

**SENATE SUBSTITUTE AMENDMENT 1,
TO 1999 SENATE BILL 208**

December 15, 1999 – Offered by COMMITTEE ON HEALTH, UTILITIES, VETERANS AND
MILITARY AFFAIRS.

1 **AN ACT** *to repeal* 166.22 (1) (a); *to amend* 166.20 (2) (bm) 1., 166.20 (2) (bm) 2.,
2 166.21 (2m) (e), 166.21 (2m) (f), 166.215 (2), 166.22 (1) (c), 166.22 (2), 166.22 (3),
3 166.22 (3m), 166.22 (5) (am), 166.22 (5) (b), 895.483 (title) and 895.483 (2); *to*
4 *repeal and recreate* 166.215 (3) and 166.22 (4); and *to create* 166.20 (1) (gk),
5 166.20 (1) (im), 166.20 (2) (bs) and 166.22 (1) (d) of the statutes; **relating to:**
6 reimbursement of emergency response teams and requiring the exercise of
7 rule-making authority.

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

8 **SECTION 1.** 166.20 (1) (gk) of the statutes is created to read:
9 166.20 (1) (gk) “Local emergency response team” means a team that the
10 committee identifies under s. 166.21 (2m) (e).

11 **SECTION 2.** 166.20 (1) (im) of the statutes is created to read:

1 166.20 (1) (im) “Regional emergency response team” means a team that the
2 division contracts with under s. 166.215 (1).

3 **SECTION 3.** 166.20 (2) (bm) 1. of the statutes is amended to read:

4 166.20 (2) (bm) 1. If a regional or local emergency response team has made a
5 good faith effort to identify a person responsible for the emergency involving a
6 release or potential release of a hazardous substance under s. 166.215 (3) or 166.22
7 (4).

8 **SECTION 4.** 166.20 (2) (bm) 2. of the statutes is amended to read:

9 166.20 (2) (bm) 2. If a person responsible for the emergency involving a release
10 or potential release of a hazardous substance under s. 166.215 (3) or 166.22 (4) is
11 financially able or has the money or resources necessary to reimburse a regional or
12 local emergency response team for the expenses incurred by the regional or local
13 emergency response team in responding to the release emergency.

14 **SECTION 5.** 166.20 (2) (bs) of the statutes is created to read:

15 166.20 (2) (bs) 1. Promulgate rules that establish the procedures that a
16 regional emergency response team shall follow to determine if an emergency that
17 requires the team’s response exists as the result of a level A release or a potential
18 level A release.

19 2. Promulgate rules that establish the procedures that a local emergency
20 response team shall follow to determine if an emergency that requires the team’s
21 response exists as the result of a release or potential release of a hazardous
22 substance, as defined in s. 299.01 (6).

23 **SECTION 6.** 166.21 (2m) (e) of the statutes is amended to read:

24 166.21 (2m) (e) Identification of a ~~county~~ local emergency response team that
25 is capable of responding to a level B release that occurs at any place in the county and

1 whose members meet the standards for hazardous materials technicians in 29 CFR
2 1910.120 (q) (6) (iii) and national fire protection association standards NFPA 471 and
3 472.

4 **SECTION 7.** 166.21 (2m) (f) of the statutes is amended to read:

5 166.21 **(2m)** (f) Procedures for ~~county~~ local emergency response team actions
6 that are consistent with local emergency response plans developed under s. 166.20
7 (3) and the state contingency plan established under s. 292.11 (5).

8 **SECTION 8.** 166.215 (2) of the statutes is amended to read:

9 166.215 **(2)** The division shall reimburse a regional emergency response team
10 for costs incurred by the team in responding to an emergency involving a level A
11 release under sub. (1), or a potential level A release, if the team followed the
12 procedures in the rules promulgated under s. 166.20 (2) (bs) 1. to determine if an
13 emergency requiring a response existed. Reimbursement under this subsection is
14 limited to amounts collected under sub. (3) and the amounts appropriated under s.
15 20.465 (3) (dr). Reimbursement is available under s. 20.465 (3) (dr) only if the
16 regional emergency response team has made a good faith effort to identify the person
17 responsible under sub. (3) and that person cannot be identified, or, if that person is
18 identified, the team has received reimbursement from that person to the extent that
19 the person is financially able or has determined that the person does not have
20 adequate money or other resources to reimburse the regional emergency response
21 team.

