

1991 Senate Bill 276

Date of enactment: **December 4, 1991**
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1991 WISCONSIN ACT 97

AN ACT to repeal 144.422 (2m) (b); to renumber 100.45 (1) (a); to amend 23.50 (1), 23.65 (1), 100.45 (2) (a) 2, 100.45 (3) (b) (intro.) and 1, 100.45 (4) (intro.) and (a) to (c), 100.45 (5) (a) 2 and (b), 101.177 (1) (a), 101.177 (1) (c), 101.177 (2) (a), 101.177 (2) (b), 101.177 (3), 101.177 (4) (a) 1, 144.422 (2) (intro.) and (a), 144.422 (2m) (a), 144.422 (2m) (c), 144.422 (3) (a) 2, 144.422 (3m) and 144.422 (4) (b); to repeal and recreate 100.45 (1) (d); and to create 100.45 (1) (a), 100.45 (1) (e), 100.45 (3) (c), 100.45 (4) (e) and (f), 101.177 (1) (am), 101.177 (2) (a) 4, 101.177 (4) (a) 3m, 101.177 (4) (bm), 144.422 (2m) (d), 144.422 (2r) and 144.422 (4) (c) of the statutes, relating to: regulation of activities involving ozone-depleting refrigerants and providing a penalty.

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

SECTION 1. 23.50 (1) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, penalty assessments, jail assessments, applicable weapons assessments, applicable environmental assessments, applicable wild animal protection assessments, applicable natural resources assessments, applicable fishing shelter removal assessments, applicable snowmobile registration restitution payments and applicable natural resources restitution payments for violations of ss. 77.09, 134.60, 144.422 (2) ~~and~~, (2m) (c) ~~and~~ (2r), 159.07, 159.08, 159.81, 167.10 (3) and 167.31 (2), subch. VI of ch. 77, this chapter and chs. 26 to 31 and of ch. 350, and any administrative rules promulgated thereunder and violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

SECTION 1g. 23.65 (1) of the statutes is amended to read:

23.65 (1) When it appears to the district attorney that a violation of s. 134.60, 144.422 (2) ~~or~~, (2m) (c) ~~or~~ (2r), 159.07, 159.08 or 159.81, this chapter or ch. 26, 27, 28, 29, 30, 31 or 350, or any administrative rule promulgated

pursuant thereto, has been committed the district attorney may proceed by complaint and summons.

SECTION 1r. 100.45 (1) (a) of the statutes is renumbered 100.45 (1) (ad).

SECTION 2. 100.45 (1) (a) of the statutes is created to read:

100.45 (1) (a) “Approved refrigerant recovery equipment” means equipment that the department or an independent standards testing organization approved by the department determines will minimize the release of ozone-depleting refrigerant when the equipment is used to transfer ozone-depleting refrigerant from mobile air conditioners into storage tanks.

SECTION 4. 100.45 (1) (d) of the statutes is repealed and recreated to read:

100.45 (1) (d) “Ozone-depleting refrigerant” means a substance used in refrigeration that is or contains a class I substance, as defined in 42 USC 7671 (3).

SECTION 5. 100.45 (1) (e) of the statutes is created to read:

100.45 (1) (e) “Trailer refrigeration equipment” means mechanical vapor compression refrigeration equipment used to cool a trailer designed for carrying property wholly on its own structure and for being drawn by a motor vehicle.

SECTION 6. 100.45 (2) (a) 2. of the statutes is amended to read:

100.45 (2) (a) 2. Beginning on January 1, 1995, and ending on December 31, 1995, a manufacturer or distributor may not distribute for sale in this state a mobile air conditioner that contains ozone-depleting refrigerant and that is original equipment in a new motor vehicle unless at least 50% of the new motor vehicles distributed in the United States by that manufacturer or distributor during November or ~~and~~ December 1994 are not equipped with mobile air conditioners that contain ozone-depleting refrigerant.

