

1999 DRAFTING REQUEST

Bill

Received: **09/24/98**

Received By: **yacketa**

Wanted: **As time permits**

Identical to LRB: **97-4231**

For: **Fred Risser (608) 266-1627**

By/Representing: **himself**

This file may be shown to any legislator: **NO**

Drafter: **yacketa**

May Contact:

Alt. Drafters:

Subject: **Health - public health
Trade Regulation**

Extra Copies: **DAK, MGG**

Topic:

disclosure of tobacco ingredients

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	yacketa 09/24/98	gilfokm 09/29/98		_____			S&L
/1			jfrantze 09/30/98	_____	lrb_docadmin 09/30/98	lrb_docadmin 01/8/99	

FE Sent For:

02-03-99

<END>

1999 DRAFTING REQUEST

Bill

Received: **09/24/98**

Received By: **yacketa**

Wanted: **As time permits**

Identical to LRB: **97-4231**

For: **Fred Risser (608) 266-1627**

By/Representing: **himself**

This file may be shown to any legislator: **NO**

Drafter: **yacketa**

May Contact:

Alt. Drafters:

Subject: **Health - public health
Trade Regulation**

Extra Copies: **DAK, MGG**

Topic:

disclosure of tobacco ingredients

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	yacketa 09/24/98	gilfokm 09/29/98		_____			S&L
/1			jfrantze 09/30/98	_____	lrb_docadmin 09/30/98		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: 09/24/98

Received By: yacketa

Wanted: As time permits

Identical to LRB: 97-4231

For: Fred Risser (608) 266-1627

By/Representing: himself

This file may be shown to any legislator: NO

Drafter: yacketa

May Contact:

Alt. Drafters:

Subject: Health - public health
Trade Regulation

Extra Copies: DAK, MGG

Topic:

disclosure of tobacco ingredients

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	yacketa	1-9-29 MGG	8/9/30	8/9/30 9/30			

FE Sent For:

<END>

FRED A. RISSER

State Senator

September 23, 1998



Tina A. Yacker, Attorney
Legislative Reference Bureau
100 N. Hamilton St., 1st Floor
Madison, WI 53703

Dear Tina,

I am writing to inform you that I am interested in having LRB 4231, relating to disclosure of ingredients in cigarettes and other tobacco products, redrafted for the 1999 Legislative Session.

For your reference, I have enclosed a copy of the bill and drafters note from the 1997 draft of LRB 4231. If you should have any questions about this bill, please feel free to contact me.

Most Sincerely,


FRED A. RISSER
State Senator

FAR:skb
enclosures

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4231/1dn

TAY:jlg:lp

Tuesday, February 3, 1998

Senator Risser:

It may be that certain ingredients in cigarettes are inert by themselves, but harmful when combined with other ingredients. Do you want to specify that the FDA must have approved the ingredient as safe when burned and inhaled, alone or together with any of the other ingredients? * please include in draft. OK,

It was not clear from your instructions whether you intended to include everything that was included in the Texas and Massachusetts bills. I have included 2 provisions from those bills that you did not specifically include in your instructions. One provision prohibits disclosure by DHFS of information that it obtains from the manufacturer if DHFS determines that the disclosure of information will not reduce risks to public health; and the other permits the attorney general to commence an injunction action against a manufacturer who does not submit the report to restrain the sale and distribution of that manufacturer's cigarettes and tobacco products until the manufacturer submits the report. Do these provisions go beyond your intent? No!

If you have any questions about this bill, I would be happy to meet with you to discuss them.

Tina A. Yacker
Legislative Attorney
261-6927



State of Wisconsin
1997 - 1998 LEGISLATURE

LRB-4231/1

TAY:jlg:lp

1997 BILL

- 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.
-

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. 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.

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

BILL

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.

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.

BILL

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 when burned and
3 inhaled.

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

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

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

9 (3) PUBLIC INFORMATION. Notwithstanding s. 19.35 (1) (a), the department may
10 not disclose information included in a report submitted to the department under sub.

11 (2) (a) under any of the following circumstances:

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

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

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

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

BILL

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

3 (END)

1999
1997 BILL

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.

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. 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.

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

alone and in combination
with other ingredients

BILL

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.

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.

BILL

when burned and inhaled

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 and
3 inhaled. *alone and together with the other ingredients contained in*
the cigarette

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

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

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

9 (3) PUBLIC INFORMATION. Notwithstanding s. 19.35 (1) (a), the department may
10 not disclose information included in a report submitted to the department under sub.

11 (2) (a) under any of the following circumstances:

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

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

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

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

BILL

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

3 (END)

