

TITLE XIII.

Regulation of Industry.

CHAPTER 101

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS

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SUBCHAPTER I

REGULATION OF INDUSTRY: GENERAL PROVISIONS

101.01 Definitions. (1) In chs. 101 to 106, and 108:

(a) "Department" means the department of industry, labor and human relations.

(b) "Commission" means the industry, labor and human relations commission.

(c) "Commissioner" means a member of the industry, labor and human relations commission.

(d) "Deputy" means any person employed by the department designated as a deputy, who possesses special, technical, scientific, managerial or personal abilities or qualities in matters within the jurisdiction of the department, and who may be engaged in the performance of

duties under the direction of the commission, calling for the exercise of such abilities or qualities.

(e) "Order" means any decision, rule, regulation, direction, requirement or standard of the department, or any other determination arrived at or decision made by the department.

(f) "General order" means such order as applies generally throughout the state to all persons, employments, places of employment or public buildings, or all persons, employments or places of employment or public buildings of a class under the jurisdiction of the department. All other orders of the department shall be considered special orders.

(g) "Local order" means any ordinance, order, rule or determination of any common council, board of aldermen, board of trustees or the village board, of any village or city, or the board of health of any municipality, or an order or direction of any official of such municipality, upon any matter over which the department has jurisdiction.

(2) The following terms as used in ss. 101.01 to 101.25, shall be construed as follows:

(a) "Place of employment" includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. "Farming" includes those activities specified in s. 102.04 (3), and also includes the transportation of farm products, supplies or equipment directly to the farm by the operator of said farm or employes for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, "place of employment" does not include a previously constructed building used as a community-based residential facility as defined in s. 50.01 (1) which serves 20 or fewer unrelated residents, except for the purposes of s. 101.11.

(b) The term "employment" shall mean and include any trade, occupation or process of manufacture, or any method of carrying on such trade, occupation or process of manufacture in which any person may be engaged, except in such private domestic service as does not involve the use of mechanical power and in farm labor as used in par. (a).

(c) The term "employer" shall mean and include every person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district and other public or quasi-public corporations as well as any agent, manager, representative or other person having control or custody of any employment, place of employment or of any employe.

(d) The term "employe" shall mean and include every person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go or work or be at any time in any place of employment.

(e) The term "frequenter" shall mean and include every person, other than an employe, who may go in or be in a place of employment or public building under circumstances which render him other than a trespasser.

(f) The term "welfare" shall mean and include comfort, decency and moral well-being.

(g) The term "safe" or "safety" as applied to an employment or a place of employment or a public building, shall mean such freedom from danger to the life, health, safety or welfare of employes or frequenters, or the public, or tenants, or firemen, and such reasonable means of notification, egress and escape in case of fire, and such freedom from danger to adjacent buildings or other property, as the nature of the employment, place of employment, or public building, will reasonably permit.

(h) "Public building" means any structure, including exterior parts of such building, such as a porch, exterior platform or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants. When used in relation to building codes, "public building" does not include a previously constructed building used as a community-based residential facility as defined in s. 50.01 (1) which serves 20 or fewer unrelated residents.

(i) The term "owner" shall mean and include every person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district and other public or quasi-public corporations as well as any manager, representative, officer, or other person having ownership, control or custody of any place of employment or public building, or of the construction, repair or maintenance of any place of employment or public building, or who prepares plans for the construction of any place of employment or public building. Said ss. 101.01 to 101.25 shall

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apply, so far as consistent, to all architects and builders.

History: 1971 c. 185 ss. 1, 5; 1971 c. 228 ss. 15, 44; 1975 c. 413, 421.

Note: Subs. (2) (a) and (h) were amended by Ch. 413, laws of 1975, published June 5, 1976. The effective date of Ch. 413 was stated in section 20 as follows:

"The department shall promulgate rules under section 50.01 within one year of the effective date of this act. The act shall take effect upon implementation of the rules so promulgated."

In a safe-place action by a plaintiff injured through contact with home power lines while installing aluminum trim on the premises, the power lines did not constitute a place of employment under (2) (a), for although a "process or operation" was carried on by the transmission of electricity through the lines, no person was employed by the power company on the premises at the time of the injury. *Barthel v. Wisconsin Electric Power Co.* 69 W (2d) 446, 230 NW (2d) 863.

101.02 Powers, duties and jurisdiction of department. It shall be the duty of the department, and it shall have power, jurisdiction and authority:

(1) To adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings.

(2) The department may sue and be sued.

(3) To employ, promote and remove deputies, clerks and other assistants as needed, to fix their compensation, and to assign to them their duties; and to appoint advisors who shall, without compensation except reimbursement for actual and necessary expenses, assist the department in the execution of its duties.

(4) To collect, collate and publish statistical and other information relating to the work under its jurisdiction and to make public reports in its judgment necessary.

(5) (a) To conduct such investigations, hold such public meetings and attend or be represented at such meetings, conferences and conventions inside or outside of the state as may, in its judgment, tend to better the execution of its functions.

(b) For the purpose of making any investigation with regard to any employment or place of employment or public building, the commission may appoint, by an order in writing, any commissioner, any deputy who is a citizen of the state, or any other competent person as an agent whose duties shall be prescribed in such order.

(c) In the discharge of his duties such agent shall have every power whatsoever of an inquisitorial nature granted in this act to the commission, and the same powers as a court commissioner with regard to the taking of depositions; and all powers granted by law to a court commissioner relative to depositions are hereby granted to such agent.

(d) The commission may conduct any number of such investigations contemporaneously through different agents, and may delegate to such agent the taking of all testimony bearing upon any investigation or hearing. The decision of the commission shall be based upon its examination of all testimony and records. The recommendations made by such agents shall be advisory only and shall not preclude the taking of further testimony if the commission so order nor further investigation.

(e) The commission may direct any deputy who is a citizen to act as special prosecutor in any action, proceeding, investigation, hearing or trial relating to the matters within its jurisdiction.

(f) Upon the request of the commission, the department of justice or district attorney of the county in which any investigation, hearing or trial had under ss. 101.01 to 101.25 is pending, shall aid therein and prosecute under the supervision of the commission, all necessary actions or proceedings for the enforcement of those sections and all other laws of this state relating to the protection of life, health, safety and welfare, and for the punishment of all violations thereof.

(6) (a) All orders of the department in conformity with law shall be in force, and shall be prima facie lawful; and all such orders shall be valid and in force, and prima facie reasonable and lawful until they are found otherwise upon judicial review thereof pursuant to ch. 227 or until altered or revoked by the department.

(b) All general orders shall take effect as provided in s. 227.026. Special orders shall take effect as therein directed.

(c) The department shall, upon application of any employer or owner, grant such time as may be reasonably necessary for compliance with any order.

(d) Any person may petition the department for an extension of time, which the department shall grant if it finds such an extension of time necessary.

(e) Any employer or other person interested either because of ownership in or occupation of any property affected by any such order, or otherwise, may petition for a hearing on the reasonableness of any order of the department in the manner provided in ss. 101.01 to 101.25.

(f) Such petition for hearing shall be by verified petition filed with the department, setting out specifically and in full detail the order upon which a hearing is desired and every reason why such order is unreasonable, and every issue to be considered by the department on the hearing. The petitioner shall be deemed to have finally waived all objections to any irregularities and illegalities in the order upon which a hearing is sought other than those set forth in the

petition. All hearings of the department shall be open to the public.

(g) Upon receipt of such petition, if the issues raised in such petition have theretofore been adequately considered, the department shall determine the same by confirming without hearing its previous determination, or if such hearing is necessary to determine the issues raised, the department shall order a hearing thereon and consider and determine the matter or matters in question at such times as shall be prescribed. Notice of the time and place of such hearing shall be given to the petitioner and to such other persons as the department may find directly interested in such decision.

(h) Upon such investigation, if it shall be found that the order complained of is unjust or unreasonable the department shall substitute therefor such other order as shall be just and reasonable.

(i) Whenever at the time of the final determination upon such hearing it shall be found that further time is reasonably necessary for compliance with the order of the department, the department shall grant such time as may be reasonably necessary for such compliance.

(7) (a) Nothing contained in ss. 101.01 to 101.25 shall be construed to deprive the common council, the board of aldermen, the board of trustees or the village board of any village or city, or the board of health of any municipality of any power or jurisdiction over or relative to any place of employment or public building, provided that, whenever the department shall, by an order, fix a standard of safety or any hygienic condition for employments or places of employment or public buildings, such order shall, upon the filing by the department of a copy thereof with the clerk of the village or city to which it may apply, be held to amend or modify any similar conflicting local order in any particular matters governed by said order. Thereafter no local officer shall make or enforce any order contrary thereto.

(b) Any person affected by any local order in conflict with an order of the department, may in the manner provided in s. 101.02 (6) (e) to (i), petition the department for a hearing on the ground that such local order is unreasonable and in conflict with the order of the department. The petition for such hearing shall conform to the requirements set forth for a petition in s. 101.02 (6) (e) to (i).

(c) Upon receipt of such petition the department shall order a hearing thereon, to consider and determine the issues raised by such appeal, such hearing to be held in the village, city or municipality where the local order appealed from was made. Notice of the time and place of such hearing shall be given to the petitioner and such other persons as the department may find

directly interested in such decision, including the clerk of the municipality or town from which such appeal comes. If upon such investigation it shall be found that the local order appealed from is unreasonable and in conflict with the order of the department, the department may modify its order and shall substitute for the local order appealed from such order as shall be reasonable and legal in the premises, and thereafter the said local order shall, in such particulars, be void and of no effect.

(8) (a) No action, proceeding or suit to set aside, vacate or amend any order of the department or to enjoin the enforcement thereof, shall be brought unless the plaintiff shall have applied to the department for a hearing thereon at the time and as provided in s. 101.02 (6) (e) to (i), and in the petition therefor shall have raised every issue raised in such action.

(b) Every order of the department shall, in every prosecution for violation thereof, be conclusively presumed to be just, reasonable and lawful, unless prior to the institution of prosecution for such violation a proceeding for judicial review of such order shall have been instituted, as provided in ch. 227.

(9) A substantial compliance with the requirements of ss. 101.01 to 101.25, shall be sufficient to give effect to the orders of the department, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

(10) Orders of the commission under sections 101.01 to 101.25 shall be subject to review in the manner provided in ch. 227.

(11) Proof by any person, firm or corporation employing a contractor to construct, repair, alter or improve any building or structure, that such contractor in performing such work has failed to comply with any applicable order or regulation of the department promulgated under this chapter shall constitute a defense to any action for payment by such contractor to the extent that it shall bar recovery for any part of the work which fails to comply. Advancements paid to the contractor for work which fails to comply as well as any reasonable amount expended to effectuate compliance with any applicable order or regulation may be recovered from such contractor by way of counterclaim or in a separate action. This section shall not apply where plans or specifications were prepared by an architect or engineer licensed to do business in this state and the contract performed in accordance therewith.

(12) Every day during which any person, persons, corporation or any officer, agent or employe thereof, shall fail to observe and comply with any order of the department or to perform any duty enjoined by ss. 101.01 to 101.25, shall

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constitute a separate and distinct violation of such order, or of said sections as the case may be.

