



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-4111/1
MDK:med:rs

2011 ASSEMBLY BILL 716

March 15, 2012 – Introduced by Representatives ROYS, MASON, BERCEAU, C. TAYLOR, POCAN, POPE-ROBERTS, BEWLEY and SINICKI, cosponsored by Senators LASSA, TAYLOR and C. LARSON. Referred to Committee on Children and Families.

1 **AN ACT** *to renumber* 100.2095 (4) and 100.2095 (5); *to renumber and amend*
2 100.2095 (1), 100.2095 (2) (a) and (b) and 100.2095 (3); *to amend* 100.2095 (6)
3 (a), 100.2095 (6) (b), 100.2095 (6) (c) and 100.2095 (6) (d); and *to create*
4 100.2095 (1) (b), 100.2095 (1) (c), 100.2095 (1) (d), 100.2095 (1) (e), 100.2095 (2)
5 (title), 100.2095 (2m), 100.2095 (6) (title), 100.2095 (6) (cg) and 100.2095 (6) (cr)
6 of the statutes; **relating to:** children’s bedding containing certain chemicals
7 and providing penalties.

Analysis by the Legislative Reference Bureau

This bill requires in-state manufacturers, wholesale sellers, and retailers of children’s bedding that contains a specified chemical to ensure that the retail packaging for the children’s bedding is conspicuously labeled with a statement that the children’s bedding contains the chemical. The bill defines “children’s bedding” as any mattress, upholstered spring, comforter, pad, cushion, or pillow that is designed and manufactured for the purpose of sleeping or reclining and that is primarily intended by the manufacturer for use by children three years of age or younger. The chemicals that are subject to the bill’s labeling requirement are bis(2-ethylhexyl)phthalate, polybrominated diphenyl ethers, and polyvinyl chloride. A manufacturer who violates the bill is subject to a forfeiture of no more than \$5,000 for a first violation and no more than \$10,000 for each subsequent

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violation. A wholesale seller or retailer who violates the bill is subject to a forfeiture of no more than \$200 for each violation.

For further information see the *state and local* 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.** 100.2095 (1) of the statutes is renumbered 100.2095 (1) (intro.) and
2 amended to read:

3 100.2095 (1) DEFINITIONS. (intro.) In this section, ~~“bedding”~~:

4 (a) “Bedding” means any mattress, upholstered spring, comforter, pad,
5 cushion, or pillow designed and manufactured for the purpose of sleeping or
6 reclining.

7 **SECTION 2.** 100.2095 (1) (b) of the statutes is created to read:

8 100.2095 (1) (b) “Children’s bedding” means bedding primarily intended by the
9 manufacturer for use by children 3 years of age or younger.

10 **SECTION 3.** 100.2095 (1) (c) of the statutes is created to read:

11 100.2095 (1) (c) “DEHP” means bis(2-ethylhexyl)phthalate.

12 **SECTION 4.** 100.2095 (1) (d) of the statutes is created to read:

13 100.2095 (1) (d) “PBDE” means polybrominated diphenyl ethers.

14 **SECTION 5.** 100.2095 (1) (e) of the statutes is created to read:

15 100.2095 (1) (e) “PVC” means polyvinyl chloride.

16 **SECTION 6.** 100.2095 (2) (title) of the statutes is created to read:

17 100.2095 (2) (title) ALL BEDDING.

18 **SECTION 7.** 100.2095 (2) (a) and (b) of the statutes are renumbered 100.2095

19 (2) (am) 1. and 2., and 100.2095 (2) (am) 2., as renumbered, is amended to read:

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1 100.2095 (2) (am) 2. For the purpose of labeling bedding under ~~par. (a)~~ subd.
2 1., the label shall be not less than 3 inches by 4.5 inches in size and shall be sewed
3 to the bedding and the print appearing on the label shall be not less than one-eighth
4 of an inch in height.

5 **SECTION 8.** 100.2095 (2m) of the statutes is created to read:

6 100.2095 (2m) CHILDREN'S BEDDING. (a) No person may manufacture in this
7 state children's bedding intended for retail sale that contains PVC, DEHP, or PBDE
8 unless the person ensures that the retail packaging of the children's bedding is
9 conspicuously labeled with a statement that the children's bedding contains PVC,
10 DEHP, or PBDE.

11 (b) No person may sell, or offer for sale, at wholesale or retail in this state
12 children's bedding that contains PVC, DEHP, or PBDE unless the person ensures
13 that the retail packaging of the children's bedding is conspicuously labeled with a
14 statement that the children's bedding contains PVC, DEHP, or PBDE.

15 **SECTION 9.** 100.2095 (3) of the statutes is renumbered 100.2095 (2) (bm) and
16 amended to read:

17 100.2095 (2) (bm) No person in the business of manufacturing, distributing or
18 selling bedding may manufacture, distribute, sell, offer for sale, consign for sale or
19 possess with intent to distribute, sell, offer for sale or consign for sale any article of
20 bedding unless the bedding is labeled as provided in ~~sub. (2)~~ par. (am).

21 **SECTION 10.** 100.2095 (4) of the statutes is renumbered 100.2095 (2) (c).

22 **SECTION 11.** 100.2095 (5) of the statutes is renumbered 100.2095 (2) (d).

23 **SECTION 12.** 100.2095 (6) (title) of the statutes is created to read:

24 100.2095 (6) (title) ENFORCEMENT; PENALTIES.

25 **SECTION 13.** 100.2095 (6) (a) of the statutes is amended to read:

ASSEMBLY BILL 716**SECTION 13**

1 100.2095 (6) (a) Any person suffering pecuniary loss because of a violation of
2 sub. ~~(3), (4) or (5)~~ (2) (bm), (c), or (d) may commence an action for the pecuniary loss
3 and if the person prevails, the person shall recover twice the amount of the pecuniary
4 loss or \$200 for each violation, whichever is greater, together with costs, including
5 reasonable attorney fees.

6 **SECTION 14.** 100.2095 (6) (b) of the statutes is amended to read:

7 100.2095 (6) (b) The department may commence an action in the name of the
8 state to restrain by temporary or permanent injunction a violation of sub. ~~(3), (4) or~~
9 ~~(5)~~ (2) (bm), (c), or (d) or (2m). Before entry of final judgment, the court may make
10 any necessary orders to restore to any person any pecuniary loss suffered by the
11 person because of the violation.

12 **SECTION 15.** 100.2095 (6) (c) of the statutes is amended to read:

13 100.2095 (6) (c) The department or any district attorney may commence an
14 action in the name of the state to recover a forfeiture to the state of not less than \$100
15 nor more than \$10,000 for each violation of sub. ~~(3), (4) or (5)~~ (2) (bm), (c), or (d).

16 **SECTION 16.** 100.2095 (6) (cg) of the statutes is created to read:

17 100.2095 (6) (cg) The department or any district attorney may commence an
18 action in the name of the state to recover a forfeiture to the state of not more than
19 \$5,000 for a first violation, and not more than \$10,000 for each subsequent violation,
20 of sub. (2m) (a).

21 **SECTION 17.** 100.2095 (6) (cr) of the statutes is created to read:

22 100.2095 (6) (cr) The department or any district attorney may commence an
23 action in the name of the state to recover a forfeiture to the state of not more than
24 \$200 for each violation of sub. (2m) (b).

25 **SECTION 18.** 100.2095 (6) (d) of the statutes is amended to read:

