



DOA:.....Stritchko, BB0095 – Transfer of DSPS programs to DATCP

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

do not go

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

SAFETY AND PROFESSIONAL SERVICES

BUILDINGS AND SAFETY

Under current law, DSPS has various duties and powers relating to regulation of petroleum products and hazardous substances:

1. DSPS prescribes grade specifications for gasoline and similar fuels and administers laws regulating the inspection and sale of those fuels and other petroleum products.
2. DSPS regulates the installation, maintenance, and removal of tanks that contain flammable or combustible liquids or federally regulated hazardous substances.
3. DSPS is required to administer a program to inventory aboveground and underground petroleum storage tanks.

This bill transfers these powers and duties from DSPS to DATCP.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 20.115 (1) (b) of the statutes is created to read:

2 20.115 (1) (b) *Petroleum products; inspection and storage.* The amounts in the
3 schedule for the purposes of ch. 168.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

← INSERT 2-3

4 SECTION 2. 20.115 (1) (t) of the statutes is created to read:

5 20.115 (1) (t) *Petroleum products; petroleum inspection fund.* From the
6 petroleum inspection fund, the amounts in the schedule for the purposes of ch. 168.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

7 SECTION 3. 20.165 (2) (a) of the statutes is amended to read:

8 20.165 (2) (a) *General program operations.* The amounts in the schedule for
9 general program operations relating to the regulation of industry, buildings, and
10 safety under chs. 101, 107, and 145, ~~and 168~~ and ss. 167.10 and 167.27.

11 SECTION 4. 20.165 (2) (dm) of the statutes is renumbered 20.115 (1) (c) and
12 amended to read:

13 20.115 (1) (c) *Storage Petroleum products; storage tank inventory.* The amounts
14 in the schedule to conduct an inventory of aboveground petroleum product storage
15 tanks and unused underground petroleum product storage tanks under s. ~~101.142~~
16 168.30.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

← INSERT 2-16

17 SECTION 5. 20.165 (2) (j) of the statutes is amended to read:

18 20.165 (2) (j) *Safety and building operations.* The amounts in the schedule for
19 the purposes of chs. 101, and 145, ~~and 168~~ and ss. 167.35, 236.12 (2) (a), 236.13 (1)
20 (d) and (2m), and 236.335, for the purpose of transferring the amounts in the
21 schedule under par. (kg) to the appropriation account under par. (kg), and for the

1 purpose of transferring the amounts in the schedule under par. (km) to the
2 appropriation account under par. (km). All moneys received under ch. 145, ss.
3 101.178, 101.19, 101.63 (9), 101.654 (3), 101.73 (12), 101.82 (4), 101.955 (2), 101.973
4 (7), 167.35 (2) (f), and 236.12 (7) and all moneys transferred under 2005 Wisconsin
5 Act 45, section 76 (6), shall be credited to this appropriation.

6 **SECTION 6.** 20.165 (2) (ma) of the statutes is amended to read:

7 20.165 (2) (ma) *Federal aid-program administration.* All moneys received
8 from the federal government, as authorized by the governor under s. 16.54, to fund
9 the state's administrative costs for general program operations relating to the
10 regulation of industry, buildings and safety under chs. 101, 107, and 145 and 168 and
11 ss. 32.19 to 32.27, 167.10, and 167.27.

12 **SECTION 7.** 20.165 (2) (r) of the statutes is amended to read:

13 20.165 (2) (r) *Safety and building operations; petroleum inspection fund.* From
14 the petroleum inspection fund, the amounts in the schedule for the purposes of ~~ch.~~
15 ~~168 and ss. 101.09, 101.142, and 101.1435.~~

16 **SECTION 8.** 25.47 (7) of the statutes is amended to read:

17 25.47 (7) The fees imposed under s. ~~101.09 (3) (d)~~ 168.23 (4).

18 **SECTION 9.** 45.44 (1) (a) 5. of the statutes is amended to read:

19 45.44 (1) (a) 5. A license, certification, registration, or permit issued under s.
20 94.10 (2), (3), or (3g), 94.50 (2), 94.704, 95.60, 97.17 (2), 97.175 (2), 97.22 (2), 98.145,
21 98.146, ~~or 98.18 (1) (a), or 168.23 (3).~~

← INSERT
3-21

22 **SECTION 10.** 93.135 (1) (rg) of the statutes is created to read:

23 93.135 (1) (rg) A certification or registration under s. 168.23 (3).

24 **SECTION 11.** 98.246 (1) of the statutes is amended to read:

← INSERT
3-23

1 98.246 (1) In this section, "petroleum products" has the meaning given under
2 s. ~~168.03~~ 168.01 (3).

***NOTE: Do you want to transfer the provisions under s. 101.02 (18m) to DATCP? *to do*

3 SECTION 12. 101.02 (20) (a) of the statutes is amended to read:

4 101.02 (20) (a) For purposes of this subsection, "license" means a license,
5 permit, or certificate of certification or registration issued by the department for an
6 occupation or profession under s. ~~101.09 (3) (e)~~, 101.122 (2) (c), 101.143 (2) (g),
7 101.147, 101.15 (2) (e), 101.16 (3g), 101.17, 101.178 (2) or (3) (a), 101.63 (2) or (2m),
8 101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951,
9 101.952, 101.96 (2), 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16,
10 145.165, 145.17, 145.175, 145.18, or 167.10 (6m) or under rules promulgated under
11 ch. 101 or 145.

***NOTE: By deleting the cross-reference to s. 101.09 (3) (c) in s. 101.02 (20) (a),
s. 73.0301 (denial of licenses and similar approvals for failure to pay state taxes) does not
apply to the certifications and registrations under s. 101.09 (3) (c), as renumbered in this
draft. I cannot find any place in the statutes where licenses or similar approvals issued
by DATCP are denied for this purpose. Therefore, since s. 101.09 (3) (c) certifications or
registrations will be issued by DATCP, they will not be denied for failure to pay state
taxes. OK? *to do*

12 SECTION 13. 101.02 (21) (a) of the statutes is amended to read:

13 101.02 (21) (a) In this subsection, "license" means a license, permit, or
14 certificate of certification or registration issued by the department for an occupation
15 or profession under s. ~~101.09 (3) (e)~~, 101.122 (2) (c), 101.143 (2) (g), 101.147, 101.15
16 (2) (e), 101.16 (3g), 101.17, 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73
17 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.96 (2),
18 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17,
19 145.175, 145.18, or 167.10 (6m) or under rules promulgated under ch. 101 or 145.

***NOTE: The treatment of s. 101.02 (21) (a) and the creation of s. 93.135 (1) (rg)
results in s. 101.09 (3) (c) registrations and certifications continuing to be subject to s.
49.857 (denial of licenses and similar approvals for failure to pay child support.)

1 **SECTION 14.** 101.02 (24) (a) 2. of the statutes is amended to read:

2 101.02 (24) (a) 2. “License” means a license, permit, or certificate of
3 certification or registration issued by the department for an occupation or profession
4 under s. ~~101.09 (3) (e)~~, 101.122 (2) (c), 101.143 (2) (g), 101.147, 101.15 (2) (e), 101.16
5 (3g), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.654,
6 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952,
7 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17,
8 145.175, 145.18, or 167.10 (6m) or under rules promulgated under ch. 101 or 145.

9 **SECTION 15.** 101.09 (title) of the statutes is repealed.

10 **SECTION 16.** 101.09 (1) (intro.) of the statutes is renumbered 168.21 (intro.) and
11 amended to read:

12 **168.21 Definitions.** (intro.) In this section subchapter:

13 **SECTION 17.** 101.09 (1) (a) of the statutes is renumbered 168.21 (1).

