



## 1997 SENATE BILL 170

April 16, 1997 - Introduced by Senators COWLES, SCHULTZ and ZIEN, cosponsored by Representatives GREEN, AINSWORTH, OTTE, GOETSCH, SYKORA, OLSEN, GARD, POWERS, HOVEN, ALBERS, HASENOHRL and HAHN. Referred to Committee on Agriculture and Environmental Resources.

1       **AN ACT to repeal** 20.115 (7) (w), 25.465 (9), 94.64 (3) (c), 94.68 (4) and 94.73 (6)  
2           (e); **to renumber and amend** 94.703 (3) (c); **to amend** 20.115 (7) (e), 20.115  
3           (7) (h), 20.285 (1) (hm), 25.46 (2), 25.46 (4), 25.46 (4m), 25.46 (4s), 25.465 (1) and  
4           (2), 25.465 (3) and (4), 25.465 (5) to (8), 94.64 (3) (b), 94.64 (8m) (a), 94.65 (6) (a)  
5           1., 94.65 (6) (a) 3., 94.68 (1) (intro.), 94.704 (2) (intro.), 94.73 (1) (g), 94.73 (2) (c),  
6           94.73 (3m) (L), 94.73 (3m) (r), 94.73 (4) (a), 94.73 (5) (e), 94.73 (6) (d), 94.73 (8),  
7           94.73 (13) and 287.09 (3) (b); **to repeal and recreate** 94.64 (4) to (6), 94.68 (2),  
8           94.68 (3), 94.681, 94.685 (2), 94.685 (3), 94.703 (3) (a), 94.704 (3) (a), 94.72 (6)  
9           (a), 94.73 (6) (b) and (c) and 94.73 (7); and **to create** 20.115 (7) (i), 25.465 (2m),  
10          25.465 (4m), 94.64 (3r), 94.64 (6m) and (6p), 94.65 (6) (c), 94.702 (3m), 94.703  
11          (3) (c) 2., 94.704 (3) (c), 94.72 (6) (am) and 94.73 (15) of the statutes; **relating**  
12          **to:** the agricultural chemical cleanup program, fees related to pesticides,

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- 1 fertilizers and soil and plant additives, granting rule-making authority and  
2 making an appropriation.
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***Analysis by the Legislative Reference Bureau***

Currently, under the agricultural chemical cleanup program, this state reimburses certain persons for a portion of the costs incurred in cleaning up discharges of agricultural chemicals. The reimbursement is generally equal to 75% of the costs that exceed \$7,500 for a person required to have a license related to fertilizer or pesticides, or that exceed \$3,000 for any other person, but that do not exceed \$100,000. If the cleanup requires groundwater remediation, the person also receives 80% of the costs that exceed \$100,000 but that do not exceed \$300,000.

This bill increases the amount of reimbursement provided under the agricultural chemical cleanup program. Under this bill, the reimbursement is generally equal to: 1) 80% of the costs that exceed \$7,500 for a person who is required to have a license related to fertilizer or pesticides, a person with more than 25 employees or a person with annual sales of more than \$2,500,000; or 2) 80% of the costs that exceed \$3,000 for any other person, but that do not exceed \$400,000. This bill makes several other changes to the agricultural chemical cleanup program, including requiring an applicant to have the department of agriculture, trade and consumer protection (DATCP) approve a work plan if the cleanup costs exceed \$7,500, rather than \$20,000 as under current law.

Current law requires a person who manufactures or labels pesticides for sale in this state to obtain a license from DATCP. Each licensee must pay DATCP an annual license fee. For each pesticide other than a household pesticide, a licensee must pay DATCP a surcharge that is based on the volume of sales and is deposited in the agrichemical management fund. Household pesticides include disinfectants, insect repellants and house and garden pesticides.

This bill creates a new category of pesticides called industrial pesticides. The bill establishes different license fees for household pesticides, industrial pesticides and other nonhousehold pesticides. A person who manufactures or labels industrial pesticides is exempt from the surcharge imposed on manufacturers and labelers of other nonhousehold pesticides and that is used to fund the agricultural chemical cleanup program. An industrial pesticide is a pesticide that is not a household pesticide and is either a wood preservative or a pesticide labeled for use in controlling algae, fungi, bacteria, other microscopic organisms or mollusks on specified materials, such as paper or textiles, or in paints and fuels, industrial processes, cooling or heating systems, medical equipment or drinking water systems.

This bill divides various fees related to pesticides, fertilizer and soil and plant additives into fees and surcharges. The surcharges are used to fund the agricultural chemical cleanup program. The bill suspends the surcharges for 2 years. The bill also modifies some of the fees.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 20.115 (7) (e) of the statutes is amended to read:

2           20.115 (7) (e) *Agricultural chemical cleanup program; general fund.* ~~As a~~  
3 ~~continuing~~ appropriation Biennially, the amounts in the schedule for  
4 reimbursement of corrective action costs under s. 94.73.

5           **SECTION 2.** 20.115 (7) (h) of the statutes is amended to read:

6           20.115 (7) (h) *Fertilizer research assessments.* All moneys collected under s. ss.  
7 94.64 (4) (am) (a) 2. and 94.65 (6) (a) 3. to be used as provided in s. 94.64 (8m) for  
8 fertilizer research. ~~From this paragraph,~~ The department may use up to 3.5% of the  
9 gross amount collected shall be transferred to the appropriation under sub. (1) (a) as  
10 reimbursement for administrative expenses incurred by the department in  
11 connection with the moneys collected to collect moneys under s. ss. 94.64 (4) (am) (a)  
12 2. and 94.65 (6) (a) 3. Moneys under this paragraph may not be ~~utilized~~ used for any  
13 other research or to influence either state or federal legislation.