(13) (a) If any employer, employe, owner, or other person violates ss. 101.01 to 101.25, or fails or refuses to perform any duty lawfully enjoined, within the time prescribed by the department, for which no penalty has been specifically provided, or fails, neglects or refuses to obey any lawful order given or made by the department, or any judgment or decree made by any court in connection with ss. 101.01 to 101.25, for each such violation, failure or refusal, such employer, employe, owner or other person shall forfeit and pay into the state treasury a sum not less than \$10 nor more than \$100 for each such offense.

(b) It shall be the duty of all officers of the state, the counties and municipalities, upon request of the department, to enforce in their respective departments, all lawful orders of the department, insofar as the same may be applicable and consistent with the general duties of such officers.

(14) (a) The commission, or any member thereof, or any examiner appointed thereby, may hold hearings and take testimony.

(b) Each witness who shall appear before the commission by its order shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of properly verified vouchers approved by the chairman of the commission, and charged to the proper appropriation for the department. But no witness subpoenaed at the instance of parties other than the commission shall be entitled to compensation from the state for attendance or travel unless the commission shall certify that his testimony was material to the matter investigated.

(c) The department or any party may in any investigation cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in circuit courts. The expense incurred by the state in the taking of such depositions shall be charged against the proper appropriations for the department.

(d) A full and complete record shall be kept of all proceedings had before the department on any investigation and all testimony shall be taken down by the stenographer appointed by the department.

(15) (a) The department has such supervision of every employment, place of employment and public building in this state as is necessary adequately to enforce and administer all laws and all lawful orders requiring such employment, place of employment or public building to be safe, and requiring the protection of the life,

health, safety and welfare of every employe in such employment or place of employment and every frequenter of such place of employment, and the safety of the public or tenants in any such public building. This paragraph shall not apply to rural school buildings and, after October 31, 1975, where issues of employer-employe relationship are covered by federal standards enforced by the occupational safety and health administration.

(b) To administer and enforce, so far as not otherwise provided for in the statutes, the laws relating to child labor, laundries, stores, employment, licensed occupations, school attendance, bakeries, employment offices, intelligence offices and bureaus, manufacture of cigars, sweatshops, corn shredders, woodsawing machines, fire escapes and means of egress from buildings, scaffolds, hoists, ladders and other matters relating to the erection, repair, alteration or painting of buildings and structures, and all other laws protecting the life, health, safety and welfare of employes in employments and places of employment and frequenters of places of employment.

(c) Upon petition, after January 1, 1912, by any person that any employment or place of employment or public building is not safe, the department shall proceed with or without notice, to make such investigation as may be necessary to determine the matter complained of.

(d) After such hearing as may be necessary, the department may enter such order relative thereto as may be necessary to render such employment or place of employment or public building safe.

(e) Whenever the department shall learn that any employment or place of employment or public building is not safe it may of its own motion, summarily investigate the same, with or without notice, and enter such order as may be necessary relative thereto.

(f) To investigate, ascertain and determine such reasonable classifications of persons, employments, places of employment and public buildings, as shall be necessary to carry out the purposes of ss. 101.01 to 101.25.

(g) Any commissioner or deputy of the department may enter any place of employment or public building, for the purpose of collecting facts and statistics, examining the provisions made for the health, safety and welfare of the employes, frequenters, the public or tenants therein and bringing to the attention of every employer or owner any law, or any order of the department, and any failure on the part of such employer or owner to comply therewith. No employer or owner shall refuse to admit any commissioner or deputy of the department to his place of employment or public building.

(h) To investigate, ascertain, declare and prescribe what safety devices, safeguards or other means or methods of protection are best adapted to render the employes of every employment and place of employment and frequenters of every place of employment safe, and to protect their welfare as required by law or lawful orders.

(i) To ascertain and fix such reasonable standards and to prescribe, modify and enforce such reasonable orders for the adoption of safety devices, safeguards and other means or methods of protection to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life, health, safety and welfare of employes in employments and places of employment or frequenters of places of employment.

(j) To ascertain, fix and order such reasonable standards, rules or regulations for the construction, repair and maintenance of places of employment and public buildings, as shall render them safe.

(k) Every employer and every owner shall furnish to the department all information required by it to carry into effect ss. 101.01 to 101.25, and shall make specific answers to all questions submitted by the department relative thereto.

(l) Any employer receiving from the department any blanks calling for information required by it to carry into effect ss. 101.01 to 101.25, with directions to fill the same, shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case he is unable to answer any question, he shall give a good and sufficient reason for such failure, and said answer shall be verified under oath by the employer, or by the president, secretary or other managing officer of the corporation, if the employer is a corporation, and returned to the department at its office within the period fixed by the department.

History: 1971 c. 185 ss. 1 to 5, 7; 1971 c. 228 ss. 16, 42; 1975 c. 39, 94.

Cross Reference: See 66 122 for provision authorizing special inspection warrants

The department's authority to adopt rules covering the safety of frequenters while engaged in recreational activities at youth camps is limited by 101 10 (2), (3), (4) and (5), Stats. 1969, to orders relating to the construction of public buildings on the premises, but only as to the structural aspects thereof, and by 101.01 (1), Stats. 1969, as to places of employment, but only as to those camps operated for profit 59 Atty Gen 35

The department has the power to promulgate reasonable safety standards for the protection of employes while working in and around motor vehicles used on the job 59 Atty Gen 181.

The department may inspect those parts of boarding homes designed for 3 or more persons where employes work or those used by the public, but not interiors of private dwellings. It has no authority to license or register boarding homes nor to charge an inspection fee based upon number of beds or rooms 62 Atty Gen. 107

The department cannot enact a rule which would alter the common law rights and duties of adjoining landowners with respect to lateral support, although the department may

specify 30 days as the minimum safety period in which an excavating owner must give notice to a neighbor of an intent to excavate. 62 Atty Gen. 287.

101.03 Testimonial powers of commissioners. Each of the commissioners may certify to official acts, and take testimony.

History: 1971 c. 228.

101.05 Exempt buildings. No building code adopted by the department under this chapter shall affect buildings located on research or laboratory farms of public universities or other state institutions and used primarily for housing livestock or other agricultural purposes.

History: 1971 c. 329.

101.11 Employer's duty to furnish safe employment and place. (1) Every employer shall furnish employment which shall be safe for the employes therein and shall furnish a place of employment which shall be safe for employes therein and for frequenters thereof and shall furnish and use safety devices and safeguards, and shall adopt and use methods and processes reasonably adequate to render such employment and places of employment safe, and shall do every other thing reasonably necessary to protect the life, health, safety, and welfare of such employes and frequenters. Every employer and every owner of a place of employment or a public building now or hereafter constructed shall so construct, repair or maintain such place of employment or public building as to render the same safe.

(2) (a) No employer shall require, permit or suffer any employe to go or be in any employment or place of employment which is not safe, and no such employer shall fail to furnish, provide and use safety devices and safeguards, or fail to adopt and use methods and processes reasonably adequate to render such employment and place of employment safe, and no such employer shall fail or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employes and frequenters; and no employer or owner, or other person shall hereafter construct or occupy or maintain any place of employment, or public building, that is not safe, nor prepare plans which shall fail to provide for making the same safe.

(b) No employe shall remove, displace, damage, destroy or carry off any safety device or safeguard furnished and provided for use in any employment or place of employment, nor interfere in any way with the use thereof by any other person, nor shall any such employe interfere with the use of any method or process adopted for the protection of any employe in such employment or place of employment or frequenter of such place of employment, nor fail

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or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employes or frequenters.

(3) This section applies to community-based residential facilities as defined in s. 50.01 (1).

History: 1971 c. 185; 1975 c. 413

Note: Sub. (3) was created by Ch. 413, laws of 1975. For the effective date of Ch. 413, see note following 101.01.

See note to 895.045, citing *Lovesev v. Allied Development Corp.* 45 W (2d) 340, 173 NW (2d) 196

Where an apartment complex was managed for a fee by a management company, the company was carrying on a business there. Reduction of rent to one of the tenants for caretaking services constituted employment on the premises. A tenant who fell on the icy parking lot after the caretaker knew of the condition need only prove negligence in maintaining the premises. *Wittka v. Hartnell*, 46 W (2d) 374, 175 NW (2d) 248.

A public sidewalk is not made a place of employment merely because an employer constructed it and kept it free of ice and snow. *Petroski v. Eaton Yale & Towne, Inc.* 47 W (2d) 617, 178 NW (2d) 53

The fact that a violation of the safe-place statute is found puts the burden on the owner to rebut the presumption of causation but does not establish as a matter of law that the defendant's negligence was greater than the plaintiff's. *Frederick v. Hotel Investments, Inc.* 48 W (2d) 429, 180 NW (2d) 562.

A store must be held to have had constructive notice of a dangerous condition when it displayed shaving cream in spray cans on a counter and a 70-year old woman fell in cream sprayed on the white floor. *Steinhorst v. H. C. Prange Co.* 48 W (2d) 679, 180 NW (2d) 525.

Mere existence of a step up into a hospital lavatory is not an unsafe condition. *Prelipp v. Wausau Memorial Hospital*, 50 W (2d) 27, 183 NW (2d) 24

Failure to light a parking lot can support a safe-place action but the evidence must show how long the light was burned out to constitute constructive notice. *Low v. Siewert*, 54 W (2d) 251, 195 NW (2d) 451.

A parking lot owned by a city which is a continuation of a store parking lot, used by the public for attending the city zoo and the store, even though maintained by the private property owner, is not a place of employment. *Gordon v. Schultz Savo Stores, Inc.* 54 W (2d) 692, 196 NW (2d) 633.

Detailed construction specifications and the presence of engineers to insure compliance does not manifest control over the project so as to make the commission liable. *Berger v. Metropolitan Sewerage Comm.* 56 W (2d) 741, 203 NW (2d) 87.

In a safe-place action the employe's contributory negligence is less when his act or omission has been committed in the performance of his duties. *McCrossen v. Nekoosa-Edwards Paper Co.* 59 W (2d) 245, 208 NW (2d) 148.

A pier at a beach open to the public for a fee constitutes a place of employment. Any distinction between licensees and invitees is irrelevant, and the statute imposes a higher duty as to safety than the common law. *Gould v. Allstar Ins. Co.* 59 W (2d) 355, 208 NW (2d) 388.

A private road on the ground of a private racetrack which connected the track and a parking lot is subject to this section as to frequenters. *Gross v. Denow*, 61 W (2d) 40, 212 NW (2d) 2.

Causal negligence sustained where elevator had by-pass switch in violation of Wis. Adm. Code section Ind 4.60 (1) (e). *Sampson v. Laskin*, 66 W (2d) 318, 224 NW (2d) 594.

A one-eighth-inch variance in elevation between the sides of the ramp joint was too slight as a matter of law to constitute a violation of the safe-place statute. *Balas v. St. Sebastian's Congregation*, 66 W (2d) 421, 225 NW (2d) 428.

An employer may be held liable under the safe-place statute not only where he fails to construct or maintain safety-structures such as a fence, but also where he knowingly permits employes or frequenters to venture into a dangerous area. *Kaiser v. Cook*, 67 W (2d) 460, 227 NW (2d) 50.

