

98-159 ATCP 139 - BREVLE HELMETS &
DRAUGHTRING REGULIEMENTS

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 98-159

AN ORDER to amend ATCP 139.01 (intro.); to repeal and recreate ATCP 139 (title); and to create ATCP 139 Note, 139.01 (3) and 139.05 (3) (f) and (g), relating to bicycle helmets and drawstrings in children's clothing.

Submitted by **DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

10-22-98 RECEIVED BY LEGISLATIVE COUNCIL.
11-19-98 REPORT SENT TO AGENCY.

RS:DLS:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE RULE 98-159

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. ATCP 139.01 (3), why is the reference to the Code of Federal Regulations limited only to 16 CFR Parts 1101-1406? Are these the only Parts in Title 16 that are ever to be covered by ch. ATCP 139? All of the regulations relating to the Consumer Product Safety Commission could be included by simply referring to 16 CFR ch. II.

b. The rule prohibits, after June 1, 1999, the sale of children's clothing, sized 2T to 16, that has drawstrings anywhere on the clothing. The date of prohibition should be contained in the rule text rather than in an applicability provision that may not be published. If it is anticipated that the rule promulgation process will not allow the rule to take effect on June 1, 1999, the date used in the text of the rule draft could be expressed by the phrase "and sold after the effective date of this paragraph [revisor inserts date]."

1 Research shows that bicycle helmets are effective in
2 substantially reducing the number of head injuries caused by
3 bicycle accidents. Accordingly, the CPSC has promulgated safety
4 standards for all bicycle helmets sold in the U.S. after March
5 10, 1999.

6
7 Current department rules do not provide any kind of safety
8 standards for bicycle helmets sold in Wisconsin. This rule
9 adopts the Safety Standard for Bicycle Helmets created by the
10 CPSC and bans and prohibits from sale in Wisconsin any bicycle
11 helmet manufactured or imported after March 10, 1999, that does
12 not meet all the federal CPSC safety standards.

13
14
15
16 **DRAWSTRINGS IN CHILDREN'S CLOTHING -- SAFETY STANDARDS**

17
18 Since 1996 the CPSC has been concerned about the safety hazards
19 created by drawstrings in children's clothing. In 1996 the CPSC
20 published voluntary "Guidelines for Drawstrings on Children's
21 Outerwear," but no mandatory rules or standards have been created
22 by the CPSC.

23
24 We believe the CPSC's recommended guidelines are helpful, but do
25 not adequately address the safety problem posed by drawstrings in
26 children's clothing. To make children's clothing safer, this rule
27 extends the CPSC standards for drawstrings on children's
28 outerwear to all children's clothing. This rule bans and
29 prohibits from sale in Wisconsin all children's clothing, size
30 2T-16, which uses drawstrings.

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32
33
34 **SECTION 1.** ATCP 139 (title) is repealed and recreated to
35 read:

36
37 **Chapter ATCP 139**

38
39 **HAZARDOUS SUBSTANCES CONSUMER PRODUCT SAFETY**

1 EFFECTIVE DATE. The rules contained in this order shall
2 take effect on June 1, 1999.

3 INITIAL APPLICABILITY. The rules contained in this order
4 apply to all bicycle helmets manufactured or imported for sale in
5 Wisconsin ^{made} after March 10, 1999, and to all children's clothing
6 sold in Wisconsin ^{on or} after June 1, 1999. X

7
8 Dated this _____ day of _____, 1998.

9
10 STATE OF WISCONSIN
11 DEPARTMENT OF AGRICULTURE,
12 TRADE AND CONSUMER PROTECTION
13

14
15
16 By _____
17 Ben Brancel
18 Secretary

INITIAL REGULATORY FLEXIBILITY ANALYSIS

Proposed amendments to ch. ATCP 139.05(3), Wis. Adm. Code

Consumer Product Safety

Under the current rule, ch. ATCP 139.05, Wis. Adm. Code, certain types of toys or other articles intended for use by children which present a mechanical hazard and unreasonable risk of personal injury or illness are banned and prohibited from sale. The rule lists products such as toys with small components which may be ingested or sharp protrusions which may cause lacerations and finds that the public health and safety can only be protected by keeping them out of the channels of commerce. The proposed amendments to ch. ATCP 139.05(3) add two items to this list of products, bicycle helmets not meeting the federal safety standards and children's clothing sized 2T to 16 with drawstrings.

It is foreseen that the impact of these amendments will have little or no effect on small businesses in regard to the sale of bicycle helmets and children's clothing without drawstrings.

Bicycle Helmets

Under the Children's Bicycle Helmet Safety Act of 1994, the Federal Consumer Product Safety Commission (CPSC) is issuing a safety standard that will require all bicycle helmets to meet impact-attenuation and other requirements. The standard includes requirements specifically applicable to children's helmets and requirements to prevent helmets from coming off during an accident.

The Federal rule is effective March 10, 1999 and applies to bicycle helmets manufactured after that date. Interim mandatory standards went into effect in 1995, and will continue to apply to bicycle helmets manufactured from 1995 until March 10, 1999, inclusive. Firms have had the option of marketing and selling helmets meeting the new standard before its effective date.

The Federal rule was announced in 1998 to give small businesses adequate time to adjust their inventories and prepare to purchase new product. Since the new standard allows for the continued sale of inventory manufactured prior to March, 1999 which meets the 1995 safety standards, there will be no impact on small businesses as they deplete old inventory. Adopting this federal standard into Wisconsin Administrative Code will incorporate all applicable dates for sale of new and old inventory and harmonize State and Federal law.