14           **SECTION 3.** 20.115 (7) (i) of the statutes is created to read:

15           20.115 (7) (i) *Agricultural chemical cleanup reimbursement.* All moneys  
16 received under ss. 94.64 (3r) (b) and (4) (a) 5., 94.681 (3) and (6) (a) 4., 94.685 (3) (a)  
17 2., 94.703 (3) (a) 2., 94.704 (3) (a) 2. and 94.73 (5) (e) and (8) and all moneys  
18 transferred under 1997 Wisconsin Act ... (this act), section 55 (2), for reimbursement  
19 of corrective action costs under s. 94.73.

20           **SECTION 4.** 20.115 (7) (w) of the statutes is repealed.

21           **SECTION 5.** 20.285 (1) (hm) of the statutes is amended to read:

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1           20.285 (1) (hm) *Extension outreach*. All moneys collected under s. 94.64 (4) ~~(ar)~~  
2           (a) 3. to be used for university of Wisconsin-extension outreach services.

3           **SECTION 6.** 25.46 (2) of the statutes is amended to read:

4           25.46 (2) The fees imposed under s. 94.64 (4) ~~(an)~~ (a) 4. for groundwater  
5           management.

6           **SECTION 7.** 25.46 (4) of the statutes is amended to read:

7           25.46 (4) The moneys specified under s. ~~94.68 (4) (b), (bm) and (bt)~~ 94.681 (7)  
8           (a) 1. and 2. for groundwater management.

9           **SECTION 8.** 25.46 (4m) of the statutes is amended to read:

10          25.46 (4m) The moneys specified under s. ~~94.68 (4) (e)~~ 94.681 (7) (a) 3. for  
11          environmental repair.

12          **SECTION 9.** 25.46 (4s) of the statutes is amended to read:

13          25.46 (4s) The fees imposed under s. 94.681 (4) for environmental repair.

14          **SECTION 10.** 25.465 (1) and (2) of the statutes are amended to read:

15          25.465 (1) The fees imposed collected under s. 94.64 (3) ~~(e), (3m) (b), (3r) (a)~~ and  
16          (4) (a) ~~and (d)~~ 1.

17          (2) The fees imposed collected under s. 94.65 (2) (a), (3) (b) and (6) (a) 1. and  
18          (b).

19          **SECTION 11.** 25.465 (2m) of the statutes is created to read:

20          25.465 (2m) The fees collected under s. 94.66 (4).

21          **SECTION 12.** 25.465 (3) and (4) of the statutes are amended to read:

22          25.465 (3) The fees ~~and surcharges specified under s. 94.68 (4) (a)~~ collected  
23          under s. 94.681 (2), (5) and (6) (a) 3., except as provided in s. 94.681 (7) (a).

24          (4) The fees imposed collected under s. 94.685 (3) (a) 1.

25          **SECTION 13.** 25.465 (4m) of the statutes is created to read:

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1           25.465 (4m) The fees collected under s. 94.702 (3).

2           **SECTION 14.** 25.465 (5) to (8) of the statutes are amended to read:

3           25.465 (5) The fees ~~imposed~~ collected under s. 94.703 (3) (a) 1.

4           (6) The fees ~~imposed~~ collected under s. 94.704 (3) (a) 1.

5           (7) The fees ~~imposed~~ collected under s. 94.705 (4) (b).

6           (8) The fees ~~imposed~~ collected under s. 94.72 (5) (b) and (6) (a) and (i).

7           **SECTION 15.** 25.465 (9) of the statutes is repealed.

8           **SECTION 16.** 94.64 (3) (b) of the statutes is amended to read:

9           94.64 (3) (b) An applicant for a license under par. (a) shall submit an  
10 application on a form provided by the department. The application shall include  
11 information reasonably required by the department for licensing purposes. As part  
12 of the application, the applicant shall identify ~~the~~ each business location or mobile  
13 unit that the applicant uses to manufacture fertilizer in this state. The application  
14 shall be accompanied by all applicable fees under ~~par. (e) sub. (3r).~~

15           **SECTION 17.** 94.64 (3) (c) of the statutes is repealed.

16           **SECTION 18.** 94.64 (3r) of the statutes is created to read:

17           94.64 (3r) LICENSE FEES AND SURCHARGES. (a) A person applying for a license  
18 under sub. (3) shall pay the following annual license fees:

19           1. For each business location and each mobile unit that the applicant uses to  
20 manufacture fertilizer in this state, \$30.

21           2. If the applicant distributes, but does not manufacture, fertilizer in this state,  
22 \$30.

23           (b) Beginning with the license year that begins on August 15, 2000, a person  
24 applying for a license under sub. (3) shall pay the following agricultural chemical

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1 cleanup surcharges, unless the department establishes lower surcharges under s.  
2 94.73 (15):

3 1. For each business location and each mobile unit that the applicant uses to  
4 manufacture fertilizer in this state, other than a business location or mobile unit that  
5 is also licensed under s. 94.685 or 94.703, \$20.

6 2. If the applicant distributes, but does not manufacture, fertilizer in this state,  
7 \$20.