14 **SECTION 18.** 101.09 (1) (am) of the statutes is renumbered 168.21 (3).

15 **SECTION 19.** 101.09 (1) (b) of the statutes is renumbered 168.21 (4).

16 **SECTION 20.** 101.09 (1) (c) of the statutes is renumbered 168.21 (5).

17 **SECTION 21.** 101.09 (1) (cm) of the statutes is renumbered 168.21 (6).

18 **SECTION 22.** 101.09 (1) (d) of the statutes is renumbered 168.21 (7).

19 **SECTION 23.** 101.09 (2) (title) of the statutes is renumbered 168.22 (title).

20 **SECTION 24.** 101.09 (2) (a) of the statutes is renumbered 168.22 (1) and
21 amended to read:

22 168.22 (1) Except as provided under ~~pars. (b) to (d)~~ subs. (2) to (5), every person
23 who constructs, owns or controls a tank for the storage, handling or use of liquid that
24 is flammable or combustible or a federally regulated hazardous substance shall
25 comply with the standards adopted under ~~sub. (3)~~ s. 168.23.

1 **SECTION 25.** 101.09 (2) (b) of the statutes is renumbered 168.22 (2) and
2 amended to read:

3 168.22 (2) This ~~section~~ subchapter does not apply to storage tanks which
4 require a hazardous waste license under s. 291.25.

5 **SECTION 26.** 101.09 (2) (c) of the statutes is renumbered 168.22 (3) and
6 amended to read:

7 168.22 (3) This ~~section~~ subchapter does not apply to storage tanks which are
8 installed above ground level and which are less than 5,000 gallons in capacity.

9 **SECTION 27.** 101.09 (2) (cm) (intro.) of the statutes is renumbered 168.22 (4)
10 (intro.) and amended to read:

11 168.22 (4) (intro.) Any rules promulgated under ~~sub. (3)~~ s. 168.23 requiring an
12 owner to test the ability of a storage tank, connected piping or ancillary equipment
13 to prevent an inadvertent release of a stored substance do not apply to storage tanks
14 that satisfy all of the following:

15 **SECTION 28.** 101.09 (2) (cm) 1. to 3. of the statutes are renumbered 168.22 (4)
16 (a) to (c).

17 **SECTION 29.** 101.09 (2) (d) of the statutes is renumbered 168.22 (5) and
18 amended to read:

19 168.22 (5) This ~~section~~ subchapter does not apply to a pressurized natural gas
20 pipeline system regulated under 49 CFR 192 and 193.

21 **SECTION 30.** 101.09 (3) (title) of the statutes is renumbered 168.23 (title).

22 **SECTION 31.** 101.09 (3) (a) of the statutes is renumbered 168.23 (1).

23 **SECTION 32.** 101.09 (3) (b) of the statutes is renumbered 168.23 (2) and
24 amended to read:

1 168.23 (2) The department may transfer any information which the
2 department receives under ~~par. (a) sub. (1)~~ to any other agency or governmental unit.
3 The department and any such agency shall treat the name of the owner and the
4 location of any noncommercial storage tank which stores heating oil for consumptive
5 use on the premises, required to be submitted to the department under ~~par. (a) sub.~~
6 (1), as confidential and shall not permit inspection or copying under s. 19.35 of any
7 record containing the information.

8 **SECTION 33.** 101.09 (3) (c) of the statutes is renumbered 168.23 (3) and
9 amended to read:

10 168.23 (3) The rule promulgated under ~~par. (a) sub. (1)~~ may require the
11 certification or registration of persons who install, remove, clean, line, perform
12 tightness testing on and inspect tanks and persons who perform site assessments.
13 Any rule requiring certification or registration shall also authorize the revocation or
14 suspension of the certification or registration. The department may not require an
15 individual who is eligible for the veterans fee waiver program under s. 45.44 to pay
16 any fee that may be charged pursuant to such a rule.

17 **SECTION 34.** 101.09 (3) (d) of the statutes is renumbered 168.23 (4) and
18 amended to read:

19 168.23 (4) The department shall promulgate a rule specifying fees for plan
20 review and inspection of tanks for the storage, handling, or use of flammable or
21 combustible liquids and for any certification or registration required under ~~par. (e)~~
22 sub. (3).

23 **SECTION 35.** 101.09 (3m) (title) of the statutes is renumbered 168.24 (title).

24 **SECTION 36.** 101.09 (3m) (a) of the statutes is renumbered 168.24 (1) and
25 amended to read:

1 168.24 (1) In this ~~subsection~~ section, “hazardous substance” means a
2 combustible liquid, a flammable liquid, or a federally regulated hazardous
3 substance.

4 **SECTION 37.** 101.09 (3m) (b) of the statutes is renumbered 168.24 (2) and
5 amended to read:

6 168.24 (2) The department may not impose any requirement that specifies that
7 pipe connections at the top of a storage tank and beneath all freestanding pumps and
8 dispensers that routinely contain a hazardous substance be placed within secondary
9 containment sumps, if the pipe connections were installed or in place on or before
10 February 1, 2009. This ~~subsection~~ section does not apply after December 31, 2020.

11 **SECTION 38.** 101.09 (4) (title) of the statutes is renumbered 168.25 (title).

12 **SECTION 39.** 101.09 (4) (a) of the statutes is renumbered 168.25 (1) and
13 amended to read:

14 168.25 (1) The department shall enforce this ~~section~~ subchapter.

15 **SECTION 40.** 101.09 (4) (b) of the statutes is renumbered 168.25 (2) and
16 amended to read:

17 168.25 (2) The department shall issue orders directing and requiring
18 compliance with the rules and standards of the department adopted under this
19 ~~section~~ subchapter whenever, in the judgment of the department, the rules or
20 standards are threatened with violation, are being violated or have been violated.

21 **SECTION 41.** 101.09 (4) (c) of the statutes is renumbered 168.25 (3).

22 **SECTION 42.** 101.09 (5) of the statutes is renumbered 168.26 and amended to
23 read:

24 **168.26 Penalties.** Any person who violates this ~~section~~ subchapter or any rule
25 or order adopted under this ~~section~~ subchapter shall forfeit not less than \$10 nor

1 more than \$5,000 for each violation. Each violation of this ~~section~~ subchapter or any
2 rule or order under this ~~section~~ subchapter constitutes a separate offense and each
3 day of continued violation is a separate offense.

4 **SECTION 43.** 101.14 (5) (a) of the statutes is amended to read:

5 101.14 (5) (a) Subject to par. (b), in addition to any fee charged by the
6 department by rule for plan review and approval for the construction of a new or
7 additional installation or change in operation of a previously approved installation
8 for the storage, handling or use of a liquid that is flammable or combustible or a
9 federally regulated hazardous substance, as defined in s. ~~101.09 (1) (am)~~ 168.21 (3),
10 the department shall collect a groundwater fee of \$100 for each plan review
11 submittal. The moneys collected under this subsection shall be credited to the
12 environmental fund for environmental management.

13 **SECTION 44.** 101.14 (5) (b) of the statutes is amended to read:

14 101.14 (5) (b) Notwithstanding par. (a), an installation for the storage,
15 handling or use of a liquid that is flammable or combustible or a federally regulated
16 hazardous substance, as defined in s. ~~101.09 (1) (am)~~ 168.21 (3), that has a capacity
17 of less than 1,000 gallons is not subject to the groundwater fee under par. (a).