101.12 Approval and inspection of public buildings and places of employment and components. (1) The department shall require the submission of essential drawings,

calculations and specifications for public buildings, public structures and places of employment including the following components:

(a) Heating, ventilation, air conditioning and fire detection, prevention or suppression systems.

(b) Industrial exhaust systems.

(c) Elevators, escalators, ski lift and towing devices and power dumbwaiters.

(d) Stadiums, grandstands and bleachers.

(e) Amusement and thrill rides equipment.

(2) Plans of said buildings, structures and components shall be examined for compliance with the rules of the department and a statement of the examination returned to the designer and owner before construction is started. Nothing in this section shall relieve the designer of the responsibility for designing a safe building, structure or component.

(3) The department shall:

(a) Accept the examination of essential drawings, calculations and specifications in accordance with sub. (1) performed by cities of the 1st class provided the same are examined in a manner approved by the department.

(b) Accept the examination of essential drawings, calculations and specifications in accordance with sub. (1) for buildings containing less than 50,000 cubic feet of volume and alterations to buildings containing less than 100,000 cubic feet of volume performed by cities of the 2nd and 3rd classes provided the same are examined in a manner approved by the department. The department shall determine and certify the competency of all such examiners.

(c) Determine and certify the competency of insurance company inspectors of boilers, unfired pressure vessels, refrigeration plants, elevators, escalators and power dumbwaiters.

(d) Accept inspections at no cost performed by insurance company inspectors for whom evidence of competency has been furnished to the department.

(e) Approve inspection service maintained or employed by owners or operators of boilers and unfired pressure vessels.

(f) Accept inspections at no cost performed by approved owner or operator inspection service and provide shop inspection service when deemed necessary.

(g) Accept inspection at no cost when performed by qualified and authorized inspectors in the employ of cities of the 1st, 2nd and 3rd classes for the inspection of buildings and equipment located within the corporate limits of such cities.

(h) Require all local officers not authorized by the department to grant approvals as provided in pars. (a) and (b) to deny permits or licenses

for construction or use of public buildings, public structures and places of employment until the required drawings and calculations have been examined by the department.

(4) Every architect and every engineer submitting plans for the construction of any structure using public funds shall, prior to the letting of final bids on such structures, submit a written report, indicating whether such structure meets or does not meet federal fallout shelter engineering standards, to the contracting agency.

History: 1971 c. 185; 1971 c. 228 s. 42; 1973 c. 326.

The state statutes and building code have not preempted the field as to school buildings; local building codes apply to the extent that they are not inconsistent. *Hartford Union High School v. Hartford*, 51 W (2d) 591, 187 NW (2d) 849.

101.125 Safety glazing in hazardous locations. (1) DEFINITIONS. In this section:

(a) "Building" means a "place of employment" as defined in s. 101.01 (2) (a) and a "public building" as defined in s. 101.01 (2) (h) and includes, without limitation because of enumeration, wholesale and retail stores, storerooms, office buildings, factories, warehouses, governmental buildings, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, retirement homes, theaters, stadiums, gymnasiums, amusement park buildings, schools and other buildings used for educational purposes, places of worship and other places of public assembly and all residences including mobile homes, manufactured or industrialized housing, lodging homes and any other building used as a dwelling for one or more persons.

(b) "Entrance and exit door" means a hinged, pivoting, revolving or sliding door which is used alone or in combination with other such doors on interior or exterior walls of a residential, commercial or public building for passage, ingress or egress.

(c) "Fixed or operating, flat panels immediately adjacent to an entrance or exit door" means the first fixed or operating, flat panel on either or both sides of an interior or exterior door if:

1. The nearest vertical edge of such panel is located within 2 feet of the nearest vertical edge of the door; and

2. The lower horizontal edge of such panel is less than 2 feet from the floor.

(d) "Hazardous location" means the location of a structural element in a building which is used as an entrance and exit door to a compartment, room or building; the fixed or operating, flat panels immediately adjacent to an entrance or exit door; a sliding glass door unit; a storm or combination door; a shower and bathtub enclosure; and the adjacent sidelites of a door. In the case of a public building, the term

also includes any other location designated by the department.

(e) "Safety glazing material" means any transparent or translucent material, including tempered glass, laminated glass, wire glass and rigid plastic, which is constructed, treated or combined with other materials to minimize the likelihood of cutting or piercing injuries to humans, and which is approved by rule of the department as meeting departmental standards for the location in which it is to be applied.

(f) "Sliding glass door unit" means a panel or an assembly of panels contained in a frame designed so that at least one panel is movable in a horizontal direction.

(g) "Storm or combination door" means a door which protects an entrance or exit door against weather elements and affects indoor temperature control.

(2) LABELING REQUIRED. (a) Except as provided in par. (b), each lite of safety glazing material manufactured, distributed, imported, sold or installed for use in a hazardous location shall be permanently labeled with a label which:

1. States the nominal thickness and the type of safety glazing material;

2. Identifies the labeling seller, manufacturer, fabricator or installer;

3. Is legible and so positioned as to be legible after installation; and

4. Is distinctive in design and is not used on materials other than safety glazing materials.

(b) The department may by rule provide that in new construction or remodeling, the installation of safety glazing material may be recorded with the department or other appropriate agency designated by it, by the filing of an affidavit certifying the installation, in lieu of the labeling requirement of par. (a), if it finds that enforcement of this section will not be hindered by such substitute procedure.

(3) SAFETY GLAZING MATERIALS REQUIRED. No material supplier, builder, contractor or subcontractor may knowingly install, cause to be installed, consent to the installation, or sell for installation in any hazardous location, transparent or translucent materials other than safety glazing materials, except that:

(a) In buildings contracted for or existing on or before November 30, 1976, the department may by rule require the installation of a vertical or horizontal bar, rail, grill or screen as a protective device in lieu of safety glazing material in hazardous locations where safety glazing would be impractical because of the size of the lite required.

(b) The department may by rule exempt from the requirements of this section and, if it deems necessary, prescribe other less stringent protective requirements for:

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1. Any lite which is 8 inches or less in the least dimension, or no more than 4 inches in either dimension, and which is used in an application which the department finds is not hazardous.

2. Leaded stained glass which is used in an application which the department finds is not hazardous.

(c) Any mirror, framed glazed picture or similar decorative object which is attached to a door or wall in a hazardous location and which does not in whole or in part conceal any opening in such door or wall is exempt from the requirements of this section.

(4) LIABILITY OF EMPLOYERS AND SELLERS.

(a) No employe of a person responsible for compliance with this section is liable for the employer's failure to comply.

(b) No seller of glazing materials is subject to the penalty under sub. (5) or is liable for injuries occurring to any person if the seller has exercised reasonable care to see that the glazing materials sold by him or her are properly used.

(5) PENALTY. Whoever violates this section may be required to forfeit not less than \$100 nor more than \$500.

History: 1975 c 293

101.127 Building requirements for certain residential facilities. The department, after consultation with the department of health and social services, shall develop a building code for previously constructed buildings converted to use as community-based residential facilities as defined in s. 50.01 (1) which serve between 9 and 20 unrelated residents. In setting standards, the department shall consider the criteria enumerated in ss. 46.03 (25) and 50.03 (1) (a), and in addition shall consider the relationship of the development and enforcement of the code to any relevant codes of the department of health and social services. The objectives of the code shall be to guarantee health and safety and to maintain insofar as possible a homelike environment. The department shall consult with the residential facilities council in developing the code.

History: 1975 c. 413; 1975 c. 422 s. 163.

Note: Section 101.127, as renumbered from 101.125 by the revisor, was created by Ch. 413, laws of 1975. For the effective date of Ch. 413, see note following 101.01.

101.13 Physically disabled persons; building requirements. (1) In this section, "access" means the physical characteristics of a place which allow persons with functional limitations caused by impairments of sight, hearing, coordination or perception or persons with semiambulatory or nonambulatory disabilities to enter, circulate within and leave a place of employment or public building and to use the public toilet facilities therein without assistance.

(1m) The department shall by rule provide minimum requirements to facilitate the use of public buildings by physically disabled persons where traffic might reasonably be expected by such persons.

(2) (a) Any place of employment or public building, the initial construction of which is commenced after July 1, 1970, but prior to May 27, 1976, shall be so designed and constructed as to provide reasonable means of ingress and egress by the physically disabled with the exception of:

1. Apartment houses with less than 20 units, row houses and rooming houses;
2. Convents and monasteries;
3. Jails or other places of detention;
4. Garages, hangars and boathouses;
5. All buildings classified as hazardous occupancies;
6. Warehouses;
7. State buildings specifically built for field service purposes such as but not limited to conservation fire towers, fish hatcheries, tree nursery buildings; and

8. University residence halls at universities which have at least 3 residence halls for men and 3 residence halls for women so constructed as to allow physically disabled persons reasonable means of ingress and egress to such buildings.

(b) The requirements of par. (a) may be accomplished by at least one ground or street level entrance and exit without steps, by ramps with slopes not more than one foot of rise in 12 feet, coated with a nonskid surface, or by elevator or such other arrangement as may be reasonably appropriate under the circumstances and which meets with the approval of the department or in lieu thereof with the approval of the municipality wherein the building is located. The doors of such entrance and exit must have a clear opening of at least 40 inches in width and shall otherwise conform to the department building code.

(c) If any ground or street level entrance or exit is not so designed or constructed a sign shall be placed at such entrance or exit indicating the location of the entrance or exit available for wheelchair service.

(d) Any place of employment or public building, unless exempted by rule of the department, the initial construction of which is commenced on or after May 27, 1976, shall be designed and constructed so as to provide reasonable means of access. Buildings, as defined in s. 703.02 (5), of 2 stories or less in height shall be exempt from requirements relating to parking space, ramps and grade-level entrances.

(e) The department shall by rule provide minimum regulations to ensure the access to and use of buildings prescribed in pars. (a) to (d).

(3) Any place of employment or public building subject to sub. (2) shall be so designed and constructed to allow physically disabled persons reasonable means of access from a parking lot, if any, ancillary to such buildings.

(4) The owner of any building who fails to meet the requirements of this section may be required to reconstruct the same by mandatory injunction in a circuit court suit brought by any interested person. Such person shall be reimbursed, if successful, for all costs and disbursements plus such actual attorney fees as may be allowed by the court.

(5) (a) Every place of employment and public building, except those described in sub. (2) (a) 1 to 8, the construction of which is begun after May 24, 1974 but prior to May 27, 1976, on each floor that is accessible to disabled persons, including persons in wheelchairs, which has public toilets shall have:

1. All public toilet rooms and at least one toilet compartment therein so designed and constructed that they will be suitable for entry and use by handicapped persons, including persons in wheelchairs;

2. The toilet compartment specified under par. (a) so designed and constructed to allow sufficient space between the front entrance of the compartment and adjacent furniture, fixtures or walls to permit the compartment door to open at least 95° and to allow a person in a wheelchair ample room to readily maneuver himself or the wheelchair into the compartment; and

3. At least one lavatory, sink, mirror and towel dispenser or hand drier in each public toilet room accessible to a disabled person, including a person in a wheelchair, if such item is provided.