8 (c) The department shall deposit the license fees collected under par. (a) in the  
9 agrichemical management fund. The department shall credit the surcharges  
10 collected under par. (b) to the appropriation account under s. 20.115 (7) (i).

11 **SECTION 19.** 94.64 (4) to (6) of the statutes are repealed and recreated to read:

12 94.64 (4) TONNAGE FEES AND SURCHARGES. (a) *Requirement.* Except as provided  
13 in par. (b), a person who is required to be licensed under sub. (3) and who sells or  
14 distributes fertilizer in this state shall pay to the department the following fees and  
15 surcharges on all fertilizer that the person sells or distributes in this state:

16 1. A basic fee of 25 cents per ton for fertilizer sold or distributed from July 1,  
17 1997, to June 30, 1999, and 32 cents per ton for fertilizer sold or distributed after  
18 June 30, 1999, with a minimum fee of \$25.

19 2. A research fee of 10 cents per ton, with a minimum fee of \$1.

20 3. An additional research fee of 10 cents per ton, with a minimum fee of \$1.

21 4. A groundwater fee of 10 cents per ton, with a minimum fee of \$1.

22 5. An agricultural chemical cleanup surcharge of 38 cents per ton on all  
23 fertilizer that the person sells or distributes in this state after June 30, 1999, unless  
24 the department establishes a lower surcharge under s. 94.73 (15).

25 (b) *Exemptions.* Paragraph (a) does not apply to any of the following:

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1           1. Fertilizer sold or distributed to a manufacturer for use in the further  
2 manufacture or processing of fertilizer.

3           2. Fertilizer sold or distributed to a person licensed under sub. (3) (a), for resale  
4 by that person.

5           (c) *Use of fees and surcharges.* 1. The department shall deposit the fee under  
6 par. (a) 1. in the agrichemical management fund.

7           2. The department shall credit the fee under par. (a) 2. to the appropriation  
8 account under s. 20.115 (7) (h).

9           3. The department shall credit the fee under par. (a) 3. to the appropriation  
10 account under s. 20.285 (1) (hm).

11           4. The department shall deposit the fee under par. (a) 4. in the environmental  
12 fund for groundwater management.

13           5. The department shall credit the surcharge under par. (a) 5. to the  
14 appropriation account under s. 20.115 (7) (i).

15           **(5) TONNAGE REPORT AND FEE PAYMENT.** (a) *Requirement.* A person who is  
16 required to pay fees or surcharges under sub. (4) shall do all of the following by  
17 August 14 annually:

18           1. File with the department a report that states the number of tons of each  
19 grade of fertilizer sold or distributed in this state during the 12 months ending on  
20 June 30 of that year on which the person is required to pay those fees or surcharges.

21           2. Pay the fees and surcharges under sub. (4) on the tonnage reported under  
22 subd. 1.

23           (b) *Extended deadline.* The department may extend the filing deadline under  
24 par. (a) for up to 30 days for cause, in response to a request filed before August 14.

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1           (c) *Late payment.* If a person fails to pay a fee or surcharge when due under  
2 this section, the amount of the fee or surcharge is increased by \$10 or 10% of the  
3 amount that the fee or surcharge would have been if paid when due, whichever is  
4 greater.

5           (d) *Tonnage equivalents.* A tonnage report under par. (a) 1. shall report liquid  
6 fertilizer tonnage in terms of dry fertilizer tonnage equivalents, as prescribed by the  
7 department.

8           (e) *Audit.* The department may audit a tonnage report under par. (a) 1.,  
9 including the records on which the tonnage report is based.

10           **(6)** RECORDS. A person who manufactures, sells or distributes fertilizer in this  
11 state shall keep records showing the grades and quantities of fertilizer  
12 manufactured, sold or distributed in this state. The person shall keep the records  
13 relating to the 12 months covered by a report under par. (a) 1. for at least 24 months  
14 following the date of filing the report. The person shall make the records available  
15 to the department for inspection and copying upon request.

16           **SECTION 20.** 94.64 (6m) and (6p) of the statutes are created to read:

17           94.64 **(6m)** RECORDS CONFIDENTIAL. The department may not disclose  
18 information obtained under sub. (5) or (6) that reveals the grades or amounts of  
19 fertilizer sold or distributed by any person. This subsection does not prohibit the  
20 department from preparing and distributing aggregate information that does not  
21 reveal the grades or amounts of fertilizer sold or distributed by individual sellers or  
22 distributors.

23           **(6p)** SUMMARY LICENSE SUSPENSION. (a) The department may by written notice,  
24 without prior hearing, summarily suspend the license of any person who fails to file  
25 a report or pay a fee or surcharge as required under sub. (5).

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1 (b) A summary license suspension under par. (a) takes effect on the date  
2 specified in the notice, which may be no sooner than 10 days after the date on which  
3 the notice is received by the recipient.

4 (c) A person whose license is suspended under par. (a) may request a meeting  
5 concerning the suspension. The department shall hold an informal meeting with the  
6 requester as soon as reasonably possible and not more than 10 days after the  
7 requester makes the request in writing, unless the requester agrees to a later date.  
8 If the matter is not resolved at the informal meeting, the requester may request a  
9 formal contested case hearing under ch. 227. A request for a hearing does not stay  
10 a summary suspension under par. (a).

11 (d) A person who is required to pay a fee or surcharge under sub. (5) remains  
12 obligated to pay the fee or surcharge regardless of whether the person continues to  
13 be licensed under this section.

14 **SECTION 21.** 94.64 (8m) (a) of the statutes is amended to read:

15 94.64 (8m) (a) *Use of funds.* At the end of each fiscal year, the moneys collected  
16 under sub. (4) ~~(am)~~ (a) 2. and s. 94.65 (6) (a) 3. shall be forwarded to the university  
17 of Wisconsin system to be used for research on soil management, soil fertility, plant  
18 nutrition problems and for research on surface water and groundwater problems  
19 which may be related to fertilizer usage; for dissemination of the results of the  
20 research; and for other designated activities tending to promote the correct usage of  
21 fertilizer materials.

22 **SECTION 22.** 94.65 (6) (a) 1. of the statutes is amended to read:

23 94.65 (6) (a) 1. Annually by March 31, file with the department a tonnage report  
24 setting forth the number of tons of each soil or plant additive distributed during the  
25 preceding year by that person or by any other person authorized under sub. (3) (a)

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1 2. to distribute under the name of that person and pay to the department an  
2 inspection a fee of ~~70~~ 25 cents per ton so distributed. The minimum total fee is \$25.

3 **SECTION 23.** 94.65 (6) (a) 3. of the statutes is amended to read:

4 94.65 (6) (a) 3. Annually by March 31, pay to the department a research fee of  
5 10 cents for each ton of soil or plant additive distributed as described in the tonnage  
6 report filed under subd. 1. The minimum research fee is \$1 for 10 tons or less. The  
7 department shall credit this fee to the appropriation account under s. 20.115 (7) (h).

8 **SECTION 24.** 94.65 (6) (c) of the statutes is created to read:

9 94.65 (6) (c) The department shall deposit fees collected under pars. (a) 1. and  
10 (b) and subs. (2) (a) and (3) (b) in the agrichemical management fund.

11 **SECTION 25.** 94.68 (1) (intro.) of the statutes is amended to read:

12 94.68 (1) (intro.) No person may manufacture, formulate, package, label or  
13 otherwise produce pesticides for sale or distribution in this state, or sell or offer to  
14 sell pesticides to purchasers in this state, whether or not the sales are made wholly  
15 or partially in this state or another state, without a license from the department. A  
16 license expires on December 31 annually and is not transferable. No license ~~may be~~  
17 is required of persons engaged only in the following:

18 **SECTION 26.** 94.68 (2) of the statutes is repealed and recreated to read:

19 94.68 (2) (a) An application for a license under sub. (1) shall be made on a form  
20 prescribed by the department. An applicant shall submit all of the following with the  
21 application:

22 1. All fees and surcharges required under s. 94.681.

23 2. A report identifying each pesticide that the applicant sells or distributes for  
24 use in this state and the gross revenue that the applicant derived from the sale or

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1 distribution of each pesticide during the preceding year, as defined in s. 94.681 (1)  
2 (d).

3 (b) The department may not disclose sales revenue information obtained under  
4 par. (a) 2.

5 **SECTION 27.** 94.68 (3) of the statutes is repealed and recreated to read:

6 94.68 (3) At least 15 days before a person holding a license under this section  
7 begins to sell or distribute for use in this state a pesticide product that was not  
8 identified in the person's most recent annual license application, the person shall file  
9 a supplementary report with the information required under sub. (2) (a) 1. and any  
10 fees and surcharges required under s. 94.681. The department may not disclose sales  
11 revenue information obtained under this subsection.

12 **SECTION 28.** 94.68 (4) of the statutes is repealed.

13 **SECTION 29.** 94.681 of the statutes is repealed and recreated to read:

14 **94.681 Pesticide manufacturers and labelers: fees and surcharges. (1)**

15 DEFINITIONS. In this section:

16 (a) "Household pesticide" means a pesticide that is any of the following:

17 1. A sanitizer.

18 2. A disinfectant.

19 3. A germicide.

20 4. An insect repellent that is applied to the human body or to clothing.

21 5. A pesticide that is used exclusively for the treatment of household pets.

22 6. A pesticide product that is labeled exclusively for household, lawn or garden  
23 use if the product either is sold in ready-to-use form or is sold exclusively in  
24 container sizes of less than one gallon.

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1           7. A solid or liquid pesticide product that is used exclusively for the treatment  
2 of swimming pools, spas or hot tubs.

3           (b) "Industrial pesticide" means a pesticide that is not a household pesticide  
4 and that is one of the following:

5           1. Solely labeled for use on wood and contains pentachlorophenol, coal tar  
6 creosote or inorganic arsenical wood preservatives.

7           2. Labeled for use in controlling algae, fungi, bacteria, other microscopic  
8 organisms or mollusks in or on one or more of the following and for no other use  
9 except for a use described in par. (a) 6. or 7.:

10           a. Textiles, paper, leather, plastic, vinyl or other synthetic materials, metal or  
11 rubber.

12           b. Paints, varnishes, lubricants or fuels.

13           c. Commercial, manufacturing or industrial fluids, including adhesives,  
14 additives and pigments.

15           d. Commercial, manufacturing or industrial processes, equipment, devices or  
16 containers, other than those used in the production or storage of human food or  
17 animal feed.

18           e. Air washing, cooling or heat transfer systems.

19           f. Medical equipment.

20           g. Drinking water or wastewater systems.

21           (c) "Nonhousehold pesticide" means a pesticide that is not a household  
22 pesticide or an industrial pesticide.

23           (d) "Preceding year" means the 12 months ending on September 30 of the year  
24 immediately preceding the year for which a license is sought under s. 94.68.

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1 (e) "Primary producer" means a person who manufactures an active ingredient  
2 that is used to manufacture or produce a pesticide.

3 **(2) ANNUAL LICENSE FEE.** An applicant for a license under s. 94.68 shall pay an  
4 annual license fee for each pesticide product that the applicant sells or distributes  
5 for use in this state. Except as provided in sub. (5) or (6), the fee for each pesticide  
6 product is as follows:

7 (a) For each household pesticide product:

8 1. If the applicant sold less than \$25,000 of the product during the preceding  
9 year for use in this state, \$265, except that the fee is \$215 for the license years that  
10 begin on January 1, 1998, and January 1, 1999.

11 2. If the applicant sold at least \$25,000 but less than \$75,000 of the product  
12 during the preceding year for use in this state, \$750, except that the fee is \$650 for  
13 the license years that begin on January 1, 1998, and on January 1, 1999.

14 3. If the applicant sold at least \$75,000 of the product during the preceding year  
15 for use in this state, \$1,500, except that the fee is \$1,200 for the license years that  
16 begin on January 1, 1998, and on January 1, 1999.

17 (b) For each industrial pesticide product:

18 1. If the applicant sold less than \$25,000 of the product during the preceding  
19 year for use in this state, \$315, except that the fee is \$265 for the license years that  
20 begin on January 1, 1998, and on January 1, 1999.

21 2. If the applicant sold at least \$25,000 but less than \$75,000 of the product  
22 during the preceding year for use in this state, \$860, except that the fee is \$760 for  
23 the license years that begin on January 1, 1998, and January 1, 1999.

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1           3. If the applicant sold at least \$75,000 of that product during the preceding  
2 year for use in this state, \$3,060, except that the fee is \$2,760 for the license years  
3 that begin on January 1, 1998, and on January 1, 1999.

4           (c) For each nonhousehold pesticide product:

5           1. If the applicant sold less than \$25,000 of that product during the preceding  
6 year for use in this state, \$320, except that the fee is \$270 for the license years that  
7 begin on January 1, 1998, and on January 1, 1999.

8           2. If the applicant sold at least \$25,000 but less than \$75,000 of the product  
9 during the preceding year for use in this state, \$890, except that the fee is \$790 for  
10 the license years that begin on January 1, 1998, and on January 1, 1999.

11           3. If the applicant sold at least \$75,000 of the product during the preceding year  
12 for use in this state, \$3,060 plus 0.2% of the gross revenues from sales of the product  
13 during the preceding year for use in this state, except that for the license years that  
14 begin on January 1, 1998, and January 1, 1999, the fee shall be \$2,760 plus 0.2% of  
15 the gross revenues from sales of the product during the preceding year for use in this  
16 state.

17           **(3) NONHOUSEHOLD PESTICIDES; CLEANUP SURCHARGE.** Beginning with the licence  
18 year that begins on January 1, 2000, an applicant for a license under s. 94.68 shall  
19 pay an agricultural chemical cleanup surcharge for each nonhousehold pesticide  
20 product that the applicant sells or distributes for use in this state. Except as provided  
21 in sub. (6) or under s. 94.73 (15), the amount of the surcharge is as follows:

22           (a) If the applicant sold less than \$25,000 of the product during the preceding  
23 year for use in this state, \$5.

24           (b) If the applicant sold at least \$25,000 but less than \$75,000 of that product  
25 during the preceding year for use in this state, \$170.

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1 (c) If the applicant sold at least \$75,000 of that product during the preceding  
2 year for use in this state, an amount equal to 1.1% of gross revenues from sales of the  
3 product during the preceding year for use in this state.

4 (4) PRIMARY PRODUCERS; WELL COMPENSATION FEE. A primary producer applying  
5 for a license under s. 94.68 shall pay a well compensation fee of \$150.

6 (5) UNREPORTED PESTICIDE; INCREASED LICENSE FEE. If a person applying for or  
7 holding a license under s. 94.68 sells or distributes a pesticide product for use in this  
8 state without having filed a report for the product under s. 94.68 (2) (a) 2. or (3), the  
9 license fee for that product is twice the amount determined under sub. (2).

10 (6) DISCONTINUED PESTICIDE; FINAL LICENSE FEE AND CLEANUP SURCHARGE. (a) A  
11 person holding a license under s. 94.68 who stops selling or distributing a pesticide  
12 product for use in this state shall do all of the following:

13 1. Notify the department by December 31 of the year in which the person stops  
14 selling or distributing the pesticide product for use in this state.

15 2. By March 31 of the year following the year in which the person stopped  
16 selling or distributing the pesticide product for use in this state, file a report with the  
17 department showing the gross revenue that the person derived from the sale of the  
18 pesticide product for use in this state from October 1 of the year before the year in  
19 which the person stopped selling or distributing the pesticide product to December  
20 31 of the year in which the person stopped selling or distributing the pesticide  
21 product.

22 3. By March 31 of the year following the year in which the person stopped  
23 selling or distributing the pesticide product for use in this state, pay a final license  
24 fee for the pesticide product, calculated under sub. (2) based on the sales of the  
25 pesticide product during the period specified in subd. 2.

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1           4. If the product is a nonhousehold pesticide, pay a final agricultural chemical  
2 cleanup surcharge calculated under sub. (3) based on sales of the product during the  
3 period specified in subd. 2.

4           (b) The department may not disclose information obtained under par. (a) 2.