18 **SECTION 45.** 101.142 (title) and (1) (intro.) of the statutes are renumbered
19 168.28 (title) and (1) (intro.).

20 **SECTION 46.** 101.142 (1) (a) of the statutes is renumbered 168.28 (1) (a) and
21 amended to read:

22 168.28 (1) (a) ~~“Petroleum Notwithstanding s. 168.01 (3), “petroleum product”~~
23 means materials derived from petroleum, natural gas, or asphalt deposits and
24 includes gasoline, diesel and heating fuels, liquefied petroleum gases, lubricants,
25 waxes, greases, and petrochemicals.

1 **SECTION 52.** 168.01 (intro.) of the statutes is amended to read:

2 **168.01 Definitions.** (intro.) In this ~~chapter~~ subchapter:

3 **SECTION 53.** 168.01 (1) of the statutes is amended to read:

4 168.01 (1) “Department” means the department of ~~safety and professional~~
5 ~~services~~ agriculture, trade and consumer protection.

6 **SECTION 54.** 168.01 (2) of the statutes is renumbered 168.01 (4).

7 **SECTION 55.** 168.02 (title) of the statutes is repealed.

8 **SECTION 56.** 168.02 of the statutes is renumbered 168.01 (2).

9 **SECTION 57.** 168.03 (title) of the statutes is repealed.

10 **SECTION 58.** 168.03 of the statutes is renumbered 168.01 (3).

11 **SECTION 59.** 168.05 (1) of the statutes is amended to read:

12 168.05 (1) No petroleum product imported into and received in this state or
13 received from a manufacturer or refiner or from a marine or pipeline terminal within
14 this state may be unloaded from its original container except as provided under sub.
15 (5), sold, offered for sale or used until a true sample of not less than 8 ounces is taken
16 as provided in this ~~chapter~~ subchapter. This subsection does not apply if the
17 department has previously inspected the petroleum product at the refinery, marine
18 or pipeline terminal. Each person importing or receiving a petroleum product which
19 has not been previously inspected shall notify the inspector in the person’s district
20 of the receipt thereof, and the inspector shall take a sample of the petroleum product.

21 **SECTION 60.** 168.06 (1) of the statutes is amended to read:

22 168.06 (1) For the purposes of administering this ~~chapter~~ subchapter,
23 inspectors may take samples of gasoline, gasoline–alcohol fuel blends, kerosene,
24 other refined oils, fuel oils and petroleum distillates for tests and make inspections
25 at any points within or without this state, and may open any original container

1 containing gasoline, gasoline–alcohol fuel blends, kerosene, other refined oils, fuel
2 oils and petroleum distillates and take a true sample of not less than 8 ounces of the
3 contents thereof, even though the original containers may still be in the possession
4 of a common or contract carrier, provided the opening and sampling does not unduly
5 inconvenience or hamper the transportation of the products. After the original
6 containers are opened and sampled the same shall be resealed with seals furnished
7 by the department for such purposes. The authority conferred by this section shall
8 be in addition to, and not in limitation of, any of the provisions of s. 168.05.

9 **SECTION 61.** 168.08 (1) of the statutes is amended to read:

10 168.08 (1) Time and place of each inspection.

11 **SECTION 62.** 168.09 of the statutes is amended to read:

12 **168.09 Authority to enter.** Any inspector may enter in or upon the premises
13 of any manufacturer, vendor, dealer or user of gasoline, gasoline–alcohol fuel blends,
14 kerosene, other refined oils, fuel oils and petroleum distillates, during regular
15 business hours to determine whether any petroleum product intended for sale or use
16 has not been sampled and inspected in accordance with this ~~chapter~~ subchapter.

17 **SECTION 63.** 168.125 of the statutes is amended to read:

18 **168.125 Reports; payment.** Persons who are liable for the fee under this
19 ~~chapter~~ subchapter shall state the number of gallons of petroleum products on which
20 the fee is due and the amount of their liability for the fee in the reports under s. 78.12
21 (1) to (3). The requirements for payment of the motor vehicle fuel tax under s. 78.12
22 (5) apply to the fee under this ~~chapter~~ subchapter.

23 **SECTION 64.** 168.15 of the statutes is amended to read:

24 **168.15 Penalty.** Every person who violates any provision of this ~~chapter~~
25 subchapter that is not related to the fee under s. 168.12 (1) shall forfeit not less than

1 \$10 nor more than \$100 for each violation. Each day a person fails to comply with
2 any provision of this ~~chapter~~ subchapter is a separate violation.

3 **SECTION 65.** 168.16 (1) of the statutes is amended to read:

4 168.16 (1) The department shall enforce this ~~chapter~~ subchapter. Inspection
5 districts shall be defined and numbered by the department.

6 **SECTION 66.** 168.16 (2) of the statutes is amended to read:

7 168.16 (2) Any accident or explosion involving products of petroleum which
8 comes to the knowledge of the department shall be investigated to determine
9 whether or not there has been a violation of this ~~chapter~~ subchapter.

10 **SECTION 67.** 168.16 (4) of the statutes is amended to read:

11 168.16 (4) The department may promulgate reasonable rules relating to the
12 administration and enforcement of this ~~chapter~~ subchapter.

13 **SECTION 68.** 168.17 of the statutes is amended to read:

14 **168.17 Attorney general and district attorney to prosecute.** Upon
15 request of the department, the attorney general or proper district attorney shall
16 prosecute any action to enforce this ~~chapter~~ subchapter except the fee that is imposed
17 under s. 168.12 (1).

18 **SECTION 69.** 168.18 of the statutes is repealed.

19 **SECTION 70.** Subchapter II (title) of chapter 168 [precedes 168.21] of the
20 statutes is created to read:

21 **CHAPTER 168**

22 **SUBCHAPTER II**

23 **STORAGE OF DANGEROUS SUBSTANCES**

24 **SECTION 71.** 168.21 (2) of the statutes is created to read:

1 168.21 (2) “Department” means department of agriculture, trade and
2 consumer protection.

3 **SECTION 9138. Nonstatutory provisions; Safety and Professional**
4 **Services.**

5 (1) PETROLEUM PRODUCT INSPECTION AND STORAGE.

6 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
7 liabilities of the department of safety and professional services, that are determined
8 by the secretary of administration to relate to the storage and inspection of
9 petroleum products under sections 101.09 and 101.142 and chapter 168 of the
10 statutes, as affected by this act, become the assets and liabilities of the department
11 of agriculture, trade and consumer protection.

12 (b) *Employee transfer.* All incumbent employees who hold positions in the
13 department of safety and professional services that the secretary of administration
14 determines relate to the storage and inspection of petroleum products under sections
15 101.09 and 101.142 and chapter 168 of the statutes, as affected by this act, are
16 transferred to the department of agriculture, trade and consumer protection on the
17 effective date of this paragraph.

18 (c) *Employee status.* Employees transferred under paragraph (b) have all the
19 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
20 statutes in the department of agriculture, trade and consumer protection that they
21 enjoyed in the department of safety and professional services immediately before the
22 transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so
23 transferred who has attained permanent status in class is required to serve a
24 probationary period.

1 (d) *Tangible personal property.* On the effective date of this paragraph, all
2 tangible personal property, including records, of the department of safety and
3 professional services that the secretary of administration determines to relate to the
4 storage and inspection of petroleum products under sections 101.09 and 101.142 and
5 chapter 168 of the statutes, as affected by this act, are transferred to the department
6 of agriculture, trade and consumer protection.

