

## 1999 SENATE BILL 22

February 3, 1999 – Introduced by Senators RISSER and DARLING, cosponsored by Representatives LA FAVE, POCAN, MILLER, KELSO, TURNER, URBAN, BLACK, RYBA, BOCK, BOYLE, POWERS, MORRIS-TATUM and F. LASEE. Referred to Committee on Human Services and Aging.

- 1 **AN ACT to create** 255.09 of the statutes; **relating to:** disclosure of ingredients  
2 in cigarettes and other tobacco products and granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

This bill requires a manufacturer of cigarettes or other tobacco products to submit annually a report to the department of health and family services (DHFS) that specifies in descending order by weight, measure or numerical count all of the ingredients in each cigarette and tobacco product of the manufacturer that are sold or distributed in this state. Under the bill, the manufacturer would not have to include in the report the following ingredients: tobacco, water and reconstituted tobacco sheet made wholly from tobacco, and any ingredient that the federal food and drug administration has approved as safe when burned and inhaled alone and in combination with other ingredients. The bill also requires the report to include the nicotine yield rating, which the manufacturer must determine in accordance with standards established by DHFS by rule.

Under the bill, DHFS must obtain the opinion of the attorney general regarding the constitutionality of the release by DHFS to any person of any information that DHFS obtains from the report. If the attorney general determines that the release would constitute an unconstitutional taking of property, DHFS may not release the information. Under the bill, DHFS also may not release any information that it obtains from the report if DHFS determines that there is no reasonable scientific basis for concluding that the availability of the information could reduce risks to public health or if the information is excepted from public disclosure as a trade secret under state or federal law.

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Finally, this bill permits the attorney general, upon the request of DHFS, to commence an action to enjoin a manufacturer who fails to submit a report in a timely manner from selling or distributing in this state any cigarette or other tobacco product manufactured by the manufacturer until the manufacturer submits the report.

For further information see the *state and local* 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.** 255.09 of the statutes is created to read:

2           **255.09 Cigarettes and other tobacco products. (1)** DEFINITIONS. In this  
3 section:

4           (a) “Cigarette” has the meaning given in s. 139.30 (1).

5           (b) “Manufacturer” means a person who manufactures cigarettes or other  
6 tobacco products for the purpose of sale.

7           **(2)** REPORT TO THE DEPARTMENT. (a) Every manufacturer shall submit annually  
8 to the department a report that contains all of the following information with respect  
9 to each of the manufacturer’s cigarettes and other tobacco products that are  
10 distributed in this state:

11           1. Except as provided in par. (b), every ingredient, other than tobacco, water  
12 and reconstituted tobacco sheet made wholly from tobacco, contained in each  
13 cigarette or other tobacco product, listed in descending order according to weight,  
14 measure or numerical count.

15           2. The nicotine yield rating for the cigarette or tobacco product, as determined  
16 by the manufacturer in accordance with the standards developed by the department  
17 under par. (c) 1.

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1 (b) A report submitted under par. (a) need not disclose any ingredient  
2 determined by the federal food and drug administration to be safe both when burned  
3 and inhaled alone and when burned and inhaled together with the other ingredients  
4 contained in the cigarette.

5 (c) The department shall establish by rule all of the following:

6 1. Standards to determine a nicotine yield rating that reflects, as accurately as  
7 possible, nicotine intake for an average consumer of the cigarette or other tobacco  
8 product.

9 2. The date on which each report under par. (a) must be submitted.

10 **(3) PUBLIC INFORMATION.** Notwithstanding s. 19.35 (1) (a), the department may  
11 not disclose information included in a report submitted to the department under sub.  
12 (2) (a) under any of the following circumstances:

13 (a) The department has obtained the advice of the attorney general that  
14 disclosure of the information would constitute an unconstitutional taking of  
15 property. The department shall seek the advice of the attorney general prior to  
16 disclosing any information included in a report submitted to the department under  
17 sub. (2) (a).

18 (b) The department determines that there is no reasonable scientific basis for  
19 concluding that the availability of the information could reduce risks to public  
20 health.

21 (c) The information is excepted from public disclosure as a trade secret under  
22 s. 19.36 (5) or under federal law.

23 **(4) INJUNCTION.** If a manufacturer fails to submit a complete report under sub.  
24 (2) (a) in a timely manner, the attorney general, upon request of the department, may  
25 commence an action to enjoin the manufacturer from selling or distributing in this

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**SECTION 1**

1 state a cigarette or other tobacco product manufactured by the manufacturer until  
2 the manufacturer submits the complete report.

3 (END)