

1977 Assembly Bill 868

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CHAPTER 275, Laws of 1977

AN ACT to create 145.02 (5) and 145.25 of the statutes, relating to prohibiting the sale and installation of water closets, faucets, urinals and showerheads which are not water-conserving, granting rule-making authority and providing a penalty.

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

SECTION 1. 145.02 (5) of the statutes is created to read:

145.02 (5) The department shall enforce the prohibition against the retail sale and installation of any plumbing fixtures which are not water-conserving fixtures as provided under s. 145.25.

SECTION 2. 145.25 of the statutes is created to read:

145.25 Use of plumbing fixtures prohibited. (1) PROHIBITIONS. Except as provided in sub. (3), commencing January 1, 1979:

(a) No person may sell at retail, install in any building or cause to be installed in any building:

1. A water closet which uses more than 4 gallons of water per flush or which does not conform to department rules for water usage per flush promulgated under sub. (2) (a) 1.
2. A showerhead which uses more than 3 gallons of water per minute.

(b) No person may install in any public restroom or cause to be installed in any public restroom:

1. Any urinal intended for use by male persons which uses more than 1.5 gallons of water per flush.
2. Any faucet which allows more than one gallon of water to flow through the faucet after the handle is released.

(c) No person may install or cause to be installed any faucet connected to a washbasin in any private dwelling which allows more than 3 gallons of water per minute to flow through the faucet.

(2) DEPARTMENT RULES. (a) The department shall, by rule:

1. Formulate standards for water usage for water closets, showerheads, faucets and urinals which will reduce water consumption and meet the requirements of public health, safety and sanitation. The standards shall also conform to standards adopted by the American national standards institute.

2. Formulate a list of all fixtures and devices available commercially which comply with the requirements of this section or rules promulgated under this section.

(b) The department shall not promulgate any rules which either directly or indirectly prohibit the use of manual flushing devices for urinals.

(3) EXEMPTIONS. (a) The department may, by rule, exempt specified fixtures and devices from compliance with the requirements of this section or rules promulgated under this section if it determines that there is an inadequate supply of fixtures or devices offered by at least 2 manufacturers which comply with this section or with rules promulgated under this section or if public health, safety and sanitation require fixtures which do not comply with this section or with rules promulgated under this section.

(b) The department may, upon request, waive compliance with flushing requirements of this section or rules promulgated under this section relating to flushing requirements:

1. For any building in existence on or before January 1, 1979, if its drainage system configuration requires a greater quantity of water for adequate flushing than complying with water usage requirements under this section or rules promulgated under this section would permit.

2. If any building is served by a public sewer system which requires the use of a greater quantity of water for adequate flushing than complying with water usage requirements under this section or rules promulgated under this section would permit.

(c) Notwithstanding sub. (1), plumbing fixtures which do not meet the requirements of this section which are ordered for sale by a retailer prior to the effective date of this act (1977) may be sold at retail within 2 years after the effective date of this act (1977), if the retailer informs the buyer, prior to any sale after January 1, 1979, that the fixture does not meet the requirements of this section. Installation of any plumbing fixtures sold at retail under this paragraph shall be completed within 2 years after the effective date of this act (1977).

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

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

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

2. Ensure that the procedures for the promulgation of a rule required by this chapter are followed.

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

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

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

6. Streamline and simplify the rule-making process.

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

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

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

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

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

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

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

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

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

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

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

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

4. The joint committee for the review of administrative rules may reverse the standing committee disapproval by taking action to approve the rule within the joint committee review period. The joint committee may uphold the standing committee disapproval by taking action to disapprove the rule within the joint committee review period. The joint committee may remand the proposed rule to the department for further consideration or

public hearings or both. If the joint committee disapproves a proposed rule, the department may not promulgate the proposed rule until the bill in subd. 5 fails of enactment.

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

(5) PENALTY. Whoever violates subs. (1) to (3) shall forfeit to the state not more than \$50 for each violation.