7 (e) *Contracts.* All contracts that were entered into by the department of safety
8 and professional services that the secretary of administration determines to relate
9 to the storage and inspection of petroleum products under sections 101.09 and
10 101.142 and chapter 168 of the statutes, as affected by this act, and that are in effect
11 on the effective date of this paragraph remain in effect and are transferred to
12 department of agriculture, trade and consumer protection. The department of
13 agriculture, trade and consumer protection shall carry out any obligations under
14 such a contract until the contract is modified or rescinded by the department of
15 agriculture, trade and consumer protection to the extent allowed under the contract.

16 (f) *Rules and orders.* All rules promulgated, and all orders issued, by the
17 department of safety and professional services, that are determined by the secretary
18 of administration to relate to the storage and inspection of petroleum products under
19 sections 101.09 and 101.142 and chapter 168 of the statutes, as affected by this act,
20 and that are in effect on the effective date of this paragraph shall remain in effect
21 until their specified expiration date or until amended or repealed by the department
22 of agriculture, trade and consumer protection.

23 (g) *Pending matters.* Any matter pending with the department of safety and
24 professional services on the effective date of this paragraph that is determined by the
25 secretary of administration to relate to the storage and inspection of petroleum

SECTION 9138

1 products under sections 101.09 and 101.142 and chapter 168 of the statutes, as
2 affected by this act, is transferred to the department of agriculture, trade and
3 consumer protection, and all materials submitted to or actions taken by the
4 department of safety and professional services with respect to the pending matter
5 are considered as having been submitted to or taken by the department of
6 agriculture, trade and consumer protection.

7

(END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0387/3ins
MGG:.....

1 **Insert 2-3**

2 **SECTION 1.** 20.115 (1) (gc) of the statutes is created to read:

3 20.115 (1) (gc) *Testing of petroleum products*. All moneys received from fees
4 collected under s. 93.06 (1pm) for the testing of petroleum products under s. 93.06
5 (1pm).

 ***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

6 **Insert 2-16**

7 **SECTION 2.** 20.165 (2) (ga) of the statutes is amended to read:

8 20.165 (2) (ga) *Auxiliary services Publications and seminars*. All moneys
9 received from fees collected under s. 101.02 (18) and (18m) for the delivery of services
10 publications and seminars under s. 101.02 (18) and (18m).

 ***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

History: 1971 c. 125; 1973 c. 90, 156, 333; 1975 c. 39; 1977 c. 29, 400, 418; 1979 c. 34; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20; 1983 a. 27; 1985 a. 29; 1989 a. 31, 307; 1991 a. 167, 269, 315; 1993 a. 16, 102, 490; 1995 a. 27, 461; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2007 a. 20; 2009 a. 28, 111; 2011 a. 32 ss. 447 to 476, 478, 480 to 484, 486 to 488, 494 to 495; 2011 a. 146.

11 **Insert 3-21**

12 **SECTION 3.** 73.0301 (1) (d) 6m. of the statutes is created to read:

13 73.0301 (1) (d) 6m. A certificate or registration issued under 168.23 (3).

14 **Insert 3-23**

15 **SECTION 4.** 93.135 (4) of the statutes is created to read:

16 93.135 (4) The department shall deny an application for the issuance or
17 renewal of certification or registration under s. 168.23 (3), or shall suspend or restrict
18 such a certification or registration, if the department of revenue certifies under s.
19 73.0301 that the holder of the certification or registration is liable for delinquent
20 taxes.

miss Insert A

Insect A
the department of
agriculture;

Section #. 73.0301 (1) (e) of the statutes is amended to read:

73.0301 (1) (e) "Licensing department" means the department of administration; the board of commissioners of public lands; the department of children and families; the government accountability board; the department of financial institutions; the department of health services; the department of natural resources; the department of public instruction; the department of safety and professional services; the department of workforce development; the office of the commissioner of insurance; or the department of transportation.

History: 1997 a. 237 ss. 301, 307, 532; 1999 a. 9, 31, 32, 186; 2001 a. 56; 2005 a. 25; 2007 a. 1; 2007 a. 20 ss. 2155 to 2158, 9121 (6) (a); 2007 a. 130, 196; 2009 a. 2, 3, 185, 344, 405; 2011 a. 32.

Gibson-Glass, Mary

From: Stritchko, Megan E - DOA <MeganE.Stritchko@wisconsin.gov>
Sent: Monday, January 28, 2013 2:13 PM
To: Gibson-Glass, Mary
Subject: LRB 0387/3 - Transfer of DSPS Programs to DATCP

Hi Mary,

I've reviewed LRB draft 0387/3 along with the team responsible for the DATCP assignment. The plan review functions will stay at DSPS – could you please incorporate this change into a new draft? *SPS to 310.100*

We also have a few questions/comments regarding this draft (some may be due to being unfamiliar with drafting conventions):

- delete*
- 12)(j)*
- (101.09(3)(d))*
1. We're a little confused about the new GPR appropriation created in section 1 (20.115(1)(b)) - which appropriation in DSPS does this correspond to?
 2. Do you foresee any statutory problems if we don't retain the appropriation in section 5 (20.115(1)(c))?
 3. Page 2, line 20 references 168.30, but we can't seem to find this section anywhere.
 4. Page 4, line 14 is missing the full department name (it's listed as the department of agriculture).
 5. Section 15 creates a provision for the denial of certification or registration for delinquent taxes, yet the title of the section it was created under is specific to the refusal to pay child support, so the new provision does not seem to fit.
 6. Page 11, line 7 added "notwithstanding s. 168.01(3)." Why the change?
 7. Why was the new name for Chapter 168 chosen?
 8. Could you explain why Section 61 was repealed and Section 62 is renumbered 168.01(2) – it's unclear what it is replacing.
 9. Why is s. 168.18 being repealed?
 10. Do transfers between departments ever include language related to unencumbered balances? Is that covered by the "assets and liabilities" language?

Please do not hesitate to give me a call to discuss this further. Thank you so much for your help!

Megan

Megan Stritchko
Executive Policy and Budget Analyst
Wisconsin Department of Administration
(608) 266-8219



State of Wisconsin
2013 - 2014 LEGISLATURE



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D-N

DOA:.....Stritchko, BB0095 - Transfer of DSPS programs to DATCP

FOR 2013-2015 BUDGET - NOT READY FOR INTRODUCTION

1 AN ACT *do not gen*; relating to: the budget.

Analysis by the Legislative Reference Bureau

SAFETY AND PROFESSIONAL SERVICES

BUILDINGS AND SAFETY

Under current law, DSPS has various duties and powers relating to regulation of petroleum products and hazardous substances:

1. DSPS prescribes grade specifications for gasoline and similar fuels and administers laws regulating the inspection and sale of those fuels and other petroleum products.

2. DSPS regulates the installation, maintenance, and removal of tanks that contain flammable or combustible liquids or federally regulated hazardous substances. *(dangerous materials)*

3. DSPS is required to administer a program to inventory aboveground and underground petroleum storage tanks.

This bill transfers these powers and duties from DSPS to DATCP.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

*those that relate to
except for the reviewing of plans
related to dangerous materials
for*

1 **SECTION 1.** 20.115 (1) (b) of the statutes is created to read:
 2 20.115 (1) (b) *Petroleum products; inspection and storage.* The amounts in the
 3 schedule for the purposes of ch. 168.

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

4 **SECTION 2.** 20.115 (1) (gc) of the statutes is created to read:
 5 20.115 (1) (gc) *Testing of petroleum products.* All moneys received from fees
 6 collected under s. 93.06 (1pm) for the testing of petroleum products under s. 93.06
 7 (1pm).