5           **(7) USE OF FEES AND SURCHARGES.** (a) *License fees.* The department shall deposit  
6 all license fees collected under subs. (2), (5) and (6) (a) 3. in the agrichemical  
7 management fund except as follows:

8           1. The department shall deposit an amount equal to \$50 for each pesticide  
9 product for which an applicant pays a license fee in the environmental fund for  
10 groundwater management.

11           2. The department shall deposit a hazardous household waste collection and  
12 disposal fee of \$30 for each household pesticide product for which an applicant pays  
13 a license fee in the environmental fund for groundwater management.

14           3. The department shall deposit an amount equal to \$30 for each pesticide for  
15 which an applicant pays a license fee in the environmental fund for environmental  
16 repair.

17           (b) *Nonhousehold pesticides; cleanup surcharge.* The department shall credit  
18 the surcharges collected under subs. (3) and (6) (a) 4. to the appropriation account  
19 under s. 20.115 (7) (i).

20           (c) *Well compensation fee.* The department shall deposit the well compensation  
21 fees collected under sub. (4) in the environmental fund for environmental repair.

22           **(8) FEES AND SURCHARGES NONREFUNDABLE.** The department may not refund a  
23 fee or surcharge under this section after the department issues a license under s.  
24 94.68 to the person who paid the fee or surcharge, unless the fee or surcharge was  
25 not properly charged or collected.

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1           **SECTION 30.** 94.685 (2) of the statutes is repealed and recreated to read:

2           94.685 **(2)** (a) A dealer or distributor applying for an annual license under sub.  
3 (1) shall apply on a form provided by the department. The application shall include  
4 the applicant's full name and the mailing address and street address of each business  
5 location from which the applicant sells, or intends to sell, restricted-use pesticides.  
6 The applicant shall submit the license fee and surcharge required under sub. (3) with  
7 the application.

8           (b) No dealer or distributor may sell any restricted-use pesticide from a sales  
9 location opened during a license year until that dealer or distributor pays the license  
10 fee and surcharge required under sub. (3) for the new location.

11           **SECTION 31.** 94.685 (3) of the statutes is repealed and recreated to read:

12           94.685 **(3)** (a) A dealer or distributor shall pay the following annual license fee  
13 and surcharge for each location from which the dealer or distributor sells  
14 restricted-use pesticides:

15           1. A license fee of \$60.

16           2. Beginning with the license year that begins on January 1, 2000, an  
17 agricultural chemical cleanup surcharge of \$40, unless the department establishes  
18 a lower surcharge under s. 94.73 (15).

19           (b) 1. The department shall deposit the fee under par. (a) 1. in the agrichemical  
20 management fund.

21           2. The department shall credit the surcharge under par. (a) 2. to the  
22 appropriation account under s. 20.115 (7) (i).

23           **SECTION 32.** 94.702 (3m) of the statutes is created to read:

24           94.702 **(3m)** The department shall deposit the fees collected under sub. (3) in  
25 the agrichemical management fund.

**SENATE BILL 170****SECTION 33**

1           **SECTION 33.** 94.703 (3) (a) of the statutes is repealed and recreated to read:

2           94.703 (3) (a) A person applying for an annual license under this section shall  
3 pay the following annual license fee and surcharge for each business location that  
4 the person operates in this state, including each business location added during the  
5 license year:

6           1. A license fee of \$70.

7           2. Beginning with the license year that begins on January 1, 2000, an  
8 agricultural chemical cleanup surcharge of \$55, unless the department establishes  
9 a lower surcharge under s. 94.73 (15).

10           **SECTION 34.** 94.703 (3) (c) of the statutes is renumbered 94.703 (3) (c) 1. and  
11 amended to read:

12           94.703 (3) (c) 1. The department shall deposit the fees collected under this  
13 ~~subsection~~ par. (a) 1. in the agrichemical management fund.

14           **SECTION 35.** 94.703 (3) (c) 2. of the statutes is created to read:

15           94.703 (3) (c) 2. The department shall credit surcharges collected under par.  
16 (a) 2. to the appropriation account under s. 20.115 (7) (i).

17           **SECTION 36.** 94.704 (2) (intro.) of the statutes is amended to read:

18           94.704 (2) (intro.) An application for a license under this section shall be  
19 submitted on a form provided by the department and shall be accompanied by the  
20 license fee and surcharge required under sub. (3). A license application shall include  
21 all of the following information, which shall be promptly updated by the licensee in  
22 the event of any change during the license period:

23           **SECTION 37.** 94.704 (3) (a) of the statutes is repealed and recreated to read:

24           94.704 (3) (a) Except as provided in par. (b), a person applying for an annual  
25 license under this section shall pay the following license fee and surcharge:

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1           1. A license fee of \$40, except that the license fee is \$30 for the license years that  
2 begin on January 1, 1998, and January 1, 1999.

3           2. Beginning with the license year that begins on January 1, 2000, an  
4 agricultural chemical cleanup surcharge of \$20, unless the department establishes  
5 a lower surcharge under s. 94.73 (15).

6           **SECTION 38.** 94.704 (3) (c) of the statutes is created to read:

7           94.704 (3) (c) 1. The department shall deposit license fees collected under par.  
8 (a) 1. in the agrichemical management fund.

9           2. The department shall credit surcharges collected under par. (a) 2. to the  
10 appropriation account under s. 20.115 (7) (i).