SECTION 7. 100.45 (3) (b) (intro.) and 1 of the statutes are amended to read:

100.45 (3) (b) (intro.) After February 28, 1991, no ~~business establishment person, including a state agency, as defined in s. 234.75 (10),~~ may sell used recycled ozone-depleting refrigerant removed from a mobile air conditioner unless the ~~business establishment person~~ certifies all of the following to the department:

1. That the ~~business establishment person~~ or another person ~~recycles the ozone-depleting refrigerant using~~ uses approved refrigerant recycling equipment to recycle the ozone-depleting refrigerant.

SECTION 8. 100.45 (3) (c) of the statutes is created to read:

100.45 (3) (c) After the effective date of this paragraph [revisor inserts date], no person may sell ozone-depleting refrigerant that was removed from a mobile air conditioner but has not been recycled unless the person does all of the following:

1. Certifies to the department that the person or another person uses approved refrigerant recovery equipment to remove the ozone-depleting refrigerant from mobile air conditioners.

2. Provides to the department upon request the identity of each person to whom it sells the recovered ozone-depleting refrigerant.

3. Certifies to the department that it informs each person to whom it sells the ozone-depleting refrigerant that the ozone-depleting refrigerant has not been recycled.

SECTION 9. 100.45 (4) (intro.) and (a) to (c) of the statutes are amended to read:

100.45 (4) **SERVICING.** (intro.) After February 28, 1991, no ~~business establishment person, including a state agency, as defined in s. 234.75 (10),~~ may perform motor vehicle repair that releases or may release ozone-depleting refrigerant from a mobile air conditioner or trailer refrigeration equipment or may install or service a mobile air conditioner or trailer refrigeration equipment that contains ozone-depleting refrigerant unless the ~~business establishment person~~ certifies all of the following to the department:

(a) That the ~~business establishment person~~ does not use ozone-depleting refrigerant for cleaning purposes including to clean the interior or exterior surfaces of

mobile air conditioners or trailer refrigeration equipment.

(b) That whenever the ~~business establishment person~~ removes ozone-depleting refrigerant from a mobile air conditioner or trailer refrigeration equipment the ~~business establishment person~~ pumps the ozone-depleting refrigerant into storage tanks.

(c) That the ~~business establishment person~~ uses approved refrigerant recycling equipment or that the person uses approved refrigerant recovery equipment and another person recycles the used ozone-depleting refrigerant.

SECTION 10. 100.45 (4) (e) and (f) of the statutes are created to read:

100.45 (4) (e) That the person does not knowingly or negligently release ozone-depleting refrigerant to the environment, except for minimal releases that occur during efforts to recover or recycle ozone-depleting refrigerant removed from mobile air conditioners or trailer refrigeration equipment.

(f) That the person inspects and, if necessary, repairs mobile air conditioners or trailer refrigeration equipment that leaks or is suspected of leaking before putting additional ozone-depleting refrigerant into those mobile air conditioners or trailer refrigeration equipment.

SECTION 11. 100.45 (5) (a) 2. and (b) of the statutes are amended to read:

100.45 (5) (a) 2. Qualifications, which may include training or certification requirements, for individuals who use approved refrigerant recycling equipment or approved refrigerant recovery equipment to ensure that those individuals use procedures for containment of ozone-depleting refrigerant.

(b) Identify approved refrigerant recycling equipment and approved refrigerant recovery equipment or approve independent testing organizations that may identify approved refrigerant recycling equipment and approved refrigerant recovery equipment.

SECTION 12. 101.177 (1) (a) of the statutes is amended to read:

101.177 (1) (a) "Approved refrigerant ~~recycling~~ reclaiming equipment" means equipment that the department or an independent standards testing organization approved by the department determines will treat ozone-depleting refrigerant removed from refrigeration equipment so that the ozone-depleting refrigerant meets the standard of purity for ~~recycled~~ reclaimed refrigerant established under sub. (4) (a) 1.