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 **SECTION 3.** 20.115 (1) (t) of the statutes is created to read:
 9 20.115 (1) (t) *Petroleum products; petroleum inspection fund.* From the
 10 petroleum inspection fund, the amounts in the schedule for the purposes of ch. 168.

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

11 **SECTION 4.** 20.165 (2) (a) of the statutes is amended to read:
 12 20.165 (2) (a) *General program operations.* The amounts in the schedule for
 13 general program operations relating to the regulation of industry, buildings, and
 14 safety under chs. 101, 107, and 145, ~~and 168~~ and ss. 167.10 and 167.27.

15 **SECTION 5.** 20.165 (2) (dm) of the statutes is renumbered 20.115 (1) (c) and
 16 amended to read:

17 20.115 (1) (c) *Storage Petroleum products; storage tank inventory.* The amounts
 18 in the schedule to conduct an inventory of aboveground petroleum product storage
 19 tanks and unused underground petroleum product storage tanks under s. ~~101.142~~

~~168.25~~
 168.30.

20

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1 **SECTION 6.** 20.165 (2) (ga) of the statutes is amended to read:

2 20.165 (2) (ga) *Auxiliary services Publications and seminars*. All moneys
3 received from fees collected under s. 101.02 (18) ~~and (18m)~~ for the delivery of ~~services~~
4 publications and seminars under s. 101.02 (18) ~~and (18m)~~.

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5 **SECTION 7.** 20.165 (2) (j) of the statutes is amended to read:

6 20.165 (2) (j) *Safety and building operations*. The amounts in the schedule for
7 the purposes of chs. 101, and 145, ~~and 168~~ and ss. 167.35, 236.12 (2) (a), 236.13 (1)
8 (d) and (2m), and 236.335, for the purpose of transferring the amounts in the
9 schedule under par. (kg) to the appropriation account under par. (kg), and for the
10 purpose of transferring the amounts in the schedule under par. (km) to the
11 appropriation account under par. (km). All moneys received under ch. 145, ss.
12 101.178, 101.19, 101.63 (9), 101.654 (3), 101.73 (12), 101.82 (4), 101.955 (2), 101.973
13 (7), 167.35 (2) (f), and 236.12 (7) and all moneys transferred under 2005 Wisconsin
14 Act 45, section 76 (6), shall be credited to this appropriation.

15 **SECTION 8.** 20.165 (2) (ma) of the statutes is amended to read:

16 20.165 (2) (ma) *Federal aid-program administration*. All moneys received
17 from the federal government, as authorized by the governor under s. 16.54, to fund
18 the state's administrative costs for general program operations relating to the
19 regulation of industry, buildings and safety under chs. 101, 107, and 145 ~~and 168~~ and
20 ss. 32.19 to 32.27, 167.10, and 167.27.

21 **SECTION 9.** 20.165 (2) (r) of the statutes is amended to read:

1 20.165 (2) (r) *Safety and building operations; petroleum inspection fund.* From
2 the petroleum inspection fund, the amounts in the schedule for the purposes of ~~ch.~~
3 ~~168 and ss. 101.09, 101.142, and 101.1435.~~

4 **SECTION 10.** 25.47 (7) of the statutes is amended to read:

5 25.47 (7) The fees imposed under s. ~~101.09 (3) (d)~~ 168.23 (4).

6 **SECTION 11.** 45.44 (1) (a) 5. of the statutes is amended to read:

7 45.44 (1) (a) 5. A license, certification, registration, or permit issued under s.
8 94.10 (2), (3), or (3g), 94.50 (2), 94.704, 95.60, 97.17 (2), 97.175 (2), 97.22 (2), 98.145,
9 98.146, ~~or 98.18 (1) (a), or 168.23 (3).~~

trade and consumer protection

10 **SECTION 12.** 73.0301 (1) (d) 6m. of the statutes is created to read:

11 73.0301 (1) (d) 6m. A certificate or registration issued under 168.23 (3).

12 **SECTION 13.** 73.0301 (1) (e) of the statutes is amended to read:

13 73.0301 (1) (e) "Licensing department" means the department of
14 administration; the department of agriculture; the board of commissioners of public
15 lands; the department of children and families; the government accountability
16 board; the department of financial institutions; the department of health services;
17 the department of natural resources; the department of public instruction; the
18 department of safety and professional services; the department of workforce
19 development; the office of the commissioner of insurance; or the department of
20 transportation.

Insert 4-20

21 ~~X~~ **SECTION 14.** 93.135 (1) (rg) of the statutes is created to read:

22 93.135 (1) (rg) A certification or registration under s. 168.23 (3).

23 **SECTION 15.** 93.135 (4) of the statutes is created to read:

24 93.135 (4) The department shall deny an application for the issuance or
25 renewal of certification or registration under s. 168.23 (3), or shall suspend or restrict

1 such a certification or registration, if the department of revenue certifies under s.
2 73.0301 that the holder of the certification or registration is liable for delinquent
3 taxes.

4 SECTION 16. 98.246 (1) of the statutes is amended to read:

5 98.246 (1) In this section, "petroleum products" has the meaning given under
6 s. ~~168.03~~ 168.01 (3).

← X INSERT 516

7 SECTION 17. 101.02 (18m) of the statutes is renumbered 93.06 (1pm) and
8 amended to read:

9 93.06 (1pm) TESTING OF PETROLEUM PRODUCTS. The department may perform,
10 or contract for the performance of, testing of petroleum products other than testing
11 provided under ch. 168. The department may establish a schedule of fees for such
12 petroleum product testing services. The department shall credit all revenues
13 received from fees established under this subsection to the appropriation account
14 under s. ~~20.165~~ (2) (ga) 20.115 (1) (gc). Revenues from fees established under this
15 subsection may be used by the department to pay for testing costs, including
16 laboratory supplies and equipment amortization, for such products.

* X

17 SECTION 18. 101.02 (20) (a) of the statutes is amended to read:

18 101.02 (20) (a) For purposes of this subsection, "license" means a license,
19 permit, or certificate of certification or registration issued by the department for an
20 occupation or profession under s. ~~101.09~~ (3) (e), 101.122 (2) (c), 101.143 (2) (g),
21 101.147, 101.15 (2) (e), 101.16 (3g), 101.17, 101.178 (2) or (3) (a), 101.63 (2) or (2m),
22 101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951,
23 101.952, 101.96 (2), 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16,
24 145.165, 145.17, 145.175, 145.18, or 167.10 (6m) or under rules promulgated under
25 ch. 101 or 145.

1 **SECTION 19.** 101.02 (21) (a) of the statutes is amended to read:

2 101.02 (21) (a) In this subsection, "license" means a license, permit, or
3 certificate of certification or registration issued by the department for an occupation
4 or profession under s. 101.09 (3) (e), 101.122 (2) (c), 101.143 (2) (g), 101.147, 101.15
5 (2) (e), 101.16 (3g), 101.17, 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73
6 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.96 (2),
7 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17,
8 145.175, 145.18, or 167.10 (6m) or under rules promulgated under ch. 101 or 145.

9 **SECTION 20.** 101.02 (24) (a) 2. of the statutes is amended to read:

10 101.02 (24) (a) 2. "License" means a license, permit, or certificate of
11 certification or registration issued by the department for an occupation or profession
12 under s. 101.09 (3) (e), 101.122 (2) (c), 101.143 (2) (g), 101.147, 101.15 (2) (e), 101.16
13 (3g), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.654,
14 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952,
15 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17,
16 145.175, 145.18, or 167.10 (6m) or under rules promulgated under ch. 101 or 145.

17 **SECTION 21.** 101.09 (title) of the statutes is repealed.