11           **SECTION 39.** 94.72 (6) (a) of the statutes is repealed and recreated to read:

12           94.72 (6) (a) *Fee amounts.* Except as otherwise provided in this subsection, a  
13 person required to be licensed under sub. (5) shall pay the following annual  
14 inspection fees on all commercial feeds distributed in this state:

15           1. For commercial feeds distributed in this state during the years that begin  
16 on January 1, 1998, and on January 1, 1999, 15 cents per ton.

17           2. For commercial feeds distributed in this state on or after January 1, 2000,  
18 25 cents per ton.

19           **SECTION 40.** 94.72 (6) (am) of the statutes is created to read:

20           94.72 (6) (am) *Tonnage reports and fee payments.* 1. By the last day of February  
21 annually, a person who is required to be licensed under sub. (5) shall file a tonnage  
22 report with the department showing the number of net tons of commercial feed that  
23 the person sold or distributed in this state during the preceding calendar year. By  
24 the last day of February annually, the person shall also pay the fees under par. (a)

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1 for commercial feed that the person sold or distributed in this state during the  
2 preceding calendar year, based on the tonnage report.

3 2. At the request of the department, a person filing a tonnage report under  
4 subd. 1. shall make the records upon which the tonnage report is based available to  
5 the department for inspection, copying and audit.

6 3. The department may not disclose information obtained from a tonnage  
7 report under subd. 1.

8 **SECTION 41.** 94.73 (1) (g) of the statutes is amended to read:

9 94.73 (1) (g) "Nonhousehold pesticide" has the meaning given in s. ~~94.68 (3) (a)~~  
10 ~~2., except that it does not include pentachlorophenol, inorganic arsenical wood~~  
11 ~~preservatives and coal tar creosote~~ 94.681 (1) (c).

12 **SECTION 42.** 94.73 (2) (c) of the statutes is amended to read:

13 94.73 (2) (c) The department may issue an order under par. (a) on a summary  
14 basis without prior notice or a prior hearing if the department determines that a  
15 summary order is necessary to prevent imminent harm to public health or safety or  
16 to the environment. If the recipient of a summary order requests a hearing on that  
17 order, the department shall hold a hearing within 10 days after it receives the  
18 request unless the recipient agrees to a later hearing date. The department is not  
19 required to stay enforcement of a summary order issued under this paragraph  
20 pending the outcome of the hearing. If the responsible person prevails after a  
21 hearing, the department shall reimburse the responsible person from the  
22 appropriation under s. 20.115 (7) (e) or ~~(w)~~ (i) for the corrective action costs incurred  
23 as the result of the department's order.

24 **SECTION 43.** 94.73 (3m) (L) of the statutes is amended to read:

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1           94.73 (3m) (L) The cost of a responsible person's time spent in planning and  
2 implementing the corrective action.

3           **SECTION 44.** 94.73 (3m) (r) of the statutes is amended to read:

4           94.73 (3m) (r) The cost of providing alternative sources of drinking water,  
5 except that, subject to sub. (6) (b) to (e) (d), the department may reimburse a  
6 responsible person who applies for reimbursement a total of not more than \$20,000  
7 for the replacement of private wells if the department or the department of natural  
8 resources orders the well replacement in response to a discharge.

9           **SECTION 45.** 94.73 (4) (a) of the statutes is amended to read:

10          94.73 (4) (a) Except as provided in par. (d), no responsible person may receive  
11 reimbursement for corrective action costs exceeding ~~\$20,000~~ \$7,500 unless the  
12 responsible person submits to the department in writing, and the department  
13 approves, a work plan for the corrective action before the corrective action is taken.

14          **SECTION 46.** 94.73 (5) (e) of the statutes is amended to read:

15          94.73 (5) (e) No person may make a false statement or misrepresentation on  
16 an application submitted under this section. A person who makes a false statement  
17 or misrepresentation on an application related to a corrective action is ineligible for  
18 reimbursement related to that corrective action and is ineligible for any  
19 reimbursement related to any other corrective action taken or ordered within 5 years  
20 after the date of the false statement or misrepresentation. If the responsible person  
21 has received any reimbursement for which the responsible person is ineligible under  
22 this paragraph, the responsible person shall refund the full amount of that  
23 reimbursement to the department. The amounts refunded to the department under  
24 this paragraph shall be deposited in the ~~agricultural management fund~~ credited to  
25 the appropriation account under s. 20.115 (7) (i).

**SENATE BILL 170****SECTION 47**

1           **SECTION 47.** 94.73 (6) (b) and (c) of the statutes are repealed and recreated to  
2 read:

3           94.73 **(6)** (b) Except as provided in par. (c) or (d), the department shall  
4 reimburse a responsible person an amount equal to 80% of the corrective action costs  
5 incurred for each discharge site that are greater than \$3,000 and less than \$400,000.

6           (c) Except as provided in par. (d), the department shall reimburse a responsible  
7 person an amount equal to 80% of the corrective action costs incurred for each  
8 discharge site that are greater than \$7,500 and less than \$400,000 if any of the  
9 following applies:

- 10           1. The responsible person is required to be licensed under ss. 94.67 to 94.71.
- 11           2. The responsible person employs more than 25 persons.
- 12           3. The responsible person has gross annual sales of more than \$2,500,000.

13           **SECTION 48.** 94.73 (6) (d) of the statutes is amended to read:

14           94.73 **(6)** (d) If the corrective action is related to a discharge that occurred in  
15 the course of transporting an agricultural chemical, the reimbursement under par.  
16 ~~(b) this subsection~~ is limited to ~~75%~~ 80% of the corrective action costs that exceed  
17 \$7,500 ~~for a person required to be licensed under ss. 94.64 to 94.71 or that exceed~~  
18 \$3,000 ~~for any other person~~ \$3,000 but that do not exceed \$50,000.