(b) Within 90 days after May 24, 1974, the department shall adopt, by rule, specifications to effect the requirements of par. (a). The department, in so adopting rules, shall consider the specifications established in the most current revision of "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped", published by the American standards association of New York.

(6) (a) As used in this subsection, "remodeling" means to substantially improve, alter, extend or otherwise change the structure of a building or change the location of exits, but shall not include maintenance, redecoration, reroofing or alteration of mechanical or electrical systems.

(b) If more than 50% of the interior square footage of a public building is to undergo proposed remodeling, the entire building shall be

made to conform to sub. (2) (d) and (e), notwithstanding whether the building was constructed prior to, on or after July 1, 1970, and any rules issued under this section.

(c) If 25% to 50% of the interior square footage of a public building is to undergo proposed remodeling, that part of the building which is to be remodeled shall conform to sub. (2) (d), notwithstanding whether the building was constructed prior to, on or after July 1, 1970, and any rules issued under this section.

(d) If less than 25% of the interior square footage of a public building is to undergo proposed remodeling, the remodeling is not subject to sub. (2) (d) and (e) unless the alteration involves work on doors, entrances, exits or public toilet rooms in which case such doors, entrances, exits or public toilet rooms shall be made to conform to sub. (2) (d) and (e), notwithstanding whether the building was constructed prior to, on or after July 1, 1970, and any rules issued under this section.

(e) If remodeling is undertaken pursuant to a plan whereby the project is done in stages which, taken together, add up to a portion of the public building subjecting the remodeling to the limits specified in par. (b) or (c), the appropriate paragraph shall be complied with by the time the remodeling under the plan is completed.

(f) In the case of remodeling in a building having vertical transportation with adequate elevator openings to meet disabled requirements:

1. If the building has 5 floors or less, accessible toilet room accommodations for each sex shall be provided for the disabled on at least one floor.

2. If the building has more than 5 floors, in addition to the accommodations required by subd. 1, accessible toilet room accommodations for each sex shall be provided to serve each additional 5 floors or fraction thereof, and shall be located conveniently throughout the building to facilitate their use.

(g) The owner of any public building who fails to comply with this subsection may be compelled to meet its requirements in a circuit court suit by any interested person. Such person shall be reimbursed, if successful, for all costs and disbursements plus such actual attorney fees as may be allowed by the court.

(h) Each toilet room accommodation provided for disabled persons as required under this section shall be identified on its entrance as a disabled accommodation, and directions to such accommodations shall appear at the building's primary entrance.

(7) The international symbol of accessibility as adopted by the rehabilitation international in 1969 is established as the official state symbol designating buildings and facilities constructed and designed to be accessible. The symbol may

be used only in buildings or other facilities, or parts thereof, which meet the standards for access established by rule of the department. If anyone uses or causes the use of the symbol in violation of department standards, the department shall order the discontinuance of such use until such standards are met. Whoever fails to comply with a department order under this subsection shall be fined \$50.

History: 1971 c. 185; 1971 c. 228 ss. 17, 42, 44; 1973 c. 201, 202, 336; 1975 c. 276.

While neither the U.S. nor Wisconsin Constitutions compels states to require that public buildings and seats of government be constructed and maintained as to be accessible to the physically handicapped, the legislature has an affirmative duty to address this problem and assure equal access to all constituted classes of citizens, including the physically handicapped. 63 Atty Gen 87.

101.14 Fire inspections, prevention, detection and suppression. (1) (a) The department may make reasonable orders for the repair or removal of any building or other structure which for want of repair or by reason of age or dilapidated condition or for any other cause is especially liable to fire, and which is so situated as to endanger other buildings or property and for the repair or removal of any combustible or explosive material or inflammable conditions, dangerous to the safety of any building or premises or the occupants thereof or endangering or hindering firemen in case of fire.

(b) The commission and its deputies shall have the right at all reasonable hours to enter into and upon all buildings, premises and public thoroughfares excepting only the interior of private dwellings, for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, or any violation of any law or order relating to the fire hazard or to the prevention of fire.

(c) The department is hereby empowered and directed to provide the form of a course of study in fire prevention for use in the public schools, dealing with the protection of lives and property against loss or damage as a result of preventable fires, and transmit the same by the first day of August in each year to the state superintendent of public instruction.

(d) The department may prepare and provide suitable forms for distribution to the school systems in the state, for the purpose of providing uniform reports on fire drills conducted during the year in accordance with s. 118.07 (2).

(2) (a) The chief of the fire department in every city, village or town, except cities of the 1st class, is hereby constituted a deputy of the department, subject to the right of the commission to relieve any such chief from his duties as such deputy for cause, and upon such suspension to appoint some other person to perform the duty imposed upon such deputy. The commission may

appoint either the chief of the fire department or the building inspector as its deputy in cities of the 1st class.

(b) Such chief of the fire department is required, by himself or by officers or members of his fire department designated by him for that purpose, to inspect all buildings, premises, and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to the fire hazard or to the prevention of fires.

(c) Such inspection, except in cities of the 1st class, shall be made at least once in 6 months in all of the territory served by such fire department, and not less than once in 3 months in such territory as the common council has designated or thereafter designates as within the fire limits or as a congested district subject to conflagration, and oftener as the chief of the fire department orders. Each 6-month period shall begin on January 1 and July 1, and each 3-month period on January 1, April 1, July 1 and October 1 of each year. In cities of the 1st class such inspection shall be made not less than once in 4 months in each year throughout the entire city, and oftener as the chief of the fire department orders. Each such 4-month period shall begin on January 1, May 1 and September 1 of each year.

(d) The chiefs of fire departments in every city of the 1st, 2nd and 3rd classes shall designate a sufficient number of inspectors to carry out this section.

(e) Written reports of inspection shall be made and kept on file in the office of the chief of the fire department in the manner and form required by the department.

(f) Such inspection shall be subject to the supervision and direction of the department, which shall upon examination certify to the commissioner of insurance after the expiration of each calendar year each such city, village or town where the inspections for such year have been made, and records thereof have been made and kept on file as required by law.

(g) A copy of any report showing a change in the hazard from the survey, or any violation of law or ordinance relating to the fire hazard upon any risk shall be given by the department to any inspection bureau making written request therefor.

(3) The department shall annually conduct training sessions and provide manuals and other materials and services to assist deputies and inspectors in the fulfillment of their duties under sub. (2).

(4) (a) The department shall make rules, pursuant to ch. 227, requiring the owner of each place of employment and public building which

exceeds 60 feet in height to install such fire detection, prevention or suppression devices as will protect the property and the health, welfare and safety of all employers, employes and frequenters of each place of employment and public building. These rules shall require all such places and buildings, the construction of which is begun after July 3, 1974, to contain an automatic sprinkler system, as defined in s. 145.01 (8), on each floor. If the department determines that water would cause irreparable damage and undue economic loss if discharged in such places or buildings, it shall require a suppression device which has a substance other than water.

(b) Fire detection, prevention and suppression devices, installation of which may be required, include but are not limited to smoke and heat detection devices, standpipes and an automatic fire sprinkler system as defined in s. 145.01 (8).

(c) Each building, the construction of which is completed or is begun prior to July 3, 1974, shall be exempt from compliance with this subsection. Each building, the construction of which is begun after July 3, 1974, or additions to which are begun after such date, shall have the necessary devices installed at the time of its construction.

(d) Whoever violates this subsection may be fined not less than \$100 but not more than \$500 for each day of violation.

(e) The department may inspect all buildings covered by this subsection and may issue such orders as may be necessary to assure compliance with it.

History: 1971 c. 185, 228; 1973 c. 324, 326, 336; 1975 c. 39, 94.

Cross Reference: See 66.122 for provision authorizing special inspection warrants.

101.141 Record-keeping of fires. The department shall maintain records of all fires occurring in this state. Such records shall be open to public inspection during normal business hours.

History: 1975 c. 224.

101.15 Mines, tunnels, quarries and pits.

(1) If any shaft or workings of a mine, or any tunnel, trench, caisson, quarry, or gravel or sand pit is being operated or used in violation of the safety orders of the department applicable thereto, the owner or operator upon receiving notice of such violation from the department shall immediately cease such operation or use. The operation or use of such shaft or workings of a mine, or of such tunnel, trench, caisson, quarry or gravel or sand pit, shall not be resumed until such safety orders have been complied with.

(2) (a) For the purpose of this section:

1. "Shaft" means an opening made for mining minerals, for hoisting and lowering persons or material, or for ventilating underground workings.

2. "Mineral" means a product recognized by standard authorities as mineral, whether metaliferous or nonmetaliferous.

3. "Excavation" or "workings" means any or all parts of a mine excavated or being excavated, including shafts, tunnels, drifts, cross cuts, raises, winzes, stopes and all other working places in a mine.

(b) No excavation of a shaft shall be commenced unless a permit is first issued therefor by the department. Permits for such excavation shall be issued without cost upon application filed with the department, if the department is satisfied that the shaft or the excavation and workings will be in compliance with the safety orders adopted by the department and applicable thereto. Application shall be made upon forms prescribed by the department and shall be furnished upon request.

(c) Paragraph (b) does not apply to shafts which will be less than 50 feet in depth wherein persons are not employed, or which are not equipped with power driven hoists used for hoisting persons in and out of the shafts, or which are not covered with a flammable building.

(d) The department may:

1. Employ additional mining inspectors, who shall have had at least 10 years experience in underground mining or be a graduate of a recognized college with a degree of mining engineering.

2. Cause the inspection of all underground mines, quarries, pits, zinc works or other excavations.

(e) The department shall require all mine operators to conform with all general orders as are promulgated relating to the safety of mines, explosives, quarries and the like.

(f) 1. The department shall cause the inspections of mines and similar establishments at least once every 2 months. In the making of the inspections the owner and the labor union identified as the bargaining representative of the employes of the mine or establishment shall be permitted to accompany the inspector engaged in the tour of inspection. The department shall cause a report of any inspection so made, to be submitted to representatives of the operator and of the employes.

2. The department may apply to a court of record for the closing of any underground mine, quarry, pit, zinc works or other excavation where the same is being operated in violation of any of its rules or orders, and the owners or operators have failed within a reasonable time to correct any unsafe methods of operation. The failure of

any owner or operator to comply with the order or judgment of the court shall subject such party or parties to criminal contempt proceedings.

History: 1971 c. 185; 1971 c. 228 s. 44; 1975 c. 94 s. 91 (9).

When a deputy inspector determines that there is a violation of safety orders where a condition of extreme and imminent danger to a workman's life exists, he may seek the assistance of a local law enforcement officer. The local law enforcement officer has a duty to render such assistance unless in his opinion other priority assignment take precedence. 59 Atty Gen 12.

101.16 Liquefied petroleum gas. (1) The term "liquefied petroleum gas" as used in this section, shall mean and include any material which is composed predominantly of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes, normal butane or isobutane and butylenes.

(2) The department shall ascertain, fix and order such reasonable standards, rules or regulations for the design, construction, location, installation, operation, repair and maintenance of equipment for storage, handling, use, and transportation by tank truck or tank trailer, of liquefied petroleum gases for fuel purposes, and for the odorization of said gases used therewith, as shall render such equipment safe. The promulgation, effect and review of standards, rules and regulations adopted under this section shall be controlled by this chapter.

