretary. An order is subject to a trial-type hearing before an impartial hearing examiner and is also subject to judicial review.

Enforcement Options. Enforcement options under the consumer product safety law are shown in Figure 2. Any person who violates the product safety law, including any rule or order issued by DATCP, is subject to a criminal fine of up to \$200 or a jail sentence of up to 6 months, or both. A person who violates a court injunction is subject to the contempt sanctions under ch. 985, Stats.

### **3. The Flammable Fabrics Act (s. 100.41, Stats.)**

Applicability and DATCP Authority. This law prohibits any person from selling household or recreational furnishings or wearing apparel unless the fabric used complies with flammability standards adopted by the U.S. Consumer Product Safety Commission. DATCP may adopt flammability standards and labeling requirements conforming to federal standards and may ban the sale of any product or material if the flammability of that product or material constitutes a clear and present hazard to personal safety or property. DATCP may issue an order summarily banning a product or material if the hazard is so serious and imminent that summary action is necessary.

Enforcement Options. Violations of this law, including rules or orders issued under the law, are subject to criminal penalties of up to \$200 in fines, 6 months in jail, or both (s. 100.26(1), Stats.).

### **4. Poison Prevention Packaging (s. 100.43, Stats.)**

Applicability and DATCP Authority. This law prohibits the sale of household substances which fail to comply with "child-proof" packaging requirements adopted by the U.S. Consumer Product Safety Commission. DATCP may adopt "child-proof" packaging rules that conform to federal rules. DATCP may summarily ban the sale of any substance sold in violation of state or federal rules.

Enforcement Options. Violations are subject to criminal penalties including a fine of up to \$200, 6 months in jail, or both (s. 100.26(1), Stats.).

### **Relationship With CPSC and Other Agencies**

The Bureau works closely with the US Consumer Product Safety Commission. The agencies cooperate in hazard identification, marketplace monitoring, investigations, research, compliance actions and public information. DATCP has a memorandum of understanding with CPSC and performs number of functions for CPSC on a cooperative contract basis including:

- In Depth Investigations. IDIs provide basic information for CPSC to use in assessing product safety hazards. IDIs are simple and factual with no interpretation. CPSC analyzes IDIs from around the country in making their own determinations regarding product hazards. The Bureau carried out 20 IDIs in 1996-97.
- Recall Effectiveness Checks. DATCP staff inspect retail stores on assignment from CPSC to gather information on the effectiveness of CPSC recalls. The Bureau averages 15 recall effectiveness checks per year.
- Compliance Monitoring / Undercover Inspections. DATCP staff perform marketplace surveys of compliance with CPSC mandatory standards and voluntary agreements. In 1996-97 Bureau staff performed marketplace surveys of compliance with new standards for vinyl miniblinds, children's outerwear drawstrings, acidic drain cleaners, and wood treatment products. Bureau staff also perform undercover surveillance of ATV dealers to ensure compliance with a consent decree regarding sales of ATVs for use by children.

The Bureau of Consumer Protection has embarked on a significant cooperative planning effort aimed at strengthening its relationship with CPSC and other state and local agencies. Our plan was cited by CPSC as a model for other states to follow. Improved use of communications technology is a key feature of the plan.

We have made particular improvements in electronic information sharing with CPSC and other state programs. We receive CPSC press releases, consumer alerts, research articles and other information via e-mail and the World Wide Web. Approximately 30 states actively share information on their state programs through a system coordinated by CPSC. The Bureau regularly uses e-mail to alert CPSC to serious product hazards or incidents so that the state and federal agencies can respond quickly in a coordinated fashion.

Bureau of Consumer Protection staff helped establish the International Consumer Product Health and Safety Organization (ICPHSO), to provide an international forum for the exchange of information on consumer product health and safety programs, policies and issues. Its members include manufacturers and distributors of consumer products from around the world, product liability experts and government officials from the Americas, Asia and Europe. Fran Tryon currently serves on the Board of Directors and Jon White serves as Chair of the Rapid Information Exchange Committee.