SECTION 13. 101.177 (1) (am) of the statutes is created to read:

101.177 (1) (am) "Approved refrigerant recycling equipment" means equipment that the department or an independent standards testing organization approved by the department determines will reduce contaminants in used ozone-depleting refrigerant by oil separation and

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passes through devices that reduce moisture, acidity and particulate matter.

SECTION 14. 101.177 (1) (c) of the statutes is amended to read:

101.177 (1) (c) "Refrigeration equipment" means mechanical vapor compression refrigeration equipment except for a mobile air conditioner, as defined in s. 100.45 (1) (b), or trailer refrigeration equipment, as defined in s. 100.45 (1) (e).

SECTION 15. 101.177 (2) (a) of the statutes is amended to read:

101.177 (2) (a) After December 31, 1991, ~~no business establishment~~ no person, including a state agency, as defined in s. 234.75 (10), may install or service a piece of refrigeration equipment that contains 5 pounds or more of ozone-depleting refrigerant unless the business establishment person certifies all of the following to the department:

1. That the business establishment person does not use ozone-depleting refrigerant for cleaning purposes, including to clean the interior or exterior surfaces of refrigeration equipment.

2. That the business establishment person transfers the ozone-depleting refrigerant from refrigeration equipment to storage containers using equipment that is approved by the department whenever the business establishment person removes ozone-depleting refrigerant from refrigeration equipment.

3. That the individuals who use the equipment to transfer ozone-depleting refrigerant under subd. 2 have, ~~or are under the supervision of individuals who have,~~ the qualifications established under sub. (4) (a) 2.

SECTION 16. 101.177 (2) (a) 4. of the statutes is created to read:

101.177 (2) (a) 4. That the person does not knowingly or negligently release ozone-depleting refrigerant to the environment, except for minimal releases that occur as a result of efforts to recover, reclaim or recycle ozone-depleting refrigerant removed from refrigeration equipment.

SECTION 17. 101.177 (2) (b) of the statutes is amended to read:

101.177 (2) (b) After December 31, 1992, ~~no business establishment~~ no person may install or service a refrigerator or freezer that contains less than 5 pounds of ozone-depleting refrigerant unless the business establishment person certifies all of the items under par. (a) 1. to ~~3~~ 4 to the department.

SECTION 19. 101.177 (3) of the statutes is amended to read:

101.177 (3) SALE OF USED REFRIGERANT. (a) After December 31, 1991, ~~no business establishment person,~~ including a state agency as defined in s. 234.75 (10), may sell used ozone-depleting refrigerant removed from refrigeration equipment for reuse unless the ~~business~~

establishment person certifies all of the following to the department:

1. That the ~~business establishment person~~ or another person ~~recycles~~ reclaims the ozone-depleting refrigerant using approved refrigerant ~~recycling~~ reclaiming equipment.

2. That the individuals who use the approved refrigerant ~~recycling~~ reclaiming equipment under subd. 1 have the qualifications established under sub. (4) (a) 3.

(b) Paragraph (a) does not apply to a ~~business establishment person~~ that sells used ozone-depleting refrigerant removed from refrigeration equipment to another person for ~~recycling~~ reclaiming, as provided in par. (a) 1., by that other person if the business establishment person informs the other person that the ozone-depleting refrigerant has not been ~~recycled~~ reclaimed as provided in par. (a) 1.

SECTION 20. 101.177 (4) (a) 1. of the statutes is amended to read:

101.177 (4) (a) 1. A standard of purity for ~~recycled~~ reclaimed refrigerant that is based on recognized national industry standards.

SECTION 21. 101.177 (4) (a) 3m of the statutes is created to read:

101.177 (4) (a) 3m. Qualifications, which may include training or certification requirements, for individuals who use approved refrigerant reclaiming equipment.

SECTION 22. 101.177 (4) (bm) of the statutes is created to read:

101.177 (4) (bm) Identify approved refrigerant reclaiming equipment or approve independent testing organizations that may identify approved refrigerant reclaiming equipment.