(3) No person, firm or corporation, except the owner thereof and those duly authorized by the owner so to do, shall fill, refill or use in any manner a liquefied petroleum gas container or receptacle for any purpose whatsoever.

(4) Every person, firm, association or corporation actually performing the work of installing, on and after the effective date of regulations promulgated by the department pursuant to this section, equipment utilizing liquefied petroleum gas for fuel purposes, shall furnish the customer or user of said equipment, a statement, the form of which shall be prescribed by the department, showing that the design, construction, location and installation of said equipment conforms with the rules and regulations adopted by the department pursuant to this section.

(5) Any person, firm, association or corporation violating this section, or any standard, rule or regulation adopted by the department pursuant to this section, or issuing a false statement under sub. (4), shall be fined not less than \$25 nor more than \$100, or imprisoned not less than 30 days nor more than 6 months.

(6) This section shall not apply to railroads engaged in interstate commerce or to equipment used by them.

History: 1971 c. 185.

101.17 Machines and boilers, safety requirement. No machine, mechanical device, or steam boiler shall be installed or used in this state which does not fully comply with the requirements of the laws of this state enacted for the safety of employes and frequenters in places of employment and public buildings and with the orders of the department adopted and published in conformity with ss. 101.01 to 101.25. Any person violating this section shall be subject to the forfeitures provided in s. 101.02 (12) and (13).

History: 1971 c. 185 ss. 1, 7; 1971 c. 228 ss. 19, 43

101.18 Electric fences. The department shall ascertain, fix and order such reasonable standards, rules or regulations for the erection, construction, repair and maintenance of electric fences as shall render them safe.

History: 1971 c. 185, 228.

101.19 Fees and records. (1) The department shall fix and collect fees for:

(a) The examination of plans for public buildings, public structures, places of employment and the components thereof;

(b) The required inspection of boilers, unfired pressure vessels, refrigeration plants, elevators, ski towing and lift devices, amusement and thrill rides, escalators and dumbwaiters;

(c) Determining and certifying the competency of insurance company inspectors.

(2) The department shall collect a \$15 fee for each inspection of a facility conducted to insure that the construction is in accordance with the plans approved by the department. The department shall establish an initial fee to be paid at the time that the plans are submitted for review by the department. The fee schedule shall be established on the basis of the estimated number of inspections that will be conducted to insure compliance with the state code for that class of structure as established by the department.

(3) The department shall issue and record required certificates of inspection or of registration for equipment listed in sub. (1) (b). This subsection shall not apply to vessels classed as petroleum, liquefied petroleum gas, or anhydrous ammonia tanks or containers.

History: 1971 c. 185; 1973 c. 228 s. 42; 1975 c. 39.

101.20 Certification of migrant labor camps. (1) **DEFINITIONS.** In this section:

(a) "Department" means the department of industry, labor and human relations.

(b) "Migrant" or "migratory laborer" means any person who is authorized to work in the United States, who is not related by blood or marriage to his employer and who occasionally or habitually leaves an established place of

residence to travel to another locality to accept seasonal or temporary employment in this state in fruit and vegetable cultivating and harvesting, production work in a food processing plant, nursery work or sod or Christmas tree harvesting where he resides in quarters other than the employer's home during the period of employment.

(c) "Migrant labor camp" means the site and all structures maintained as living quarters for any seasonal or migrant agricultural, industrial or construction worker by any person or for him or under his control and supervision, but not including premises occupied by the employer as his own residence. Where an employer employs any such worker, each housing location for such worker shall be considered a migrant labor camp.

(2) **APPLICATION.** (a) *Application to operate.* Every person maintaining a migrant labor camp shall, annually by April 1 or 30 days prior to the opening of a new camp, make application to the department to operate a camp. Each such application shall be accompanied by a nonreturnable application fee in the amount determined by the department, which shall not exceed \$25.

(b) *Inspection.* The department may promulgate rules to implement this section and shall administer and enforce this section and its rules relative to migrant labor camps and for these purposes may during reasonable daylight hours enter and inspect camps. No agent or employe of the department shall enter the premises of such a camp for inspection purposes until he has given notice to the owner or to the person in responsible charge of the camp that he intends to make such an inspection. Upon notice an agent or employe of the department may also enter any property to determine whether a camp under this section exists.

(c) *Certificate.* The department shall inspect each such camp for which application to operate is made, to determine if it is in compliance with the adopted rules for migrant labor camps. If the department finds that the camp is in compliance with the rules, it shall issue a certificate authorizing the camp to operate for one year.

(d) *Operation.* Only certified camps may operate in this state. The department shall order the immediate closing of all other camps, except that newly covered camps with less than 6 workers may not be ordered closed until after the 1971 season of employment. A violation of any such order shall be deemed a public nuisance. All orders shall be enforced by the attorney general. The circuit court of any county where violation of such an order has occurred in whole or in part shall have jurisdiction to enforce the order by injunctive and other appropriate relief.

(e) *Late registration.* Any person who fails to make application to operate an existing camp by April 1 or within 30 days prior to the opening of a new camp shall pay a late application fee determined by the department not to exceed \$25, and shall also be subject to the penalty under sub. (3).

(3) **PENALTIES.** Any person violating this section or any rule of the department relating to migrant labor camps is subject to the penalties in s. 101.02 (13). Each day of continued violation constitutes a separate offense.

History: 1971 c. 164 ss. 43, 53; 1971 c. 211 s. 91; 1971 c. 228 s. 28; 1971 c. 235, 307

101.211 Lunchrooms. The department shall require a suitable space in which lunches may be eaten in any place of employment if found by the commission to be reasonably necessary for the protection of the life, health, safety and welfare of employes therein.

History: 1971 c. 185, 228.

101.22 Equal rights. (1) **INTENT.** It is the intent of this section to render unlawful discrimination in housing. It is the declared policy of this state that all persons shall have an equal opportunity for housing regardless of sex, race, color, physical condition, developmental disability as defined in s. 51.434 (1), religion, national origin or ancestry and it is the duty of the local units of government to assist in the orderly prevention or removal of all discrimination in housing through the powers granted under s. 66.433. The legislature hereby extends the state law governing equal housing opportunities to cover single-family residences which are owner-occupied. The legislature finds that the sale and rental of single-family residences constitute a significant portion of the housing business in this state and should be regulated. This section shall be deemed an exercise of the police powers of the state for the protection of the welfare, health, peace, dignity and human rights of the people of this state.

(1m) **DEFINITIONS.** In this section unless the context requires otherwise:

(a) "Housing" means any improved property, including any mobile home as defined in s. 66.058, which is used or occupied, or is intended, arranged or designed to be used or occupied, as a home or residence.

(b) "Discriminate" and "discrimination" mean to segregate, separate, exclude or treat any person unequally only because of sex, race, color, physical condition, developmental disability as defined in s. 51.434 (1), religion, national origin or ancestry. It is intended that the factors set forth herein shall be the sole bases for prohibiting discrimination.

(c) "Unimproved residential lot" means any residential lot upon which no permanent building or structure containing living quarters has been constructed.

(2) DISCRIMINATION PROHIBITED. It is unlawful for any person to discriminate:

(a) By refusing to sell, lease, finance or contract to construct housing or by refusing to discuss the terms thereof.

(b) By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease or rental of housing.

(c) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.

(d) By publishing, circulating, issuing or displaying, or causing to be published, circulated, issued or displayed, any communication, notice, advertisement or sign in connection with the sale, financing, lease or rental of housing, which states or indicates any discrimination in connection with housing.

(2m) REPRESENTATIONS DESIGNED TO INDUCE PANIC SALES. It is unlawful to induce or attempt to induce any person to sell, rent or lease any dwelling by representations regarding the present or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin or economic status, or by representations to the effect that such present or prospective entry will or may result in: a) the lowering of real estate values in the area concerned; b) a deterioration in the character of the area concerned; c) an increase in criminal or antisocial behavior in the area concerned; or d) a decline in the quality of the schools or other public facilities serving the area.

(3) DEPARTMENT TO ADMINISTER. This section shall be administered by the department through its division of equal rights. The department may promulgate such rules as are necessary to carry out this section. No publicity shall be given a complaint in those cases where the department obtains compliance with this section or the department finds that the complaint is without foundation.

(4) POWERS. (a) The department may receive and investigate complaints charging violations of this section. A complaint shall be a written statement of the essential facts constituting the discrimination charged, and shall be verified.

(b) In carrying out this section the department and its duly authorized agents may hold hearings, subpoena witnesses, take testimony and make investigations as provided in this chapter.

(c) If the department finds probable cause to believe that any discrimination has been or is being committed in violation of this section, it shall immediately endeavor to eliminate such discrimination by conference, conciliation and persuasion. If the department determines that such conference, conciliation and persuasion has not eliminated the alleged discrimination, the department shall issue and serve a written notice of hearing, specifying the nature and acts of discrimination which appear to have been committed, and requiring the person named, hereinafter called the "respondent" to answer the complaint at a hearing before the department. The notice shall specify a time of hearing, not less than 10 days after service of the complaint, and a place of hearing within the county in which the act of discrimination is alleged to have occurred. The testimony at the hearing shall be recorded by the department. In all hearings, except those for determining probable cause, before the department the burden of proof shall be on the party alleging discrimination. If, after the hearing, the department finds by a fair preponderance of the evidence that the respondent has engaged in discrimination in violation of this section, the department shall make written findings and recommend such action by the respondent as will effectuate the purpose of this section and shall serve a certified copy of its findings and recommendations on the respondent and complainant together with an order requiring the respondent to comply with the recommendations, the order to have the same force as other orders of the department and be enforced as provided in this section except that the enforcement of such order shall automatically be stayed upon the filing of a petition for review with the circuit court for the county in which the alleged discrimination took place. If the department finds that the respondent has not engaged in discrimination as alleged in the complaint, it shall serve a certified copy of its findings on the complainant and the respondent together with an order dismissing the complaint. Where the complaint is dismissed, costs in an amount not to exceed \$100 plus actual disbursements for the attendance of witnesses may be assessed against the department in the discretion of the department.

(4m) TESTING PROHIBITED. It is unlawful for any person not having any bona fide intention to avail himself of any rights under this section to solicit offers, to buy or lease from property owners or lessees or their agents, to demand the services or facilities of any place of public accommodation, to demand facilities or to demand any employment for the sole purpose of securing evidence of a discriminatory practice.

Any person found by the department under the hearing procedure provided in sub. (4) (c) to have violated this subsection shall be subject to the penalties prescribed under sub. (6), together with costs and disbursements as provided in sub. (4) (c). Such finding is subject to judicial review as provided in sub. (5).

(4n) REQUIRING REFERENCES. Nothing in this section shall be deemed to prohibit an owner, or agent, from requiring that any person who seeks to buy, rent or lease housing supply information concerning family, marital, financial and business status but not concerning race, color, physical condition, developmental disability as defined in s. 51.434 (1) or creed.