### **DATCP Regulatory Philosophy**

An important strategy in carrying out our responsibilities is application of the Department's Regulatory Philosophy. This philosophy emphasizes

#### **1. Collaborative problem solving**

- Seek solutions through mutual agreement when possible
- Maintain flexibility in pursuing our goals
- Get stakeholder input into our actions and decisions and
- Maintain productive working relationships with the regulated community

#### **2. Information & Education**

- Most far reaching and powerful tool
- Help the public make informed choices
- Give business information they need to comply

#### **3. Voluntary Compliance**

The best, most efficient means of reaching our compliance objectives is for businesses to comply on their own and police themselves.

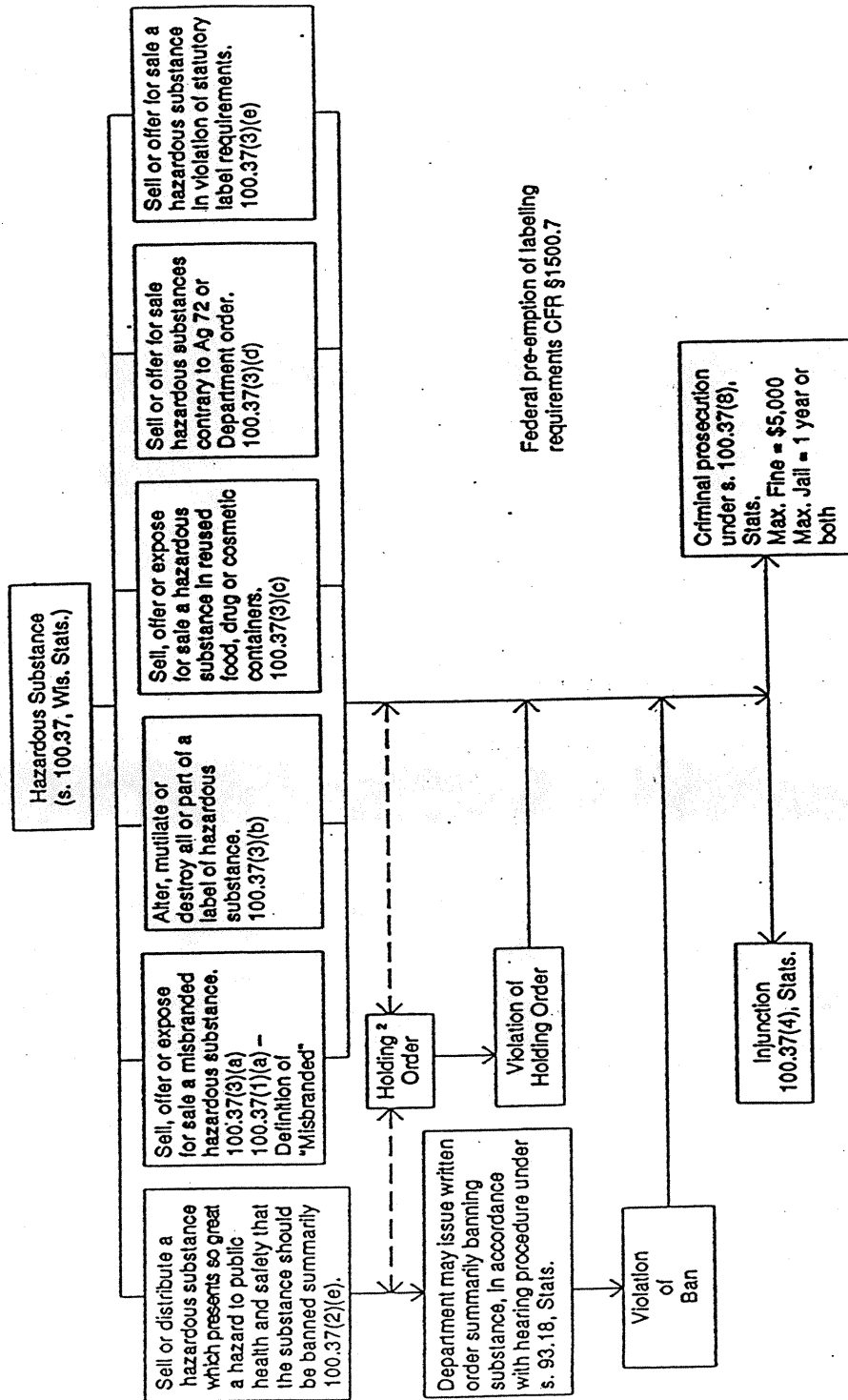
#### **4. Progressive Enforcement**

- Just enough enforcement
- Firm but fair

The Bureau's most powerful compliance tool is public information. The Bureau collects information from consumer complaints, news reports, and other public and professional contacts. The Bureau also uses the news media, information technology and "multiplier" organizations to disseminate product safety information. In keeping with the Department's regulatory philosophy of voluntary compliance and progressive enforcement, staff work with manufacturers and retailers to identify and correct problems without formal enforcement where possible or practical and often mediate between complainants and companies.