18 **SECTION 22.** 101.09 (1) (intro.) of the statutes is renumbered 168.21 (intro.) and
19 amended to read:

20 **168.21 Definitions.** (intro.) In this section subchapter:

21 **SECTION 23.** 101.09 (1) (a) of the statutes is renumbered 168.21 (1).

22 **SECTION 24.** 101.09 (1) (am) of the statutes is renumbered 168.21 (3).

23 **SECTION 25.** 101.09 (1) (b) of the statutes is renumbered 168.21 (4).

24 **SECTION 26.** 101.09 (1) (c) of the statutes is renumbered 168.21 (5).

25 **SECTION 27.** 101.09 (1) (cm) of the statutes is renumbered 168.21 (6).

1 **SECTION 28.** 101.09 (1) (d) of the statutes is renumbered 168.21 (7).

2 **SECTION 29.** 101.09 (2) (title) of the statutes is renumbered 168.22 (title).

3 **SECTION 30.** 101.09 (2) (a) of the statutes is renumbered 168.22 (1) and
4 amended to read:

5 168.22 (1) Except as provided under ~~pars. (b) to (d)~~ subs. (2) to (5), every person
6 who constructs, owns or controls a tank for the storage, handling or use of liquid that
7 is flammable or combustible or a federally regulated hazardous substance shall
8 comply with the standards adopted under ~~sub. (3)~~ s. 168.23.

9 **SECTION 31.** 101.09 (2) (b) of the statutes is renumbered 168.22 (2) and
10 amended to read:

11 168.22 (2) This ~~section~~ subchapter does not apply to storage tanks which
12 require a hazardous waste license under s. 291.25.

13 **SECTION 32.** 101.09 (2) (c) of the statutes is renumbered 168.22 (3) and
14 amended to read:

15 168.22 (3) This ~~section~~ subchapter does not apply to storage tanks which are
16 installed above ground level and which are less than 5,000 gallons in capacity.

17 **SECTION 33.** 101.09 (2) (cm) (intro.) of the statutes is renumbered 168.22 (4)
18 (intro.) and amended to read:

19 168.22 (4) (intro.) Any rules promulgated under ~~sub. (3)~~ s. 168.23 requiring an
20 owner to test the ability of a storage tank, connected piping or ancillary equipment
21 to prevent an inadvertent release of a stored substance do not apply to storage tanks
22 that satisfy all of the following:

23 **SECTION 34.** 101.09 (2) (cm) 1. to 3. of the statutes are renumbered 168.22 (4)
24 (a) to (c).

1 **SECTION 35.** 101.09 (2) (d) of the statutes is renumbered 168.22 (5) and
2 amended to read:

3 168.22 (5) This ~~section~~ subchapter does not apply to a pressurized natural gas
4 pipeline system regulated under 49 CFR 192 and 193.

5 **SECTION 36.** 101.09 (3) (title) of the statutes is renumbered 168.23 (title).

6 **SECTION 37.** 101.09 (3) (a) of the statutes is renumbered 168.23 (1).

7 **SECTION 38.** 101.09 (3) (b) of the statutes is renumbered 168.23 (2) and
8 amended to read:

9 168.23 (2) The department may transfer any information which the
10 department receives under ~~par. (a) sub. (1)~~ to any other agency or governmental unit.
11 The department and any such agency shall treat the name of the owner and the
12 location of any noncommercial storage tank which stores heating oil for consumptive
13 use on the premises, required to be submitted to the department under ~~par. (a) sub.~~
14 (1), as confidential and shall not permit inspection or copying under s. 19.35 of any
15 record containing the information.

16 **SECTION 39.** 101.09 (3) (c) of the statutes is renumbered 168.23 (3) and
17 amended to read:

18 168.23 (3) The rule promulgated under ~~par. (a) sub. (1)~~ may require the
19 certification or registration of persons who install, remove, clean, line, perform
20 tightness testing on and inspect tanks and persons who perform site assessments.
21 Any rule requiring certification or registration shall also authorize the revocation or
22 suspension of the certification or registration. The department may not require an
23 individual who is eligible for the veterans fee waiver program under s. 45.44 to pay
24 any fee that may be charged pursuant to such a rule.

1 **SECTION 40.** 101.09 (3) (d) of the statutes is renumbered 168.23 (4) and
2 amended to read:

3 168.23 (4). The department shall promulgate a rule specifying fees for ~~plan~~[↑]
4 ~~review and~~ inspection of tanks for the storage, handling, or use of flammable or
5 combustible liquids and for any certification or registration required under ~~par. (e)~~[↑]
6 sub. (3).

7 **SECTION 41.** 101.09 (3m) (title) of the statutes is renumbered 168.24 (title).

8 **SECTION 42.** 101.09 (3m) (a) of the statutes is renumbered 168.24 (1) and
9 amended to read:

10 168.24 (1) In this ~~subsection~~ section, "hazardous substance" means a
11 combustible liquid, a flammable liquid, or a federally regulated hazardous
12 substance.

13 **SECTION 43.** 101.09 (3m) (b) of the statutes is renumbered 168.24 (2) and
14 amended to read:

15 168.24 (2) The department may not impose any requirement that specifies that
16 pipe connections at the top of a storage tank and beneath all freestanding pumps and
17 dispensers that routinely contain a hazardous substance be placed within secondary
18 containment sumps, if the pipe connections were installed or in place on or before
19 February 1, 2009. This ~~subsection~~ section does not apply after December 31, 2020.

20 **SECTION 44.** 101.09 (4) (title) of the statutes is renumbered 168.25 (title).

21 **SECTION 45.** 101.09 (4) (a) of the statutes is renumbered 168.25 (1) and
22 amended to read:

23 168.25 (1) The department shall enforce this ~~section~~ subchapter.

24 **SECTION 46.** 101.09 (4) (b) of the statutes is renumbered 168.25 (2) and
25 amended to read:

1 168.25 (2) The department shall issue orders directing and requiring
2 compliance with the rules and standards of the department adopted under this
3 ~~section~~ subchapter whenever, in the judgment of the department, the rules or
4 standards are threatened with violation, are being violated or have been violated.

5 **SECTION 47.** 101.09 (4) (c) of the statutes is renumbered 168.25 (3).

6 **SECTION 48.** 101.09 (5) of the statutes is renumbered 168.26 and amended to
7 read:

8 **168.26 Penalties.** Any person who violates this ~~section~~ subchapter or any rule
9 or order adopted under this ~~section~~ subchapter shall forfeit not less than \$10 nor
10 more than \$5,000 for each violation. Each violation of this ~~section~~ subchapter or any
11 rule or order under this ~~section~~ subchapter constitutes a separate offense and each
12 day of continued violation is a separate offense.

13 **SECTION 49.** 101.14 (5) (a) of the statutes is amended to read:

14 101.14 (5) (a) Subject to par. (b), in addition to any fee charged by the
15 department by rule for plan review ~~and approval~~ for the construction of a new or
16 additional installation or change in operation of a previously approved installation
17 for the storage, handling or use of a liquid that is flammable or combustible or a
18 federally regulated hazardous substance, as defined in s. ~~101.09 (1) (am)~~ 168.21 (3),
19 the department shall collect a groundwater fee of \$100 for each plan review
20 submittal. The moneys collected under this subsection shall be credited to the
21 environmental fund for environmental management.

22 **SECTION 50.** 101.14 (5) (b) of the statutes is amended to read:

23 101.14 (5) (b) Notwithstanding par. (a), an installation for the storage,
24 handling or use of a liquid that is flammable or combustible or a federally regulated

1 hazardous substance, as defined in s. ~~101.09 (1) (am)~~ 168.21 (3), that has a capacity
2 of less than 1,000 gallons is not subject to the groundwater fee under par. (a).