(5) JUDICIAL REVIEW. Within 30 days after service upon all parties of any order under this section the respondent or complainant may appeal the order to the circuit court for the county in which the alleged discrimination took place by the filing of a petition for review. The respondent or complainant shall receive a trial de novo on all issues relating to any alleged discrimination and a further right to a trial by jury, if so desired. The department of justice shall represent the department of industry, labor and human relations. In any such trial the burden shall be to prove discrimination by a fair preponderance of the evidence. Costs in an amount not to exceed \$100 plus actual disbursements for the attendance of witnesses may be taxed to the prevailing party on the appeal.

(6) PENALTY. Any person who wilfully violates this section or any lawful order issued hereunder shall, for each such violation, forfeit not less than \$10 nor more than \$200. Payment of any such forfeiture shall be stayed during the period in which any appeal may be taken and during the pendency of any appeal under sub. (5).

History: 1971 c. 185; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; 1975 c. 94, 275, 421, 422.

Under (3) the department is precluded from actively publicizing complaints only at those stages before the department finds that conference, conciliation and persuasion have not eliminated the alleged discrimination. 60 Atty Gen 43.

Sub (4m) chills the exercise of the right to equal housing opportunity and conflicts with Federal Fair Housing Acts and therefore is invalid under the Supremacy Clause of the U.S. Constitution. *United States v. State of Wisconsin*, 395 F Supp 732.

101.221 Equal rights council. (1) The equal rights council shall disseminate information and attempt by means of discussion as well as other proper means to educate the people of the state to a greater understanding, appreciation and practice of human rights for all people, of whatever race, creed, color or national origin, to the end that Wisconsin will be a better place in which to live.

(2) The council shall give consideration to the practical operation and application of ss. 101.22 to 101.222 and report to the proper legislative committee its view on any pending bill relating to the subject matter of ss. 101.22 to 101.222.

History: 1971 c. 185, 228.

101.222 Division of equal rights. (1) The division of equal rights may investigate alleged cases of discrimination in public places of accommodation or amusement, as defined in s. 942.04 (2), and may seek conciliation in any such case where it believes discrimination to have occurred.

(2) The division shall encourage and assist local units of government in guaranteeing all persons an equal opportunity for housing.

(3) All gifts, grants, bequests and devises to the division for its use for any of the purposes mentioned in s. 101.221 are valid and shall be used to carry out the purposes for which made and received.

History: 1971 c. 185 ss. 1, 7.

101.223 Post-secondary education: prohibition against discrimination on basis of physical condition or developmental disability. (1) Subject to sub. (3), no school, university or other institution offering courses or programs in post-secondary education or vocational training which is supported wholly or in part by public funds may refuse to admit any person to any school, institution, course or program or any curricular or extracurricular activity, or may otherwise discriminate against any person, solely on the basis of physical condition or developmental disability as defined in s. 51.434 (1).

(2) If admission to any such school, university, institution, program or course requires that a prospective enrollee take a standardized aptitude examination and the prospective enrollee is unable to take such an examination under standard conditions because of physical condition or developmental disability as defined in s. 51.434 (1), the school, university or institution shall make a good-faith effort to modify the examination conditions in a manner which will permit the prospective enrollee to demonstrate aptitude. The failure of any school, university or institution to make such a good-faith effort is discrimination within the meaning of this section.

(3) The prohibition against discrimination under sub. (1) does not apply to:

(a) Courses, programs or activities involving the handling or operation of hazardous substances, machines or appliances if there is no feasible way in which the physical safety of the

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disabled student or of other persons can be adequately protected; or

(b) The admission of a person who does not meet the minimum physical standards which are reasonably necessary for a particular course, program or activity. The school, university or other institution has the burden of proving that such minimum physical standards are reasonably necessary.

(4) (a) The department shall receive and investigate complaints charging discrimination or discriminatory practices in particular cases, and publicize its findings with respect thereto. The department shall have all powers provided under s. 111.36 with respect to the disposition of such complaints.

(b) Findings and orders of the department under this section are subject to review under ch. 227.

History: 1975 c. 275, 421.

101.225 Discrimination in education prohibited. No child may be excluded from or discriminated against in admission to any public school or in obtaining the advantages, privileges and courses of study of such public school on account of sex, race, religion or national origin.

History: 1975 c. 94.

101.23 Public employment offices. (1)

The department shall establish and conduct free employment agencies, license and supervise the work of private employment offices, do all in its power to bring together employers seeking employes and working people seeking employment, make known the opportunities for self-employment in this state, aid in procuring employment for the blind adults of the state, aid in inducing minors to undertake promising skilled employments, provide industrial or agricultural training for vagrants and other persons unsuited for ordinary employments, and encourage wage earners to insure themselves against distress from unemployment. It shall investigate the extent and causes of unemployment in this state and the remedies therefor in this and other countries, and it shall devise and adopt the most efficient means within its power to avoid unemployment, to provide employment, and to prevent distress from involuntary idleness.

(2) Any county, city, town or village may enter into an agreement with the department for such period of time as may be deemed desirable for the purpose of establishing and maintaining local free employment offices, and it shall be lawful for any county, city, town or village to appropriate and expend the necessary money and to permit the use of public property for the joint establishment and maintenance of such offices as may be agreed upon, or in counties

containing 250,000 inhabitants or more in any city, town or village therein to purchase a site and construct necessary buildings. Provided, that in any county, city, village or town therein, wherein there is a citizens' committee on unemployment, such committee may rent, lease, purchase or construct necessary buildings for the joint establishment and maintenance of such free employment office, subject to the approval of such plans by the department. The department may establish such free employment offices as it deems necessary to carry out the purposes of ch. 108. All expenses of such offices, or all expenses not defrayed by the county, city, town or village in which an office is located, shall be charged to the appropriation to the department provided in s. 20.445 (1) (u) and (v).

(3) The department may rent, furnish and equip, except as provided in sub. (2), such offices as may be needed in cities for the conduct of its affairs. All payments arising under this section shall be charged against the proper appropriation for the department.

(4) The legislature hereby accepts the provisions of an act of congress, approved June 6, 1933, entitled "An act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes."

(5) The department is authorized and directed to cooperate with the U.S. employment service in the administration of said act and in carrying out all agreements made thereunder.

(6) All funds made available to this state under said act shall, upon receipt thereof, be paid into the unemployment administration fund created by s. 108.20.

History: 1971 c. 185 ss. 1, 7; 1971 c. 228 ss. 25, 42; 1973 c. 90 s. 559.

101.24 Labor disputes. The department shall do all in its power to promote the voluntary arbitration, mediation and conciliation of disputes between employers and employes, and to avoid the necessity of resorting to lockouts, boycotts, blacklists, discriminations and legal proceedings in matters of employment. In pursuance of this duty it may appoint temporary boards of arbitration, provide necessary expenses of such boards, order reasonable compensation not exceeding \$5 per day for each member engaged in such arbitration, prescribe rules of procedure for such arbitration boards, conduct investigations and hearings, publish reports and advertisements, and do all other things convenient and necessary to accomplish the purposes directed in ss. 101.01 to 101.25. The department shall designate a deputy to be known as chief mediator and may detail other deputies

from time to time to act as his assistants, for the purpose of executing these provisions. Deputies may act on temporary boards without extra compensation.

History: 1971 c 185 ss 1,5; 1971 c 228.

101.25 Veterans job training. The department shall cooperate with the federal veterans administration in the performance of functions prescribed in U. S. Public Law 679 and any acts amendatory thereof or supplementary thereto. The commission may with the approval of the governor take all necessary steps in the making of leases or other contracts with the federal government in the adoption and execution of plans, methods, and agreements to effectuate said Public Law 679.

History: 1971 c 185, 228.

101.40 Public works, unemployment. The department of health and social services shall ascertain from the various departments and state institutions tentative plans for such extension of public works of the state as shall be best adapted to supply increased opportunities for advantageous public labor during periods of temporary unemployment, together with estimates of the amount, character and duration of such employment, and the number of employes that could profitably be used therein, and the rates of wages and such other information as the department of health and social services deems necessary.

History: 1971 c 164 s 89.

101.41 Department of industry, labor and human relations, unemployment. In cooperation with the department of agriculture, the department of industry, labor and human relations shall keep constantly advised of industrial conditions affecting the employment of labor in this state; and whenever it is represented to the department of industry, labor and human relations by the governor, or the department of industry, labor and human relations shall otherwise have reason to believe, that a period of extraordinary unemployment caused by industrial depression exists in the state, the department of industry, labor and human relations shall immediately inquire into the facts relating thereto, and find and report to the governor whether in fact such condition does exist.

101.42 Department of health and social services, expenditures to relieve depression. In the event that the department of industry, labor and human relations reports to the governor that a condition of extraordinary unemployment caused by industrial depression

exists in the state, the department of health and social services may make such disposition of funds to be used for said purposes among the several institutions and departments for such extension of the public works of the state under the charge or direction thereof, including the purchase of materials and supplies necessary therefor, as shall, in the judgment and discretion of the department of health and social services, be best adapted to advance the public interest by providing the maximum of public employment, in relief for the existing conditions of extraordinary unemployment, consistent with the most useful, permanent and economic extension of the works aforesaid.

101.43 Department of industry, labor and human relations, depression, labor lists, employment. Immediately upon publication of a finding that a period of extraordinary unemployment due to industrial depression exists throughout the state, the department of industry, labor and human relations shall cause to be prepared by the various institutions and departments approved lists of applicants for public employment and secure from such applicants full information as to their industrial qualifications and submit the same to the department of health and social services. Preference for employments under ss. 101.40 to 101.43 shall be extended first to citizens of this state, second to other citizens of the United States at the time of making application, and last to aliens who are residents of this state at the time of making such application.

101.47 Public insurrection; death and disability benefits. (1) DEFINITIONS. In this section:

(a) "Public insurrection" means a civil disturbance in which a group or groups of persons are simultaneously engaged in acts of violence against persons or property by the illegal use of weapons, by burning, pillaging or looting or by committing any other illegal acts, and which is of such a magnitude as to result in any of the following:

1. Extraordinary utilization of off-duty local law enforcement personnel.
2. Declaration of a public emergency by the governor.
3. The calling of the national guard or other troops.

(2) DEATH AND DISABILITY BENEFITS. If the department of industry, labor and human relations finds that the injury or death of a state or local government officer or employe arose out of the performance of duties in connection with a public insurrection, and finds that death or disability benefits are payable under ch. 102, a

supplemental award equal to the amount of the benefits (other than medical expense) payable under ch. 102 shall be made to the persons and in the same manner provided by ch. 102, except that when benefits are payable under s. 102.49, a supplemental award equal to one-half the benefits payable under that section shall be made.

(3) **PAYMENTS.** All payments under this section shall be made from the general fund.

(4) **BENEFITS ADDITIONAL TO ALL OTHERS.** Death and disability benefits under this section are in addition to all other benefits provided by state law or by action of any municipality or public agency.

History: 1971 c. 40; 1975 c. 199; 1975 c. 404 s. 7; 1975 c. 405 s. 7.