FIGURE 1. (From Appendix 4 of Consumer Protection: A Program Analysis and Plan.

Wisconsin Department of Agriculture, Trade and Consumer Protection  
Administrative and Court Enforcement Actions Under S. 100.37, Stats.<sup>1</sup>



<sup>1</sup>NOTE: Chart does not include possible rulemaking actions.

By Rule (Ag 72) the Department may:

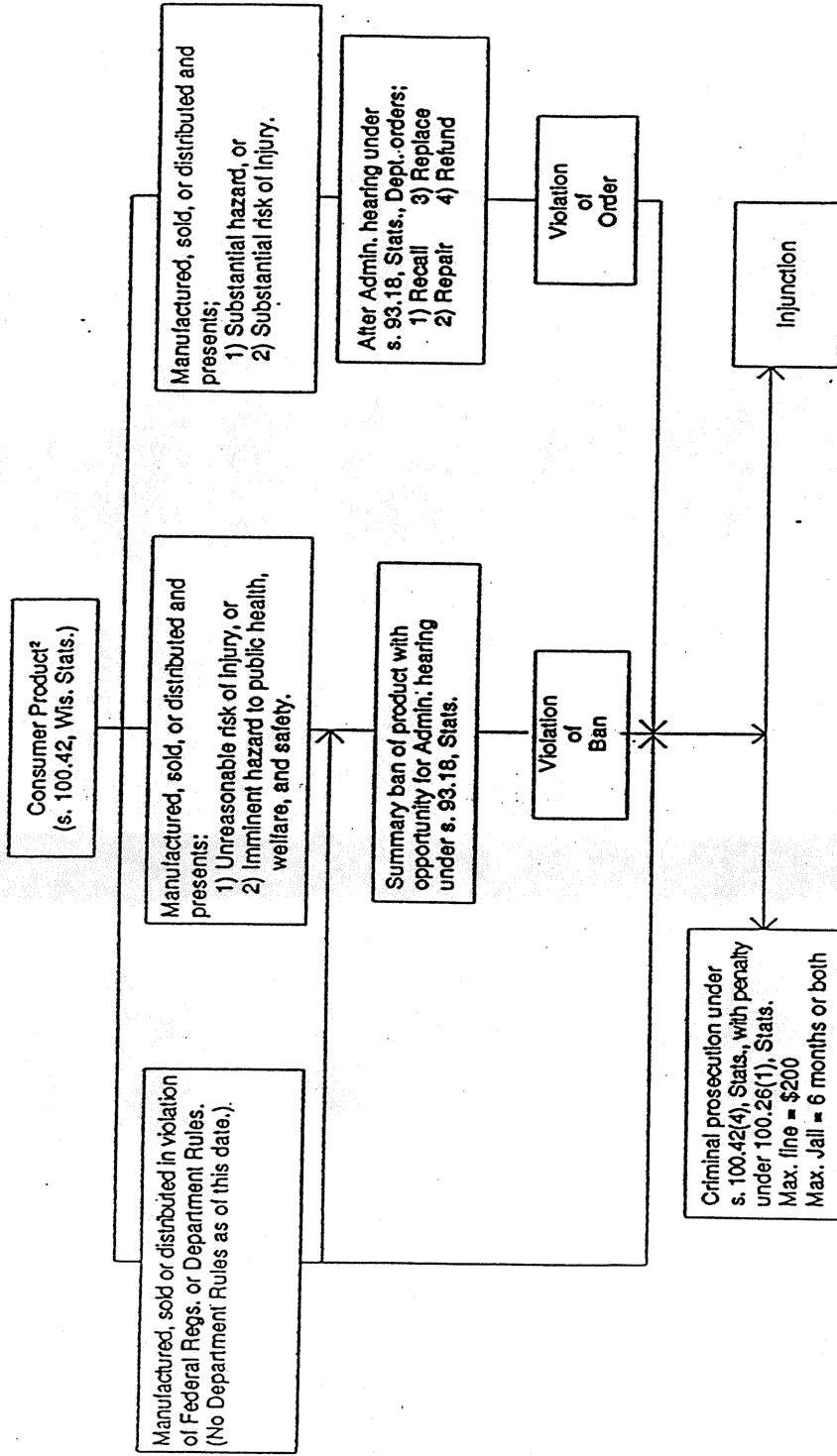
- 1) Declare a substance to be a hazardous substance.
- 2) Prohibit sale of a hazardous substance.
- 3) Prescribe package safety standards.
- 4) Limit use of any ingredient in a hazardous substance.
- 5) Prescribe methods of sale of hazardous substance.
- 6) Grant exceptions to labeling requirements.