3 **SECTION 51.** 101.142 (title) and (1) (intro.) of the statutes are renumbered
4 168.28 (title) and (1) (intro.).

5 **SECTION 52.** 101.142 (1) (a) of the statutes is renumbered 168.28 (1) (a) and
6 amended to read:

7 168.28 (1) (a) ~~“Petroleum Notwithstanding s. 168.01 (3), “petroleum product”~~
8 means materials derived from petroleum, natural gas, or asphalt deposits and
9 includes gasoline, diesel and heating fuels, liquefied petroleum gases, lubricants,
10 waxes, greases, and petrochemicals.

11 **SECTION 53.** 101.142 (1) (b) and (2) of the statutes are renumbered 168.28 (1)
12 (b) and (2).

13 **SECTION 54.** 101.143 (3) (a) 4. of the statutes is amended to read:

14 101.143 (3) (a) 4. The owner or operator registers the petroleum product
15 storage system or the home oil tank system is registered with the department of
16 agriculture, trade and consumer protection under s. ~~101.09~~ 168.23.

17 **SECTION 55.** 101.19 (1r) of the statutes is amended to read:

18 101.19 (1r) Notwithstanding subs. (1g) and (1m), the department shall waive
19 any fee imposed on an individual who is eligible for the veterans fee waiver program
20 under s. 45.44 for a license, permit, or certificate of certification or registration issued
21 by the department under ss. ~~101.09 (3) (e)~~, 101.122 (2) (c), 101.143 (2) (g), 101.147,
22 101.15 (2) (e), 101.16 (3g), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or
23 (2m), 101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951,
24 101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.07 (12), 145.15, 145.16,
25 145.165, 145.17, 145.175, 145.18, or 167.10 (6m).

1 as provided in this ~~chapter~~ subchapter. This subsection does not apply if the
2 department has previously inspected the petroleum product at the refinery, marine
3 or pipeline terminal. Each person importing or receiving a petroleum product which
4 has not been previously inspected shall notify the inspector in the person's district
5 of the receipt thereof, and the inspector shall take a sample of the petroleum product.

6 **SECTION 66.** 168.06 (1) of the statutes is amended to read:

7 168.06 (1) For the purposes of administering this ~~chapter~~ subchapter,
8 inspectors may take samples of gasoline, gasoline–alcohol fuel blends, kerosene,
9 other refined oils, fuel oils and petroleum distillates for tests and make inspections
10 at any points within or without this state, and may open any original container
11 containing gasoline, gasoline–alcohol fuel blends, kerosene, other refined oils, fuel
12 oils and petroleum distillates and take a true sample of not less than 8 ounces of the
13 contents thereof, even though the original containers may still be in the possession
14 of a common or contract carrier, provided the opening and sampling does not unduly
15 inconvenience or hamper the transportation of the products. After the original
16 containers are opened and sampled the same shall be resealed with seals furnished
17 by the department for such purposes. The authority conferred by this section shall
18 be in addition to, and not in limitation of, any of the provisions of s. 168.05.

19 **SECTION 67.** 168.08 (1) of the statutes is amended to read:

20 168.08 (1) Time and place of each inspection.

21 **SECTION 68.** 168.09 of the statutes is amended to read:

22 **168.09 Authority to enter.** Any inspector may enter in or upon the premises
23 of any manufacturer, vendor, dealer or user of gasoline, gasoline–alcohol fuel blends,
24 kerosene, other refined oils, fuel oils and petroleum distillates, during regular

1 business hours to determine whether any petroleum product intended for sale or use
2 has not been sampled and inspected in accordance with this ~~chapter~~ subchapter.

3 **SECTION 69.** 168.125 of the statutes is amended to read:

4 **168.125 Reports; payment.** Persons who are liable for the fee under this
5 ~~chapter~~ subchapter shall state the number of gallons of petroleum products on which
6 the fee is due and the amount of their liability for the fee in the reports under s. 78.12
7 (1) to (3). The requirements for payment of the motor vehicle fuel tax under s. 78.12
8 (5) apply to the fee under this ~~chapter~~ subchapter.

9 **SECTION 70.** 168.15 of the statutes is amended to read:

10 **168.15 Penalty.** Every person who violates any provision of this ~~chapter~~
11 subchapter that is not related to the fee under s. 168.12 (1) shall forfeit not less than
12 \$10 nor more than \$100 for each violation. Each day a person fails to comply with
13 any provision of this ~~chapter~~ subchapter is a separate violation.

14 **SECTION 71.** 168.16 (1) of the statutes is amended to read:

15 168.16 (1) The department shall enforce this ~~chapter~~ subchapter. Inspection
16 districts shall be defined and numbered by the department.

17 **SECTION 72.** 168.16 (2) of the statutes is amended to read:

18 168.16 (2) Any accident or explosion involving products of petroleum which
19 comes to the knowledge of the department shall be investigated to determine
20 whether or not there has been a violation of this ~~chapter~~ subchapter.

21 **SECTION 73.** 168.16 (4) of the statutes is amended to read:

22 168.16 (4) The department may promulgate reasonable rules relating to the
23 administration and enforcement of this ~~chapter~~ subchapter.

24 **SECTION 74.** 168.17 of the statutes is amended to read:

SECTION 9138

1

101.09 and 101.142 and chapter 168 of the statutes, as affected by this act,

2

transferred to the department of agriculture, trade and consumer protection on the

3

effective date of this paragraph.

4

(c) *Employee status.* Employees transferred under paragraph (b) have all the

5

rights and the same status under subchapter V of chapter 111 and chapter 230 of the

6

statutes in the department of agriculture, trade and consumer protection that they

7

enjoyed in the department of safety and professional services immediately before the

8

transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so

9

transferred who has attained permanent status in class is required to serve a

10

probationary period.

11

(d) *Tangible personal property.* On the effective date of this paragraph, all

12

tangible personal property, including records, of the department of safety and

13

professional services that the secretary of administration determines to relate to the

14

storage and inspection of petroleum products under sections 101.09 and 101.142 and

15

chapter 168 of the statutes, as affected by this act, are transferred to the department

16

of agriculture, trade and consumer protection.

17

(e) *Contracts.* All contracts that were entered into by the department of safety

18

and professional services that the secretary of administration determines to relate

19

to the storage and inspection of petroleum products under sections 101.09 and

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101.142 and chapter 168 of the statutes, as affected by this act, and that are in effect

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on the effective date of this paragraph remain in effect and are transferred to

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department of agriculture, trade and consumer protection. The department of

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agriculture, trade and consumer protection shall carry out any obligations under

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such a contract until the contract is modified or rescinded by the department of

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agriculture, trade and consumer protection to the extent allowed under the contract.

1 (f) *Rules and orders.* All rules promulgated, and all orders issued, by the
2 department of safety and professional services, that are determined by the secretary
3 of administration to relate to the storage and inspection of petroleum products under
4 sections 101.09 and 101.142 and chapter 168 of the statutes, as affected by this act,
5 and that are in effect on the effective date of this paragraph shall remain in effect
6 until their specified expiration date or until amended or repealed by the department
7 of agriculture, trade and consumer protection.