Revisor's Note, 1971: Sub. (2) was created by ch. 445, laws 1969. If the employe is killed "he" is not in a position to receive death benefits. Also, if he is deceased he could not receive benefits under s. 102.49. The amendment is intended to clarify the statute. It was requested by the workmen's compensation division and approved by the ILHR commissioners. [Bill 165-S]

101.55 Executive agreements to control sources of radiation. When the legislative council determines that it is in the interest of the state to enter into agreement with the government of the United States to provide for the discontinuance of certain of the federal government's responsibilities with respect to sources of ionizing radiation and the assumption thereof by the state pursuant to authority granted by P.L. 86-373, it shall convey its determination to the governor together with its estimate of the initial and ultimate cost of the assumption of this responsibility by the state and the governor, on behalf of the state, may, after a finding by both him and the U.S. atomic energy commission as to the adequacy of the state's program of regulation, enter into such an agreement.

SUBCHAPTER II

ONE- AND 2-FAMILY DWELLING CODE

101.60 Purpose. The purpose of this subchapter is to establish statewide construction standards and inspection procedures for one- and 2-family dwellings and to promote interstate uniformity in construction standards by authorizing the department to enter into reciprocal agreements with other states which have equivalent standards.

History: 1975 c. 404.

101.61 Definitions. In this subchapter:

(1) "Dwelling" means any building the initial construction of which was commenced on or after the effective date of this act, which

contains one or 2 dwelling units. "Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(2) "Owner" means any person having a legal or equitable interest in the dwelling.

History: 1975 c. 404.

Note: Chapter 404, laws of 1975, which created this section, provided in section 12 that the act shall take effect on July 1, 1976 "except that sections 101.61, 101.65 and 101.66 of the statutes shall take effect 6 months after the uniform dwelling code is published in the Wisconsin administrative register".

101.62 Dwelling code council; power. The dwelling code council shall review the standards and rules for one- and 2-family dwelling construction and recommend a uniform dwelling code for adoption by the department which shall include rules providing for the conservation of energy in the construction and maintenance of dwellings and for costs of specific code provisions to home buyers to be related to the benefits derived from such provisions. Upon its own initiative or at the request of the department, the council shall consider and make recommendations to the department pertaining to rules and any other matters related to this subchapter. The council shall recommend variances for different climate and soil conditions throughout the state.

History: 1975 c. 404.

101.63 Departmental duties. The department shall:

(1) Adopt rules which establish standards for the construction and inspection of one- and 2-family dwellings and components thereof. Where feasible, the standards used shall be those nationally recognized and shall apply to the dwelling and to its electrical, heating, ventilating, air conditioning and other systems, except plumbing, as defined in s. 145.01 (1). No set of rules shall be adopted which has not taken into account the conservation of energy in construction and maintenance of dwellings and the costs of specific code provisions to home buyers in relationship to the benefits derived from such provisions.

(2) Adopt rules for the certification, including provisions for suspension and revocation thereof, of inspectors for the purpose of inspecting building construction, electrical wiring, heating, ventilating, air conditioning and other systems, except plumbing, as defined in s. 145.01 (1), of one- and 2-family dwellings under sub. (1). Persons certified as inspectors may be employes of the department, a city, village, town, county or an independent inspection agency.

(3) Contract to provide inspection services, at municipal expense, to any municipality which requires such service under s. 101.65.

(4) Cooperate with the department of health and social services in the establishment of plumbing standards for one- and 2-family dwellings and the certification of persons performing plumbing inspections for one- and 2-family dwellings.

(5) Biennially review the rules adopted under this subchapter.

(6) Issue special orders which it deems necessary to secure compliance with this subchapter and enforce the same by all appropriate administrative and judicial proceedings.

(7) Prescribe and furnish to municipalities a standard building permit form for all new one- and 2-family dwellings.

(8) Hear petitions regarding the dwelling code, rules and special orders in accordance with s. 101.02 (6) (e) to (i) and (8).

(9) Establish by rule a schedule of fees sufficient to defray the costs incurred under this subchapter.

History: 1975 c. 404.

101.64 Departmental powers. The department may:

(1) Hold hearings on any matter relating to this subchapter and issue subpoenas to compel the attendance of witnesses and the production of evidence at such hearings.

(2) At the request of the owner or renter enter, inspect and examine dwellings, dwelling units or premises necessary to ascertain compliance with the rules and special orders under this subchapter.

(3) Revise the rules under this subchapter after consultation with the dwelling code council.

(4) Provide for or engage in the testing, approval and certification of materials, devices and methods of construction.

(5) Collect and publish data secured from the building permits.

(6) Adopt rules prescribing procedures for approving new building materials, methods and equipment.

(7) Enter into reciprocal agreements with other states regarding the approval of building materials and methods where the standards of the other state meet the intent of the dwelling code and the rules promulgated under this subchapter.

(8) Study the operation of the dwelling construction code and other laws related to the construction of dwelling units to determine their

impact upon the cost of building construction and their effectiveness upon the health, safety and welfare of the occupants.

History: 1975 c. 404.

101.65 Municipal authority. Cities, villages, towns and counties:

(1) May:

(a) Exercise jurisdiction over the construction and inspection of new dwellings by passage of ordinances, provided such ordinances meet the requirements of the one- and 2-family dwelling code adopted in accordance with this subchapter. A county ordinance shall apply in any city, village or town which has not enacted such ordinance.

(b) Under s. 66.30, jointly exercise the jurisdiction granted under par. (a).

(c) By ordinance establish and collect fees to defray the cost of jurisdiction exercised under par. (a) or (b).

(d) By ordinance provide remedies and penalties for violation of the jurisdiction exercised under par. (a) or (b).

(2) Shall contract with the department for those inspection services which the municipality does not perform or contract for under sub. (1) (a) or (b) and reimburse the department for its reasonable and necessary expenses incurred in the performance of such services pursuant to s. 101.63 (9).

(3) Shall use the standard building permit form prescribed and furnished by the department and file a copy of each such permit issued with the department.

History: 1975 c. 404.

Note: Chapter 404, laws of 1975, which created this section, provided in section 12 that the act shall take effect on July 1, 1976 "except that sections 101.61, 101.65 and 101.66 of the statutes shall take effect 6 months after the uniform dwelling code is published in the Wisconsin administrative register".

101.66 Compliance and penalties. (1) Every builder, designer and owner shall use building materials, methods and equipment which are in conformance with the one- and 2-family dwelling code.

(2) All inspections shall be by persons certified by the department.

(3) Whoever violates this subchapter shall forfeit to the state not less than \$25 nor more than \$500 for each violation. Each day that such violation continues constitutes a separate offense.

History: 1975 c. 404

Note: Chapter 404, laws of 1975, which created this section, provided in section 12 that the act shall take effect on July 1, 1976 "except that sections 101.61, 101.65 and 101.66 of the statutes shall take effect 6 months after the uniform dwelling code is published in the Wisconsin administrative register".

SUBCHAPTER III

MANUFACTURED BUILDING CODE

101.70 Purpose. The purpose of this subchapter is to establish statewide standards and inspection procedures for the manufacture and installation of manufactured buildings for dwellings and to promote interstate uniformity in standards for manufactured buildings by authorizing the department to enter into reciprocal agreements with other states which have equivalent standards.

History: 1975 c. 405.

101.71 Definitions. In this subchapter:

(1) (a) "Manufactured building" means any structure or component thereof which is intended for use as a dwelling and:

1. Is of closed construction and fabricated or assembled on-site or off-site in manufacturing facilities for installation, connection, or assembly and installation, at the building site; or

2. Is a building of open construction which is made or assembled in manufacturing facilities away from the building site for installation, connection, or assembly and installation, on the building site and for which certification is sought by the manufacturer.

(b) The term "manufactured building" does not include a building of open construction which is not subject to par. (a) 2. In no case may a single or double width mobile home as defined in s. 218.10 (2) be considered a manufactured building nor may such a mobile home be subject to this subchapter.

(2) "Dwelling" means any building the initial construction of which was commenced on or after the effective date of this act which contains one or more dwelling units. "Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(3) "Insignia" means a device or seal approved by the department to certify compliance with this subchapter.

(4) "Installation" means the assembly of a manufactured building on-site and the process of affixing a manufactured building to land, a foundation, footing or an existing building.

(5) "Manufacture" means the process of making, fabricating, constructing, forming or assembling a product from raw, unfinished, semifinished or finished materials.

(6) "Closed construction" means any building, building component, assembly or system manufactured in such a manner that it cannot be

inspected before installation at the building site without disassembly, damage or destruction.

(7) "Open construction" means any building, building component, assembly or system manufactured in such a manner that it can be readily inspected at the building site without disassembly, damage or destruction.

History: 1975 c. 405.

Note: Chapter 405, laws of 1975, which created this section, provided in section 13 that the act shall take effect on July 1, 1976 "except that sections 101.71, 101.75, 101.76 and 101.77 of the statutes shall take effect 6 months after the manufactured building code is published in the Wisconsin administrative register".

101.72 Dwelling code council. The dwelling code council shall review the standards and rules for manufactured buildings for dwellings and recommend a statewide manufactured building code for adoption by the department which shall include rules providing for the conservation of energy in the construction and maintenance of dwellings. Such rules shall take into account the costs to home buyers of specific code provisions in relation to the benefits derived therefrom. Upon its own initiative or at the request of the department, the council shall consider and make recommendations to the department pertaining to rules and any other matters related to this subchapter.

History: 1975 c. 405.

101.73 Departmental duties. The department shall:

(1) Adopt rules which establish standards for the use of building materials, methods and equipment in the manufacture and installation of manufactured buildings for use as dwellings or dwelling units. Where feasible, the standards used shall be those nationally recognized and shall apply to the dwelling and to its electrical, heating, ventilating, air conditioning and other systems. Such rules shall take into account the conservation of energy in construction and maintenance of dwellings and the costs to home buyers of specific code provisions in relation to the benefits derived therefrom.

(2) Adopt rules for the examination of plans and specifications and for periodic in-plant and on-site inspections of manufacturing facilities, processes, fabrication, assembly and installation of manufactured buildings to ensure that examinations and inspections are made in compliance with the rules adopted for construction, electrical wiring, heating, ventilating, air conditioning and other systems under this subchapter and with the rules for indoor plumbing adopted by the department of health and social services under ch. 145.

(3) Provide for examination of plans and specifications and in-plant inspections when

contracted for by the manufacturer under s. 101.75 (1) and shall contract to provide on-site inspection services for the installation of manufactured buildings for dwellings, at municipal expense, for any municipality which requires such service under s. 101.76.

(4) Cooperate with the department of health and social services in its establishment of plumbing standards for manufactured buildings for dwellings and the certification of persons performing plumbing inspections for manufactured buildings for dwellings.

(5) Adopt rules for the certification, including provisions for suspension and revocation thereof, of on-site inspectors of the installation of manufactured buildings for dwellings. Persons certified as on-site inspectors may be employes of the department, a city, village, town or county or an independent agency.

(6) Adopt rules for the certification, including provisions for suspension and revocation thereof, of independent inspection agencies to conduct in-plant inspections of manufacturing facilities, processes, fabrication and assembly of manufactured buildings for dwellings and to certify compliance with this subchapter.

(7) Issue or recognize an insignia of compliance for dwellings which conform to the manufactured building code.

(8) Biennially review the rules promulgated under this subchapter.

(9) Issue special orders which it deems necessary to secure compliance with this subchapter and enforce the same by all appropriate administrative and judicial proceedings.

(10) Prescribe and furnish to municipalities a standard building permit form for all new one- and 2-family dwellings.