19           **SECTION 49.** 94.73 (6) (e) of the statutes is repealed.

20           **SECTION 50.** 94.73 (7) of the statutes is repealed and recreated to read:

21           94.73 **(7)** PAYMENT. (a) The department may make payments to a responsible  
22 person who is eligible for reimbursement under sub. (3) if the department has  
23 authorized reimbursement to that person under sub. (6). The department shall  
24 make payment from the appropriation accounts under s. 20.115 (7) (e) and (i), subject  
25 to the availability of funds in those appropriation accounts. If there are insufficient

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1 funds to pay the full amounts authorized under sub. (6) to all eligible responsible  
2 persons, the department shall distribute payments in the order in which applications  
3 were received, unless the department specifies, by rule, a different order of payment.

4 (b) The department may promulgate rules specifying the procedure by which,  
5 and the order in which, it will distribute payments under par. (a). The department  
6 may establish distribution priorities or formulas based on the severity of  
7 contamination, the time elapsed since corrective action costs were incurred or other  
8 factors that the department considers appropriate.

9 **SECTION 51.** 94.73 (8) of the statutes is amended to read:

10 94.73 (8) SUBROGATION. The department is entitled to the right of subrogation  
11 for the reimbursement of corrective action costs to the extent that a responsible  
12 person who receives reimbursement of corrective action costs may recover the costs  
13 from a 3rd party. The amounts collected by the department under this subsection  
14 shall be deposited in the ~~agrichemical management fund~~ credited to the  
15 appropriation account under s. 20.115 (7) (i).

16 **SECTION 52.** 94.73 (13) of the statutes is amended to read:

17 94.73 (13) PENALTY. Any person who violates ~~an order issued by the department~~  
18 under this section or an order issued or rule promulgated under this section shall  
19 forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of  
20 continued violation is a separate offense.

21 **SECTION 53.** 94.73 (15) of the statutes is created to read:

22 94.73 (15) SURCHARGE ADJUSTMENTS. The department may, by rule, reduce any  
23 of the surcharges in ss. 94.64 (3r) (b) and (4) (a) 5., 94.681 (3), 94.685 (3) (a) 2., 94.703  
24 (3) (a) 2. and 94.704 (3) (a) 2. below the amounts specified in those provisions. The  
25 department shall adjust surcharge amounts as necessary to maintain a balance in

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1 the appropriation account under s. 20.115 (7) (i) at the end of each fiscal year of at  
2 least \$2,000,000 but not more than \$5,000,000, but may not increase a surcharge  
3 amount over the amount specified in s. 94.64 (3r) (b) or (4) (a) 5., 94.681 (3), 94.685  
4 (3) (a) 2., 94.703 (3) (a) 2. or 94.704 (3) (a) 2.

5 **SECTION 54.** 287.09 (3) (b) of the statutes is amended to read:

6 287.09 (3) (b) Adopt an ordinance to enforce the program established under  
7 sub. (2) (a). The ordinance may include a schedule of forfeitures to be imposed for  
8 violations of that ordinance. The ordinance may authorize the responsible unit or  
9 person designated under par. (a) to refuse to accept solid waste at the recycling  
10 facility or site if the solid waste is a container for an industrial pesticide, as defined  
11 in s. 94.681 (1) (b), or a nonhousehold pesticide, as defined in s. 94.68 (3) (a) 2. 94.681  
12 (1) (c), is contaminated or is otherwise in a condition that makes recycling infeasible.  
13 The ordinance may require a person to use a facility for the recycling of solid waste  
14 or for the recovery of resources from solid waste, as defined in s. 287.13 (1) (d), only  
15 as provided under s. 287.13.

16 **SECTION 55. Appropriation changes.**

17 (1) AGRICULTURAL CHEMICAL CLEANUP LAPSE. Notwithstanding section 20.001 (3)  
18 (c) of the statutes, on the effective date of this subsection, there is lapsed to the  
19 general fund, from the appropriation account to the department of agriculture, trade  
20 and consumer protection under section 20.115 (7) (e) of the statutes, an amount equal  
21 to the unencumbered balance in that appropriation account on the day before the  
22 effective date of this subsection.

23 (2) AGRICULTURAL CHEMICAL CLEANUP TRANSFER. On the effective date of this  
24 subsection, there is transferred from the agrichemical management fund to the  
25 appropriation account to the department of agriculture, trade and consumer

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1 protection under section 20.115 (7) (i) of the statutes, as created by this act, an  
2 amount determined by the secretary of administration to be equal to the unexpended  
3 revenue generated by the fee increases resulting from the treatment of sections 94.64  
4 to 94.704 of the statutes by 1993 Wisconsin Act 16.

5 **SECTION 56. Effective dates.** This act takes effect on July 1, 1997, or on the  
6 day after publication, whichever is later, except as follows:

7 (1) **FERTILIZER FEES AND SURCHARGES.** The treatment of section 94.64 (3) (b) and  
8 (c), (3r), (4) to (6), (6m) and (6p) of the statutes takes effect on August 1, 1998.

9 (2) **COMMERCIAL FEED FEES.** The treatment of section 94.72 (6) (a) and (am) of  
10 the statutes takes effect on February 1, 1998.

11 (END)