8 (g) *Pending matters.* Any matter pending with the department of safety and
9 professional services on the effective date of this paragraph that is determined by the
10 secretary of administration to relate to the storage and inspection of petroleum
11 products under sections 101.09 and 101.142 and chapter 168 of the statutes, as
12 affected by this act, is transferred to the department of agriculture, trade and
13 consumer protection, and all materials submitted to or actions taken by the
14 department of safety and professional services with respect to the pending matter
15 are considered as having been submitted to or taken by the department of
16 agriculture, trade and consumer protection.

17

(END)

1 1. Except as provided in subdivision 2., all incumbent employees who hold
 2 positions in the department of safety and professional services that the secretary of
 3 administration determines relate to the storage, use, and handling of flammable or
 4 combustible liquids or federally regulated hazardous substances under section
 5 101.09^{2011 stats.} ~~of the statutes~~ as affected by this act, are transferred to the department of
 6 agriculture, trade and consumer protection on the effective date of this subdivision.

7 2. Any incumbent employee who holds a position in the department of safety
 8 and professional services that the secretary of administration determines relates to
 9 the reviewing of plans subject to section ~~NR~~^{SPS} 10.100, Wis. Adm. Code remains with
 10 the department of safety and professional services.

11 (c) *Employee status.* Employees transferred under paragraph (b) 1. have all the
 12 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
 13 statutes in the department of agriculture, trade and consumer protection that they
 14 enjoyed in the department of safety and professional services immediately before the
 15 transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so
 16 transferred who has attained permanent status in class is required to serve a
 17 probationary period.

18 (d) *Tangible personal property.*

19 1. Except as provided in subd. 2., on the effective date of this subdivision, all
 20 tangible personal property, including records, of the department of safety and
 21 professional services that the secretary of administration determines relate to the
 22 storage, use, and handling of flammable or combustible liquids or federally regulated
 23 hazardous substances under section 101.09^{2011 stats.} ~~of the statutes~~ as affected by this act,
 24 is transferred to the department of agriculture, trade and consumer protection.

1 2. The tangible property, including records, that is determined by the secretary
2 of administration to relate to the reviewing of plans subject to section ^{SPS} ~~MR~~ 310.100,
3 Wis. Adm. Code, remains with the department of safety and professional services.

4 (e) *Contracts.*

5 1. Except as provided in subdivision 2., all contracts that were entered into by
6 the department of safety and professional services that the secretary of
7 administration determines to relate to the storage, use, and handling of flammable
8 or combustible liquids or federally regulated hazardous substances under section
9 101.09 ^{2011 stats.} of the statutes, as affected by this act, and that are in effect on the effective
10 date of this subdivision remain in effect and are transferred to department of
11 agriculture, trade and consumer protection. The department of agriculture, trade
12 and consumer protection shall carry out any obligations under such a contract until
13 the contract is modified or rescinded by the department of agriculture, trade and
14 consumer protection to the extent allowed under the contract.

15 2. Any contract that is determined by the secretary of administration to relate
16 to the reviewing of plans subject to section ^{SPS} ~~MR~~ 310.100, Wis. Adm. Code, remains
17 with the department of safety and professional services.

18 (f) *Rules and orders.*

19 1. Except as provided in subdivision 2., all rules promulgated, and all orders
20 issued, by the department of safety and professional services, that are determined
21 by the secretary of administration to relate to the storage, use, and handling of
22 flammable or combustible liquids or federally regulated hazardous substances under
23 section 101.09 ^{2011 stats.} of the statutes, as affected by this act, and that are in effect on the
24 effective date of this subdivision shall remain in effect until their specified expiration

1 date or until amended or repealed by the department of agriculture, trade and
2 consumer protection.

3 2. The rules and orders that are determined by the secretary of administration
4 to relate to reviewing of plans that is subject to section ^{SPS}~~NR~~ 310.100, Wis. Adm. Code,
5 remain with the department of safety and professional services.

6 (g) *Pending matters.*

7 1. Except as provided in subdivision 2., any matter pending with the
8 department of safety and professional services on the effective date of this
9 subdivision that is determined by the secretary of administration to relate to the
10 storage, use, and handling of flammable or combustible liquids or federally regulated
11 hazardous substances under section 101.09 ^{^ 2011 stats.} of the statutes, as affected by this act,
12 is transferred to the department of agriculture, trade and consumer protection, and
13 all materials submitted to or actions taken by the department of safety and
14 professional services with respect to the pending matter are considered as having
15 been submitted to or taken by the department of agriculture, trade and consumer
16 protection.

17 2. Any pending matter that is determined by the secretary of administration
18 to relate to the reviewing of plans that is subject to section ^{SPS}~~NR~~ 310.100, Wis. Adm.
19 Code remains with the department of safety and professional services.

20 **SECTION 9238. Fiscal changes; Safety and Professional Services.**

21 (1) TESTING OF PETROLEUM PROJECTS. There is transferred from the
22 appropriation account under section 20.165 (2) (ga) of the statutes, as affected by this
23 act, to the appropriation account under section 20.115 (1) (gc) of the statutes, as
24 created by this act, an amount, as determined by the secretary of administration,
25 that equals the amount of fees that have been credited to the appropriation account

as affected by this act

1 under section 20.165 (2) (ga) under s. 101.02 (18m) of the statutes, as affected by this
2 act, and that have not been expended ^{or encumbered} on or before June 30, 2013 ^{the effective date of this subsection}

3 (2) FEDERAL AID FOR INSPECTIONS OF PETROLEUM PRODUCTS There is transferred
4 from the appropriation account under section 20.165 (2) (ma) of the statutes, as
5 affected by this act, to the appropriation account under section 20.115 (1) (m) of the
6 statutes an amount, as determined by the secretary of administration, that equals
7 the amount of moneys received from the federal government that have been credited
8 to the appropriation under section 20.165 (2) (ma) of the statutes, as affected by this
9 act, for the state's administrative costs for general program operations relating to
10 regulation under chapter 168 ^{as affected by this act} and that have not been expended ^{or encumbered} on or before June 30,

11 2013 ^{the effective date of this subsection}

SECTION 3. 101.14 (5) (a) of the statutes is amended to read:

101.14 (5) (a) Subject to par. (b), 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 a liquid that is flammable or combustible or a
federally regulated hazardous substance, as defined in s. 101.09 (1) (am), the
department shall collect a groundwater fee of \$100 for each plan review submittal.
The moneys collected under this subsection shall be credited to the environmental
fund for environmental management.

History: 1971 c. 185 s. 1; 1971 c. 228; Stats. 1971 s. 101.14; 1973 c. 324, 326, 336; 1975 c. 39, 94; 1977 c. 29, 413; 1979 c. 221; 1981 c. 320, 341; 1983 a. 36; 1983 a. 189 s. 329 (8); 1983 a. 295, 410; 1985 a. 29; 1985 a. 135 s. 83 (3); 1987 a. 288, 321, 399; 1989 a. 31, 109, 359; 1991 a. 187, 269; 1993 a. 261; 1995 a. 27; 1997 a. 27; 1999 a. 9, 43, 186; 2003 a. 269; 2005 a. 78, 220; 2007 a. 148, 149, 173; 2011 a. 257.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0387/4dn

MGG:.)...

SMC

- date -

101.02 (18r), ~~FOR~~
and 101.14 (5)(a)^a

Please review carefully ss. 101.09 (3) (d) and 101.02 (18r) in this draft to make sure that these provisions accurately reflect the authority regarding plan review that is to remain with DSPS.

Mary Gibson-Glass
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0387/4dn
MGG:sac:jm

January 31, 2013

Please review carefully ss. 101.02 (18r), 101.09 (3) (d), and 101.14 (5) (a) in this draft to make sure that these provisions accurately reflect the authority regarding plan review that is to remain with DSPS.

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