(11) Hear petitions regarding the manufactured building code, rules and special orders in accordance with s. 101.02 (6) (e) to (i) and (8).

(12) Establish by rule a schedule of fees sufficient to defray the costs incurred under this subchapter.

History: 1975 c. 405.

101.74 Departmental powers. The department may:

(1) Hold hearings on any matter relating to this subchapter.

(2) At the request of the owner or renter enter, inspect and examine dwellings, dwelling units and premises necessary to ascertain compliance with the rules and special orders under this subchapter.

(2m) Study the operation of the dwelling construction code and other laws related to the

construction of dwelling units to determine their impact upon the cost of building construction and their effectiveness upon the health, safety and welfare of the occupants.

(3) Revise the rules under this subchapter after consultation with the dwelling code council.

(4) Provide for or engage in the testing, approval and certification of materials, devices and methods for the manufacture or installation of manufactured buildings.

(5) Collect and publish data secured from the examinations and inspections under s. 101.73 (2) and (3), and from building permits.

(6) Adopt rules prescribing procedures for approving new building materials, devices and methods for the manufacture or installation of manufactured buildings for dwellings.

(7) Enter into reciprocal agreements with other states regarding the design, construction, inspection and labeling of manufactured buildings where the laws or rules of other states meet the intent of the manufactured building code and the rules promulgated under this subchapter.

History: 1975 c. 405.

101.75 Inspections, insignia and alterations. (1) INSPECTIONS AND COMPLIANCE.

Manufacturers of manufactured buildings shall contract with a certified independent inspection agency or the department to conduct in-plant inspections and certify compliance with this subchapter. Manufacturers shall reimburse the independent inspection agency in accordance with the terms of the contract or reimburse the department in accordance with fees established under s. 101.73 (12). All inspections shall be performed by persons certified by the department.

(2) DISPLAY OF INSIGNIA REQUIRED. All manufactured buildings manufactured, sold for initial use or installed within this state shall display, in a manner determined by the department, the insignia issued or recognized under ss. 101.73 (7) and 101.74 (7). All manufactured buildings bearing such insignia shall be deemed to comply with the requirements of all building ordinances and regulations of any local government except those related to zoning and siting requisites including but not limited to building setback, side and rear yard requirements and property line requirements.

(3) DEPARTMENT APPROVAL OF ALTERATIONS. No person shall alter an approved manufactured building in any way prior to or during installation without the approval of the department.

(4) COUNTERFEIT INSIGNIA. No person may falsely or fraudulently make, forge, alter or

counterfeit any insignia issued or recognized under ss. 101.73 (7) and 101.74 (7).

History: 1975 c 405

Note: Chapter 405, laws of 1975, which created this section, provided in section 13 that the act shall take effect on July 1, 1976 "except that sections 101.71, 101.75, 101.76 and 101.77 of the statutes shall take effect 6 months after the manufactured building code is published in the Wisconsin administrative register".

101.76 Municipal authority. Cities, villages, towns and counties:

(1) May:

(a) With the approval of the department, exercise jurisdiction over the installation of manufactured buildings for dwellings by passage of ordinances, provided such ordinances are in strict conformance with this subchapter and the on-site inspection is performed by persons certified by the department. A county ordinance shall apply in any city, village or town which has not enacted such ordinance.

(b) Under s. 66.30, jointly exercise the jurisdiction granted under par. (a).

(c) By ordinance establish and collect fees to defray the cost of jurisdiction exercised under par. (a) or (b).

(d) By ordinance provide remedies and penalties for violation of the jurisdiction exercised under par. (a) or (b).

(2) Shall contract with the department for on-site installation inspection services which the municipality does not perform under sub. (1) (a) or (b) and reimburse the department for its reasonable and necessary expenses incurred in the performance of such services pursuant to s. 101.73 (12).

(3) Shall use the standard building permit form prescribed by the department and file a copy of each such permit issued with the department.

History: 1975 c 405.

Note: Chapter 405, laws of 1975, which created this section, provided in section 13 that the act shall take effect on July 1, 1976 "except that sections 101.71, 101.75, 101.76 and 101.77 of the statutes shall take effect 6 months after the manufactured building code is published in the Wisconsin administrative register".

101.77 Penalties. Whoever violates this subchapter shall forfeit to the state not less than \$25 nor more than \$500 for each violation and each day that such violation continues constitutes a separate offense.

History: 1975 c 405.

Note: Chapter 405, laws of 1975, which created this section, provided in section 13 that the act shall take effect on July 1, 1976 "except that sections 101.71, 101.75, 101.76 and 101.77 of the statutes shall take effect 6 months after the manufactured building code is published in the Wisconsin administrative register".

SUBCHAPTER IV

MOBILE HOMES; REGULATION OF MANUFACTURERS

101.90 Purpose. The purpose of this law is to establish uniform construction standards, inspection procedures and licensing of manufacturers of mobile homes and to promote interstate uniformity and the ability to enter into reciprocal agreements with other states and the federal government.

History: 1973 c. 116.

101.91 Definition. In ss. 101.90 to 101.96, "mobile home" means a vehicle designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of 45 feet. "Mobile home" includes the mobile home structure, its plumbing, heating and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty.

History: 1973 c. 116, 132.

101.92 Departmental powers and duties. The department:

(1) Shall adopt, administer and enforce rules for the safe and sanitary design and construction of mobile homes manufactured, distributed, sold or offered for sale in this state.

(2) Shall license all manufacturers desiring to sell or distribute for sale mobile homes in this state.

(3) Shall review annually the rules adopted under ss. 101.90 to 101.96, and may revise rules upon recommendation by the advisory committee appointed under s. 101.96.

(4) Shall provide for announced or unannounced inspection of manufacturing facilities, processes, fabrication and assembly of mobile homes to ensure compliance with the rules adopted under ss. 101.90 to 101.96.

(5) Shall establish standards for certification of inspection and testing agencies which shall include standards for in-plant inspection of manufacturing facilities, processes, fabrication and assembly of mobile homes and for issuance of or acceptance of a label of approval.

(6) May enter into reciprocal agreements with other states regarding the design, construction, inspection and labeling of mobile homes where the laws or rules of other states meet the intent of ss. 101.90 to 101.96 and where the laws or rules are actually enforced.

(7) Shall establish within the division of industrial safety and buildings a staff for the

administration and enforcement of ss. 101.90 to 101.96.

(8) May revoke the license of any manufacturer who violates ss. 101.90 to 101.96 or any rules promulgated thereunder.

History: 1973 c. 116.

101.93 Interdepartmental powers and duties. (1) The department of health and social services, in counsel with the department, shall adopt rules relating to plumbing in the design and construction of mobile homes. Such rules shall be consistent with s. 101.94 (1) and (2) and shall be reviewed annually.

(2) The department of health and social services, in counsel with the department, shall establish qualification requirements for and shall certify persons to perform inspections of the plumbing systems in mobile homes.

(3) The department of health and social services shall review plans and specifications for approval of plumbing systems in mobile homes.

History: 1973 c. 116.

101.94 Mobile home manufacturers, distributors and dealers: design and construction of mobile homes. (1) Mobile homes manufactured, distributed, sold or offered for sale in this state shall conform to the code promulgated by the American national standards institute and identified as ANSI 119.1, including all revision thereof in effect on August 28, 1973, and further revisions adopted by the department and the department of health and social services. The department may establish standards in addition to those required under ANSI 119.1. This section applies to units manufactured or assembled after January 1, 1974.

(2) Each mobile home manufacturer shall submit to the department typical construction plans and specifications for review. The department shall, by its own inspectors whether inside or outside this state, perform sufficient inspections of manufacturing premises and manufactured units to ensure compliance with this section. The department may contract for inspection services, as provided in sub. (3), for inspections outside this state. Each mobile home, upon final assembly, shall display a label which shall be prescribed by and be available only from the department, or similar agency of other states where units are manufactured, providing reciprocal agreements have been executed and are effective between this state and such other states indicating that the mobile home meets the requirements of ss. 101.90 to 101.96 or the applicable laws of the state with which a reciprocal agreement has been executed. No mobile home which bears such label shall be

required by any person to comply with any building, plumbing, heating or electrical code or any construction standards other than those promulgated under this section.

(3) The department shall inspect mobile homes manufactured in other states to be sold or intended to be sold in this state. For such out-of-state inspections, the department may contract for 3rd party inspection by an inspection agency which has been approved by the department. The department shall monitor inspections conducted by 3rd party inspection agencies to ensure the quality of those inspections. To obtain departmental approval, the inspection agency shall submit an application to the department accompanied by written materials evidencing that the agency is:

(a) Not under the jurisdiction or control of any manufacturer or supplier of the mobile home industry.

(b) Professionally competent to determine that a mobile home is in compliance with the requirements and standards of this section by having sufficient expertise to:

1. Inspect mobile homes.

2. Review mobile home plans and specifications.

3. Evaluate mobile home manufacturer quality control procedures.

4. Submit detailed reports regarding all of its findings to the department.

(4) No mobile home after once being approved to display the label prescribed shall be altered in any way by a manufacturer, factory branch, distributor, distributor branch, dealer or salesman without first obtaining an approval from the department or its authorized agent.

(5) Any person who violates this section shall forfeit not less than \$50 nor more than \$500 for each such violation, and may be required to indemnify the purchaser for damages caused. Each day the violation continues shall constitute a separate violation.

(6) Fees for review of plans, construction inspections, department labels and licensing of manufacturers shall be established by department rule and shall cover actual cost of the inspection and licensing programs.

(7) The department shall hear and decide petitions brought under ss. 101.90 to 101.96 in the manner provided under s. 101.02 (6) (e) to (i) and (8) for petitions concerning property.

History: 1973 c. 116.

101.95 Mobile home manufacturers regulated. The department shall by rule prescribe the manner by which a manufacturer shall be licensed for the manufacture, distribution or selling of mobile homes in this state.

History: 1973 c. 116.

101.955 Notice, hearing and legislative review. All rules prescribed by any department under ss. 101.90 to 101.96 shall become effective only after notice, hearing and publication as provided under ss. 227.02 to 227.027. A copy of every rule or amendment to a rule proposed by an agency under ss. 101.90 to 101.96 shall be forwarded to the speaker of the assembly and to the president of the senate for referral to and review by the appropriate standing committee of the assembly and of the senate as determined by the respective presiding officer. The standing committee shall, within 60 days from the receipt of such proposed rule or amendment, approve or disapprove any such proposed rule or amendment. Failure of the standing committee to disapprove any proposed rule or amendment within the review time shall constitute approval thereof. If the standing committees of both the senate and the assembly disapprove any proposed rule or amendment the agency shall not

adopt the proposed rule or amendment. Only in the absence of a disapproval the agency shall proceed with the adoption of the rule or amendment in accordance with this chapter. This section shall not apply to emergency rules issued under s. 227.027.

History: 1973 c. 116

101.96 Advisory committee. The department shall appoint an advisory committee of 5 members to review the rules and standards for mobile homes and recommend changes. The committee shall be composed of 2 members representing the mobile home industry, 2 public members and one member from the department. The committee shall submit an annual report to the department and to the department of health and social services.

History: 1973 c. 116.