<sup>2</sup>Holding Orders:

May be used to prevent sale or movement for 14 days of a substance when have reasonable cause to believe substance in violation of law or poses imminent hazard to public health or safety. s. 100.37(5), Stats.

FIGURE 2. (From Appendix 5 of Consumer Protection: A Program Analysis and Plan.

Wisconsin Department of Agriculture, Trade and Consumer Protection  
Administrative and Court Enforcement Actions Under S. 100.42, Stats.<sup>1</sup>



NOTE:

<sup>1</sup>Chart does not include potential rulemaking actions, including potential rulemaking actions under s. 100.42(2), Stats.

<sup>2</sup>Consumer Product = Any article sold or produced or distributed for sale to consumers for personal use in or around the home or recreational use except

- 1) Ammunition
- 2) Motor vehicle and equipment
- 3) Aircraft and equipment
- 4) Boats and equipment
- 5) Pesticides
- 6) Food

- 7) Drugs
- 8) Products regulated by other Federal or State laws, to the extent covered by those laws.
- 9) Hazardous substances

*Assembly*

**Committee Report**

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The committee on Consumer Affairs, reports and recommends:

**Assembly Bill 404**

Relating to: requiring physicians to report injuries to, and deaths of, minors that they suspect are caused by articles intended for use by minors and requiring the secretary of agriculture, trade and consumer protection to publicize dangers created by such articles.

By Representatives Springer, Ott, Ourada, Huber, Ryba, Riley, Bock, Plale, R. Young, Notestein, Boyle, L. Young, Robson, Hasenohrl, Sykora, Kelso and Plouff; cosponsored by Senators Decker, Clausing, Wirch and Roessler.

ADOPTION OF ASSEMBLY AMENDMENT 1 , Ayes 8, Noes 0,  
Absent 0

Ayes: (8) Representative Otte, Johnsrud, Ott, M.  
Lehman, Urban, Williams, Hasenohrl and  
Black.

Noes: (0) None.

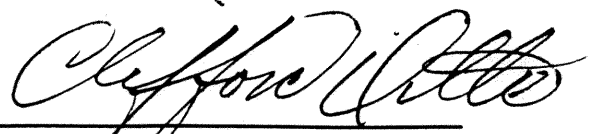
Absent: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 8, Noes 0,  
Absent 0

Ayes: (8) Representatives Otte, Johnsrud, Ott, M.  
Lehman, Urban, Williams, Hasenohrl and  
Black.

Noes: (0) None.

Absent: (0) None.



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Representative Clifford Otte  
Chair

**FISCAL ESTIMATE**

LRB or Bill No. / Adm. Rule No. AB 404 (-2578/1)
Amendment No. (If Applicable)

DOA-2048 (R 10/94)

- ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

**Subject**

Physician reporting of injuries to children caused by consumer products

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

- Increase Costs - May be possible to Absorb Within Agency's Budget       Yes       No  
 Decrease Costs

Local:  No local government costs

1.  Increase Costs  
     Permissive       Mandatory  
 2.  Decrease Costs  
     Permissive       Mandatory

3.  Increase Revenues  
     Permissive       Mandatory  
 4.  Decrease Revenues  
     Permissive       Mandatory

5. Types of Local Governmental Unit Affected:  
 Towns       Villages       Cities  
 Counties       Others \_\_\_\_\_  
 School Districts       WTCS Districts

**Fund Source Affected**

- GPR       FED       PRO       PRS       SEG       SEG-S

Affected Ch. 20 Appropriations  
20.115(1)(a)