SECTION 23. 144.422 (2) (intro.) and (a) of the statutes are amended to read:

144.422 (2) (title) SALVAGING REFRIGERATION EQUIPMENT. (intro.) After June 30, 1992, except as provided in sub. (2m), ~~no business establishment or municipality person, including a state agency, as defined in s. 234.75 (10),~~ may perform salvaging or dismantling of mechanical vapor compression refrigeration equipment in the course of which ozone-depleting refrigerant is or may be released or removed unless the ~~business establishment or municipality person~~ certifies all of the following to the department:

(a) That the ~~business establishment or municipality person~~ uses equipment that is approved by the department to transfer ozone-depleting refrigerant from mechanical vapor compression refrigeration equipment into storage tanks whenever it performs those activities.

SECTION 24. 144.422 (2m) (a) of the statutes is amended to read:

144.422 (2m) (a) In this subsection, “scrap metal processor” has the meaning given in s. ~~218.20 (2)~~ 84.31 (2) (h).

SECTION 25. 144.422 (2m) (b) of the statutes is repealed.

SECTION 26. 144.422 (2m) (c) of the statutes is amended to read:

144.422 (2m) (c) After June 30, 1992, except as provided in par. (d), any person who sells, gives or transports mechanical vapor compression refrigeration equipment to a scrap metal processor shall do all of the following:

1. Transfer ozone-depleting refrigerant from the mechanical vapor compression refrigeration equipment into a storage tank as provided in sub. (2) (a) and (b) or obtain and possess documentation that another person performed that transfer.

2. Certify Provide documentation to the scrap metal processor that it has complied with subd. 1.

SECTION 27. 144.422 (2m) (d) of the statutes is created to read:

144.422 (2m) (d) Paragraph (c) does not apply to a person who sells, gives or transports mechanical vapor compression refrigeration equipment to a scrap metal processor that agrees in writing to transfer the ozone-depleting refrigerant into a storage tank as provided in sub. (2) (a) and (b).

SECTION 28. 144.422 (2r) of the statutes is created to read:

144.422 (2r) **RELEASE.** (a) During the salvaging, dismantling or transporting of mechanical vapor compression refrigeration equipment, no person may knowingly or negligently release ozone-depleting refrigerant to the environment, except for minimal releases that occur as a result of efforts to transfer ozone-depleting refrigerant into storage tanks.

(am) No person may knowingly or negligently release from a storage tank to the environment ozone-de-

pleting refrigerant that was removed during the salvaging, dismantling or transporting of mechanical vapor compression refrigeration equipment, except that this paragraph does not apply to minimal releases that occur as a result of efforts to transfer ozone-depleting refrigerant into mechanical vapor compression refrigeration equipment or other storage tanks.

(b) Any person who transports, for purposes of salvaging or dismantling, mechanical vapor compression refrigeration equipment that contains ozone-depleting refrigerant shall certify to the department that it complies with par. (a), except that this paragraph does not apply to an individual who transports his or her personal mechanical vapor compression refrigeration equipment.

SECTION 28g. 144.422 (3) (a) 2. of the statutes is amended to read:

144.422 (3) (a) 2. Fees to cover the cost of administering ~~sub. subs. (2), (2m) and (2r) (b)~~.

SECTION 28r. 144.422 (3m) of the statutes is amended to read:

144.422 (3m) **CITATIONS.** The department may follow the procedures for the issuance of a citation under ss. 23.50 to 23.99 to collect a forfeiture for a violation of sub. (2) ~~or~~, (2m) (c) or (2r).

SECTION 29. 144.422 (4) (b) of the statutes is amended to read:

144.422 (4) (b) Any person who violates sub. (2m) (c) shall be required to forfeit not less than \$100 nor more than \$1,000. Each sale, giving or transporting in violation of sub. (2m) (c) constitutes a violation.

SECTION 30. 144.422 (4) (c) of the statutes is created to read:

144.422 (4) (c) Any person who violates sub. (2r) shall be required to forfeit not less than \$100 nor more than \$1,000. Each release in violation of sub. (2r) constitutes a violation.