



## 1995 SENATE BILL 193

May 16, 1995 - Introduced by Senators LEEAN, ELLIS and RUDE, by request of Governor Tommy G. Thompson. Referred to Committee on Environment and Energy.

1     **AN ACT to amend** 166.20 (5) (a) 2.; and **to create** 144.76 (2m), 144.76 (9) (f) and  
2           144.76 (9) (g) of the statutes; **relating to:** reporting discharges of hazardous  
3           substances and granting rule-making authority.

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### ***Analysis by the Legislative Reference Bureau***

Current law requires a person who possesses or controls a hazardous substance or who causes the discharge of a hazardous substance to notify the department of natural resources (DNR) immediately of the discharge of the hazardous substance.

This bill requires DNR to promulgate a rule that establishes an alternative to immediate reporting, or an exemption from reporting, for discharges of less than a specified amount of a hazardous substance for which a minimum reporting amount has been established under the federal comprehensive environmental response, compensation and liability act (superfund act) or under the federal emergency planning and community right-to-know act. In the rule, DNR may not specify an amount of one of these hazardous substances that is less than the minimum reporting amount specified under federal law. This bill authorizes DNR to promulgate a rule that establishes an alternative to immediate reporting, or an exemption from reporting, for discharges of less than a specified amount of a hazardous substance for which a federal minimum reporting amount has not been established.

Under this bill, before DNR promulgates its rule concerning a hazardous substance for which a federal minimum reporting amount has been established, a person is not required to report to DNR a discharge of that hazardous substance if the amount of the discharge is less than the federal minimum reporting amount.

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

1           **SECTION 1.** 144.76 (2m) of the statutes is created to read:

2           **144.76 (2m) ALTERNATIVES TO IMMEDIATE NOTIFICATION.** (a) For each hazardous  
3 substance for which a reportable quantity is established under 42 USC 9602 or 42  
4 USC 11004, the department shall promulgate, by rule, an alternative to immediate  
5 notification under sub. (2) (a), or an exemption from notification, that applies when  
6 the amount of the hazardous substance that is discharged is less than the amount  
7 specified in the rule. The amount specified in a rule under this paragraph for a  
8 hazardous substance may not be less than the reportable quantity established under  
9 42 USC 9602 or 42 USC 11004 for that hazardous substance. The department may  
10 specify an amount greater than the reportable quantity established under 42 USC  
11 9602 or 42 USC 11004 for a hazardous substance only if the department determines  
12 that the discharge of up to that greater amount of the hazardous substance is not  
13 likely to harm public health, safety or welfare or the environment.

14           (b) For a hazardous substance other than a hazardous substance to which par.  
15 (a) applies, the department may promulgate a rule that provides an alternative to  
16 immediate notification under sub. (2) (a), or an exemption from notification, that  
17 applies when the amount of the hazardous substance that is discharged is less than  
18 an amount specified in the rule. The department may specify an amount of a  
19 hazardous substance in a rule under this paragraph only if the department  
20 determines that the discharge of up to that amount of the hazardous substance is not  
21 likely to harm public health, safety or welfare or the environment.

22           **SECTION 2.** 144.76 (9) (f) of the statutes is created to read:

23           **144.76 (9) (f)** A person who possesses or controls a hazardous substance or who  
24 causes the discharge of a hazardous substance is not required to notify the  
25 department of the discharge if all of the following apply:

1           1. A reportable quantity is established under 42 USC 9602 or 42 USC 11004  
2 for the hazardous substance.

3           2. The amount of the hazardous substance that is discharged is less than the  
4 reportable quantity established under 42 USC 9602 or 42 USC 11004.

5           3. The department has not, as of the date that the person discovers the  
6 discharge, promulgated a rule under sub. (2m) that covers the discharge.

7           **SECTION 3.** 144.76 (9) (g) of the statutes is created to read:

8           144.76 (9) (g) A person who possesses or controls a hazardous substance or who  
9 causes the discharge of a hazardous substance is not required to notify the  
10 department under sub. (2) (a) of the discharge if all of the following apply:

11           1. The department has promulgated a rule under sub. (2m) that covers the  
12 hazardous substance.

13           2. The amount of the hazardous substance that is discharged is less than the  
14 amount specified in the rule.

15           3. The person performs an alternative to immediate reporting if required by the  
16 rule.

17           4. The person takes the actions required by sub. (3).

18           **SECTION 4.** 166.20 (5) (a) 2. of the statutes is amended to read:

19           166.20 (5) (a) 2. All facilities in this state covered under 42 USC 11004 shall  
20 comply with the notification requirements of 42 USC 11004. Notification of the  
21 department of natural resources of the discharge of a hazardous substance under s.  
22 144.76 (2) ~~shall constitute~~ constitutes the notification of the board required under 42  
23 USC 11004 if the notification is made immediately after the discharge occurs or is

1 discovered and the notification contains the information specified in 42 USC 11004

2 (b) (2) or (c).

3 (END)