

1983 Assembly Bill 611

Date of enactment: April 20, 1984
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1983 Wisconsin Act 271

AN ACT to create 140.053 of the statutes, relating to drug inspection authority of the department of health and social services and imposing a penalty.

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

SECTION 1. 140.053 of the statutes is created to read:

140.053 Drugs; department order authority. (1) In this section, "drug" has the meaning given under s. 450.06.

(2) Except in cases of emergency, or if consent to entry for inspection purposes has been granted, the department may enter only upon obtaining a special inspection warrant under s. 66.122 and at reasonable hours, any premises in the state where drugs are manufactured, processed, packaged or held for sale or any vehicle being used to transport or hold drugs. The department may inspect the premises or vehicle, secure samples or specimens of drugs, examine and copy relevant documents and records and obtain photographic or other evidence needed to carry out its authority under this section. The department shall pay or offer to pay the market value of any samples of drugs taken. The department shall examine the samples and specimens secured and shall conduct other inspections and examinations needed to determine whether the drugs constitute an immediate danger to health or the operations or methods of operation on the premises cause the drugs to create an immediate danger to health.

(3) (a) Whenever the department has reasonable cause to believe that drugs constitute an immediate danger to health or that the operations or methods of operation on the premises or vehicle where the drugs are manufactured, processed, packaged or held cause the drugs to create an immediate danger to health, the administrator of the division of the department responsible for public health may issue and cause to be delivered to the owner or custodian of the drugs, premises or vehicle a temporary order which prohibits the sale or movement of the drugs for any purpose or prohibits the operations or methods of operation which create the immediate danger, or both. The temporary order may be effective for a period of no longer than 14 days from the time of its delivery, but it may be reissued for one additional 14-day period if necessary to complete the analysis or examination of samples, specimens or other evidence.

(b) No drugs described in a temporary order issued and delivered under par. (a) may be sold or moved and no operation or method of operation prohibited by the temporary order may be resumed without the approval of the department until the order has terminated or the time period specified in par. (a) has run out, whichever is earlier. If the department, upon completed analysis and examination, determines that the drugs, operations or methods of operation do not create an immediate danger to health, the owner or custodian of the drugs, premises or vehicle shall be promptly notified, in writing, and the temporary order shall terminate upon receipt of the written notice.

(c) Where the analysis or examination shows that the drugs, operations or methods of operation constitute an immediate danger to health, the owner or custodian shall be notified within the effective period of the temporary order under par. (a). Upon receipt of the notice, no drugs described in the temporary order may be sold or moved and no operation or method of operation prohibited by the order may be resumed without the approval of the department pending the issuance of a final decision under sub. (4).

(4) A notice issued under sub. (3) (c) shall be accompanied by notice of a hearing as provided in s. 227.07. The hearing shall be held no later than 15 days after the service of the notice unless both parties agree, in writing, to a later date. A final decision shall be issued under s. 227.10 within 10 days of the hearing. If a finding is made that the drugs, operations or methods of operation constitute a danger to health, the decision may order the destruction of the drugs, the diversion of the drugs to uses which do not pose a danger to health, modification of the drugs so that they do not create a danger to health or changes in or the cessation of operations or methods of operation to remove the danger to health.

(5) (a) Any person who violates this section or an order issued under this section may be fined not more than \$10,000 plus the retail value of any drugs moved, sold or disposed of in violation of this section or an order issued under this section or imprisoned not more than one year in the county jail or both.

(b) Any person who does either of the following may be fined not more than \$5,000 or imprisoned not more than one year in the county jail or both:

1. Assaults, restrains, threatens, intimidates, impedes, interferes with or otherwise obstructs a department inspector, employe or agent in the performance of his or her duties under this section.

2. Gives false information to a department inspector, employe or agent with the intent to mislead the inspector, employe or agent in the performance of his or her duties under this section.