

1977 Assembly Bill 353

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## CHAPTER 369, Laws of 1977

AN ACT to create 101.60 and 196.97 of the statutes, relating to establishing a natural gas conservation program including prohibiting pilot lights under the department of industry, labor and human relations and prohibiting nonessential uses of natural gas under the public service commission, granting rule-making authority subject to legislative review, and providing a penalty.

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

SECTION 1. 101.60 of the statutes is created to read:

**101.60 Pilot lights prohibited on gas appliances.** (1) In this section:

(a) "Class of gas appliances" means a group of gas appliances all of which perform a similar function.

(b) "Gas appliance" means any furnace or heater requiring electrical supply for operation, air conditioner, refrigerator, stove having an electrical supply cord, dishwasher, dryer, swimming pool heater or other similar appliance or device used in a private residence or private dwelling, which uses a gaseous fuel for operation and is automatically ignited for operation by means of a pilot light or other ignition device.

(c) "Intermittent ignition device" means an ignition device which is actuated only when a gas appliance is in operation.

(d) "Manufacturer" means any person who manufactures, produces or assembles gas appliances.

(e) "Nationally recognized standards and testing procedures" means those standards adopted by the American national standards institute and those testing procedures developed by the American gas association laboratories or underwriters laboratories, or such other standards and testing procedures that are recognized nationally by the gas appliance industry.

(f) "Pilot light" means any gas-operated device that remains continually lighted in order to ignite a gas appliance to begin normal operation.

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

(3) The specifications for certification shall be developed with consideration for:

- (a) The conservation of primary energy resources.
- (b) Provisions necessary for public health and safety.
- (c) Initial consumer costs, including installation and maintenance costs.
- (d) Any other criteria determined necessary by the department.

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

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

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

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

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

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

(7) Commencing 3 years after the effective date of this act (1977), the department shall include annually in the report required under s. 15.04 (4), a description of its enforcement activities under this section.

(8) The department shall make rules as it deems necessary to carry out its duties under this section.

(9) This subsection does not apply to emergency rules adopted under s. 227.027.

(a) Prior to any public hearing on a proposed rule under this section, or if no public hearing is required, prior to notification of the standing committees, the department shall submit the proposed rule to the legislative council for review. The legislative council shall act as a clearing house for rule drafting and cooperate with the department and the revisor to:

1. Review the statutory authority under which the department intends to adopt the rule. The legislative council shall notify the department, the joint committee for the review of administrative rules and the appropriate standing committee when the statutory authority is eliminated or significantly changed by repeal, amendment, court decision or for any other reason.

2. Ensure that the procedures for the promulgation of a rule required by this subsection and ch. 227 are followed.

3. Review proposed rules for form, style and placement in the administrative code.

4. Review proposed rules to avoid conflict with or duplication of existing rules;

5. Review proposed rules to provide adequate references to relevant statutes, related rules and forms.

6. Streamline and simplify the rule-making process.

7. Review proposed rules for clarity, grammar and punctuation and to ensure plain language.

8. Review proposed rules to determine potential conflicts and to make comparisons with federal regulations.

(b) The legislative council shall work with and assist the appropriate standing committees throughout the rule-making process. The legislative council may issue recommendations concerning any proposed rule which the department submits under this section.

(c) The department shall notify appropriate standing committees when proposed rules under this section are in final draft form by submitting a notice to the presiding officer in each house. Each presiding officer shall refer the notice to one standing committee. The department may withdraw a proposed rule by notifying the presiding officer in each house of the legislature of its intention not to promulgate the rule.

(d) The notice shall include the proposed rule in a form complying with s. 227.024 (1).

(e) 1. A committee may be convened upon the call of its chairperson or a majority of its members to review a proposed rule. A committee may meet separately or jointly with the other committee to which the notice is referred, direct the department to attend the meeting and hold public hearings to review the proposed rule.

2. The standing committee review period lasts for 30 days after the notice is submitted and if within the 30-day period a standing committee directs the department to meet with it to review the proposed rule, the standing committee review period is extended for 30 days from the date of that request.

3. The department may not promulgate a proposed rule during the standing committee review period unless both committees approve the rule prior to the expiration of that period.

4. Either standing committee may disapprove the proposed rule or part of a proposed rule by taking action in executive session to disapprove the rule within the standing committee review period. If both committees fail to take this action, the proposed rule is not disapproved and the department may promulgate the rule.

(f) 1. If either standing committee disapproves a proposed rule or part of a proposed rule, the proposed rule or its part shall be referred to the joint committee for the review of administrative rules.

2. The joint committee review period lasts for 30 days after the proposed rule is referred and the joint committee shall meet and take action in executive session during that period.

3. The department may not promulgate a proposed rule or its part which is disapproved by a standing committee unless the proposed rule is approved by the joint committee for the review of administrative rules or until the bill in subd. 5 fails of enactment. The department may promulgate portions of the rule which were not suspended, if the committee disapproved only parts of the rules.

4. The joint committee for the review of administrative rules may reverse the standing committee disapproval by taking action to approve the rule within the joint committee review period. The joint committee may uphold the standing committee disapproval by taking action to disapprove the rule within the joint committee review period. The joint committee may remand the proposed rule to the department for further consideration or public hearings or both. If the joint committee disapproves a proposed rule, the department may not promulgate the proposed rule until the bill in subd. 5 fails of enactment.