**Assumptions Used in Arriving at Fiscal Estimate**

**Public Notice:** The proposed legislation would require DATCP to provide public notice of product hazards consistent with the Department's existing responsibilities under s. 100.42, stats., Product Safety. This does not pose any new or special obligation for the department

**Report Receipt and Case Investigation:** The proposed legislation would require physicians to report to DATCP injuries to children caused by consumer products. DATCP activities related to this requirement would be entirely consistent with DATCP's current responsibilities under the state's product safety laws (e.g., hazardous substances, product safety). However, the reports would constitute a significant new source of injury data not previously available to the department. Knowledge of incidents would demand action by the department above and beyond that which is already undertaken.

It is difficult to project the number of new product injury reports and additional work load that would be produced, but a useful estimate of potential reports may be generated from the experience of the United States Consumer Product Safety Commission (CPSC) and its National Electronic Injury Surveillance System (NEISS). NEISS is used by CPSC to provide estimates of total injuries nationwide associated with the use of consumer products. Each year NEISS receives an average of 160,000 reports of injuries related to consumer products from the participating hospitals (approximately 2,450 per hospital). It is important to note that this total includes all injuries associated with use of the product whether or not they are actually caused by the product. From summary information provided by CPSC, it appears that roughly 20% of NEISS injury reports involve children. Most reports reviewed in detail are dealt with quickly, but approximately 10% require follow-up investigation.

Wisconsin has 127 general medical-surgical hospitals. Assuming that, on average, these hospitals are similar to the NEISS population of hospitals, the total number of product related injuries treated each year in Wisconsin which involve children is projected at approximately 62,000. The actual number of expected reports depends upon on the

- CONTINUED -

**Long - Range Fiscal Implications**

No additional effects anticipated.

Agency/prepared by: (Name & Phone No.)

DATCP

Jon A. White 608/224-4941

Authorized Signature/Telephone No.

*Barbara Knapp*

Barbara Knapp (608) 224-4746

Date

6/19/97

percentage of injuries to minors which are actually caused by products and which involve products that are intended for use by children and which health care providers deem worthy of reporting. A reasonable estimate would be approximately 0.5% of the 62,000 total injuries or approximately 300 reports. Additional reports could be expected from physician clinics or offices (number unknown).

**New Workloads.**

Processing Reports and Follow-up Inquiries: Physician injury reports would be handled like written complaints. According to an analysis of Bureau of Consumer Protection activities, each written complaint requires approximately 0.75 hours for data entry, screening and preliminary analysis. Some preliminary follow-up for more information can also be expected. Assuming 300 reports processed per year, this would involve approximately 225 hours of staff work time (approximately 200 hours by investigators and 25 hours by clerical staff).

Investigations: Based on the CPSC experience, approximately 10% of all reports warrant detailed inquiries. Note that this includes reports where the consumer product may only have been involved, not a cause of the injury. Since the proposed reporting requirement involves some preliminary self-screening by the physicians, a somewhat higher percentage of reports may warrant investigation. Nevertheless, 10% or 30 reports is a reasonable estimate for the number of reports that warrant in-depth investigation. Experience with in-depth product safety investigations under the state product safety program suggests that each of these detailed inquiries would require, on average, about 25 hours of staff investigator time to investigate; approximately 750 hours of investigator staff time.

Administrative and Enforcement Actions: Usually 1 in 50 in-depth investigations results in further administrative action. However, the physician reports are more likely to indicate serious cases than the general population of consumer complaints. Perhaps as many as 5 cases each year would involve additional administrative or enforcement activity (e.g., recalls, summary bans, special orders, injunctions, rulemaking) involving department attorneys, administrators, and further commitment of time from investigators. Analysis of the Bureau's time allocation shows that each administrative/enforcement action requires approximately 180 staff hours to complete. Approximately 90 hours of this is investigator time. Five formal actions would require a total of approximately 450 investigator hours and 450 hours by attorneys, administrators, and clerical staff for a total of 900 total staff hours.