5. When the joint committee for the review of administrative rules disapproves a proposed rule or portion of the proposed rule, the committee shall as soon as possible place before the legislature, a bill to support the disapproval. If such bill is defeated, or fails of enactment in any other manner, the proposed rule or portion of the proposed rule may be promulgated. If the bill becomes law, the proposed rule or portion of the proposed rule, may not be promulgated unless a properly enacted law specifically authorizes the adoption of that rule.

SECTION 2. 196.97 of the statutes is created to read:

**196.97 Nonessential uses of natural gas.** (1) No gas utility doing business in this state or other person may install, connect or cause to be installed or connected to the distribution system any device which constitutes a nonessential use of natural gas, unless such devices have been ordered and received by any person prior to the effective date of each rule specifying a nonessential use of natural gas under sub. (2), including item inventories held by retailers or wholesalers.

(2) The commission shall, by rule, specify criteria for determining a nonessential use of natural gas for purposes of this section. The commission shall, by rule, specify each nonessential use of natural gas under this section. The commission may review any nonessential use of natural gas specified under this subsection at any time. Every rule promulgated under this subsection shall be transmitted to the joint committee for review of administrative rules for review by the joint committee.

(3) The commission may make rules as it deems necessary to carry out the purposes of and to enforce this section. The commission shall provide for exemptions for nonessential uses of natural gas for reasons of health, safety or unusual hardship.

(4) This subsection does not apply to emergency rules adopted under s. 227.027.

(a) Prior to any public hearing on a proposed rule under this section, or if no public hearing is required, prior to notification of the standing committees, the commission shall submit the proposed rule to the legislative council for review. The legislative council shall act as a clearing house for rule drafting and cooperate with the commission and the revisor to:

1. Review the statutory authority under which the commission intends to adopt the rule. The legislative council shall notify the commission, the joint committee for the review of administrative rules and the appropriate standing committee when the statutory authority is eliminated or significantly changed by repeal, amendment, court decision or for any other reason.

2. Ensure that the procedures for the promulgation of a rule required by this subsection and ch. 227 are followed.

3. Review proposed rules for form, style and placement in the administrative code.

4. Review proposed rules to avoid conflict with or duplication of existing rules;

5. Review proposed rules to provide adequate references to relevant statutes, related rules and forms.

6. Streamline and simplify the rule-making process.

7. Review proposed rules for clarity, grammar and punctuation and to ensure plain language.

8. Review proposed rules to determine potential conflicts and to make comparisons with federal regulations.

(b) The legislative council shall work with and assist the appropriate standing committees throughout the rule-making process. The legislative council may issue recommendations concerning any proposed rule which the commission submits under this section.

(c) The commission shall notify appropriate standing committees when proposed rules under this section are in final draft form by submitting a notice to the presiding officer in each house. Each presiding officer shall refer the notice to one standing committee. The commission may withdraw a proposed rule by notifying the presiding officer in each house of the legislature of its intention not to promulgate the rule.

(d) The notice shall include the proposed rule in a form complying with s. 227.024 (1).

(e) 1. A committee may be convened upon the call of its chairperson or a majority of its members to review a proposed rule. A committee may meet separately or jointly with the other committee to which the notice is referred, direct the commission to attend the meeting and hold public hearings to review the proposed rule.

2. The standing committee review period lasts for 30 days after the notice is submitted and if within the 30-day period a standing committee directs the commission to meet with it to review the proposed rule, the standing committee review period is extended for 30 days from the date of that request.

3. The commission may not promulgate a proposed rule during the standing committee review period unless both committees approve the rule prior to the expiration of that period.

4. Either standing committee may disapprove the proposed rule or part of a proposed rule by taking action in executive session to disapprove the rule within the standing committee review period. If both committees fail to take this action, the proposed rule is not disapproved and the commission may promulgate the rule.

(f) 1. If either standing committee disapproves a proposed rule or part of a proposed rule, the proposed rule or its part shall be referred to the joint committee for the review of administrative rules.

2. The joint committee review period lasts for 30 days after the proposed rule is referred and the joint committee shall meet and take action in executive session during that period.

3. The commission may not promulgate a proposed rule or its part which is disapproved by a standing committee unless the proposed rule is approved by the joint committee for the review of administrative rules or until the bill in subd. 5 fails of enactment. The commission may promulgate portions of the rule which were not suspended, if the committee disapproved only parts of the rules.

4. The joint committee for the review of administrative rules may reverse the standing committee disapproval by taking action to approve the rule within the joint committee review period. The joint committee may uphold the standing committee disapproval by taking action to disapprove the rule within the joint committee review period. The joint committee may remand the proposed rule to the commission for further consideration or public hearings or both. If the joint committee disapproves a proposed rule, the commission may not promulgate the proposed rule until the bill in subd. 5 fails of enactment.

5. When the joint committee for the review of administrative rules disapproves a proposed rule or portion of the proposed rule, the committee shall as soon as possible place before the legislature, a bill to support the disapproval. If such bill is defeated, or fails of enactment in any other manner, the proposed rule or portion of the proposed rule may be promulgated. If the bill becomes law, the proposed rule or portion of the proposed rule, may not be promulgated unless a properly enacted law specifically authorizes the adoption of that rule.

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

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- (6) Enforcement of this section shall be under s. 196.44.
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