TOTALS: Based on the above, the total projected new workload associated with physician injury reports would be expected to break down as follows:

Investigator Work Load		Other Staff Work Loads	
Report Processing / Screening	200 hrs	Report Processing / Screening	25 hrs
Investigation	750 hrs		
Administrative and Enforcement	450 hrs	Administrative and Enforcement	450 hrs
	<hr/>		<hr/>
Total	1400 hrs		475 hrs

1.0 FTE provides approximately 1880 hours of productive work time in a year. The new investigative work load could be addressed by the addition of 0.75 FTE investigator (RCI 1, range 9) in the Bureau of Consumer Protection specializing in product safety. (0.75 FTE = 1410 hours per year productive work time.)

Projected investigative work loads associated with the physician reports are consistent with existing product safety program responsibilities. The reports would be a new source of incident information (not currently available) that, by their very nature, would demand action beyond the product safety actions already undertaken by the department. Other new work loads (the non-investigative work loads) could largely be absorbed by existing staff by reordering program priorities.

Alternative: Many of the investigative activities could be absorbed by existing staff in the Environment & Product Safety Section and the Bureau's general Consumer Protection program regional offices. However, these staff are currently engaged with other consumer protection program responsibilities. If existing staff resources were diverted to handle the new workload, essential functions currently performed in other consumer protection programs would be sacrificed.

**FISCAL ESTIMATE WORKSHEET**

**1997 SESSION**

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/94)

ORIGINAL  UPDATED  
 CORRECTED  SUPPLEMENTAL

LRB or Bill No/Adm.Rule No. AB 404	Amendment No.
---------------------------------------	---------------

<b>Subject</b> Physician reporting of injuries to children caused by consumer products		
<b>I. One-time Cost or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b> Office / Workstation set-up - \$4,000 Computer - \$3,000		
<b>II. Annualized Cost:</b>	<b>Annualized Fiscal Impact on State funds from:</b>	
<b>A. State Costs by Category</b>	<b>Increased Costs</b>	<b>Decreased Costs</b>
State Operations - Salaries and Fringes	\$ 21,800	\$ -
(FTE Position Changes)	(0.75 FTE)	(- FTE)
State Operations - Other Costs	9,500	-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>TOTAL State Costs by Category</b>	<b>\$ 31,300</b>	<b>\$ -</b>
<b>B. State Costs by Source of Funds</b>	<b>Increased Costs</b>	<b>Decreased Costs</b>
GPR	\$ 31,300	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>III. State Revenues -</b> <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	<b>Increased Rev.</b>	<b>Decreased Rev.</b>
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>TOTAL State Revenues</b>	<b>\$</b>	<b>\$ -</b>

**NET ANNUALIZED FISCAL IMPACT**

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ <u>31,300</u>	\$ _____
NET CHANGE IN REVENUES	\$ _____	\$ _____

<b>Agency Prepared by: (Name &amp; Phone No.)</b> DATCP Jon A. White 608/224-4941	<b>Authorized Signature/Telephone No.</b> <i>Barbara Knapp</i> Barbara Knapp (608) 224-4746	<b>Date</b> 6/16/97
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- ORIGINAL
- UPDATED
- CORRECTED
- SUPPLEMENTAL

FISCAL ESTIMATE

DOA-2048 N(R10/94)

Subject

Physicians' Reports of Injuries to Minors

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Decrease Costs

Local:  No local government costs

- 1.  Increase Costs
  - Permissive
  - Mandatory
- 2.  Decrease Costs
  - Permissive
  - Mandatory

- 3.  Increase Revenues
  - Permissive
  - Mandatory
- 4.  Decrease Revenues
  - Permissive
  - Mandatory

5. Types of Local Governmental Units Affected:

- Towns
- Villages
- Cities
- Counties
- Others \_\_\_\_\_
- School Districts
- WTCS Districts

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This bill require physicians to report certain injuries to or deaths of minors to the Department of Agriculture, Trade and Consumer Protection. This bill will have no fiscal effect on the Department.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Ellen Hadidian 266-8155

(DHFS)

Authorized Signature/Telephone No.

Richard Lorang 266-9622

*Richard Lorang*

Date

June 19, 1997

whiteja@wheel.  
datcp.  
state. WI.  
US

Jon  
White

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DATCP

product  
safety  
(div.)  
(director)

AL: AB404

October 22, 1997

Representative Tom Springer  
107 North, State Capitol  
Madison, WI INTER-D

Dear Representative Springer:

Thank you for your letter requesting a public hearing on Assembly Bill 404. At this point I have a backlog of such requests, which I am attempting to honor.

My ability to hold hearings has been hindered by a number of circumstances generally beyond my control. These include the budget delay, a conflict in scheduling with a committee that I am vice-chair of, and a "policy" that has been "established" generally prohibiting holding any committee meetings on session days. The latter policy will likely preclude me from scheduling any committee meetings in November.

I have added your request to the growing list and I hope to hold a hearing on your bill on either December 4 or January 29. If you have any questions, please contact me or the committee clerk, Dan Young.

Sincerely,

CLIFFORD OTTE  
Chairman  
Assembly Committee on Consumer Affairs.

CO:bmd



STATE REPRESENTATIVE  
TOM SPRINGER

MADISON OFFICE  
P.O. BOX 8953  
MADISON, WI 53708  
(608) 266-1182

LEGISLATIVE HOTLINE  
1-800-362-9472

October 8, 1997

Representative Clifford Otte, Chairman  
Assembly Consumer Affairs Committee  
109 W.  
State Capitol

Dear Chairman Otte,

Assembly Bill 404 has been referred to the Consumer Affairs Committee. The bill relates to reporting injuries to minors caused by toys.

I am writing to respectfully request a public hearing on AB 404. Your consideration is appreciated.

Sincerely,

Tom Springer  
State Representative  
86<sup>th</sup> Assembly District

TS:amz



STATE REPRESENTATIVE  
TOM SPRINGER

MADISON OFFICE  
P.O. BOX 8953  
MADISON, WI 53708  
(608) 266-1182

LEGISLATIVE HOTLINE  
1-800-362-9472

January 29, 1998

RE: EXEC ON AB 404

Dear Consumer Affairs Committee member:

I apologize for not attending the executive session on Assembly Bill 404. I have a prior commitment.

During the public hearing on AB 404 Representatives M. Lehman and Urban each expressed a concern with the bill. Assembly Amendment 1 addresses those concerns. I think AA1 improves the bill and I hope that you will pass it out of committee. Thank you for your consideration.

Sincerely,

Tom Springer  
State Representative  
86<sup>th</sup> Assembly District

# Vote Record

## Assembly Committee on Consumer Affairs

Date: 1-29-98  
Moved by: Off Seconded by: Hasenohrl  
AB: 404 Clearinghouse Rule: \_\_\_\_\_  
AB: \_\_\_\_\_ SB: \_\_\_\_\_ Appointment: \_\_\_\_\_  
AJR: \_\_\_\_\_ SJR: \_\_\_\_\_ Other: \_\_\_\_\_  
A: \_\_\_\_\_ SR: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_  
A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
A/S Sub Amdt: \_\_\_\_\_  
A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_  
A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_

Be recommended for:  
 Passage *as amended*  
 Introduction  
 Adoption  
 Rejection

Indefinite Postponement  
 Tabling  
 Concurrence  
 Nonconcurrence  
 Confirmation

Committee Member	Aye	No	Absent	Not Voting
Rep. Clifford Otte, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. DuWayne Johnsrud	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Alvin Ott	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Michael Lehman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Frank Urban	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Annette Polly Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Donald Hasenohrl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Spencer Black	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>8</u>	<u>0</u>	<u>0</u>	<u>0</u>

Motion Carried  Motion Failed

# Vote Record

## Assembly Committee on Consumer Affairs

Date: 1-29-98  
Moved by: Lehman Seconded by: Urban  
AB: \_\_\_\_\_ Clearinghouse Rule: \_\_\_\_\_  
AB: \_\_\_\_\_ SB: \_\_\_\_\_ Appointment: \_\_\_\_\_  
AJR: \_\_\_\_\_ SJR: \_\_\_\_\_ Other: AA1 to AB404  
A: \_\_\_\_\_ SR: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_  
A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
A/S Sub Amdt: \_\_\_\_\_  
A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_  
A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_

Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

### Committee Member

- Rep. Clifford Otte, Chair
- Rep. DuWayne Johnsrud
- Rep. Alvin Ott
- Rep. Michael Lehman
- Rep. Frank Urban
- Rep. Annette Polly Williams
- Rep. Donald Hasenohrl
- Rep. Spencer Black

*unanimous consent*

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>8</u>	<u>0</u>	<u>0</u>	<u>0</u>

Motion Carried

Motion Failed