22 **SECTION 9.** 166.215 (3) of the statutes is repealed and recreated to read:

23 166.215 **(3)** A person shall reimburse the division for costs incurred by a
24 regional emergency response team in responding to an emergency if the team
25 followed the procedures established under s. 166.20 (2) (bs) 1. to determine if an

1 emergency requiring the team’s response existed and if any of the following
2 conditions applies:

3 (a) The person possessed or controlled a hazardous substance that was involved
4 in the emergency.

5 (b) The person caused the emergency.

6 **SECTION 10.** 166.22 (1) (a) of the statutes is repealed.

7 **SECTION 11.** 166.22 (1) (c) of the statutes is amended to read:

8 166.22 (1) (c) “Local agency” means an agency of a county, city, village or town,
9 including a municipal police or fire department, a municipal health organization, a
10 county office of emergency management, a county sheriff, an emergency medical
11 service, a local emergency response team or a public works department.

12 **SECTION 12.** 166.22 (1) (d) of the statutes is created to read:

13 166.22 (1) (d) “Local emergency response team” means a team that the
14 committee identifies under s. 166.21 (2m) (e).

15 **SECTION 13.** 166.22 (2) of the statutes is amended to read:

16 166.22 (2) A person who possesses or controls a hazardous substance that is
17 ~~discharged~~ released or who causes the ~~discharge~~ release of a hazardous substance
18 shall take the actions necessary to protect public health and safety and prevent
19 damage to property.

20 **SECTION 14.** 166.22 (3) of the statutes is amended to read:

21 166.22 (3) If action required under sub. (2) is not being adequately taken or the
22 identity of the person responsible for a ~~discharge~~ an emergency involving a release
23 or potential release of a hazardous substance is unknown and the ~~discharge~~
24 emergency involving a release or potential release threatens public health or safety
25 or damage to property, a local agency may take any emergency action that is

1 consistent with the contingency plan for the undertaking of emergency actions in
2 response to the ~~discharge~~ release or potential release of hazardous substances
3 established by the department of natural resources under s. 292.11 (5) and that it
4 considers appropriate under the circumstances.

5 **SECTION 15.** 166.22 (3m) of the statutes is amended to read:

6 166.22 **(3m)** The division shall reimburse a local emergency response team for
7 costs incurred by the team in responding to an emergency involving a hazardous
8 substance ~~discharge under sub. (3)~~ release, or potential release, if the team followed
9 the procedures in the rules promulgated under s. 166.20 (2) (bs) 2. to determine if an
10 emergency requiring the team's response existed. Reimbursement under this
11 subsection is limited to the amount appropriated under s. 20.465 (3) (dr).
12 Reimbursement is available under s. 20.465 (3) (dr) only if the local emergency
13 response team has made a good faith effort to identify the person responsible under
14 sub. (4) and that person cannot be identified, or, if that person is identified, the team
15 has received reimbursement from that person to the extent that the person is
16 financially able or has determined that the person does not have adequate money or
17 other resources to reimburse the local emergency response team.

18 **SECTION 16.** 166.22 (4) of the statutes is repealed and recreated to read:

19 166.22 **(4)** (a) Except as provided in par. (b), a person shall reimburse a local
20 agency as provided in sub. (5) for actual, reasonable and necessary expenses incurred
21 in responding to an emergency involving the release or potential release of a
22 hazardous substance if any of the following conditions applies:

23 1. The person possessed or controlled a hazardous substance involved in the
24 emergency.

25 2. The person caused the emergency.

1 (b) A local emergency response team may receive reimbursement under par. (a)
2 only if the team followed the procedures established under s. 166.20 (2) (bs) 2. to
3 determine if an emergency requiring the team's response existed.

4 **SECTION 17.** 166.22 (5) (am) of the statutes is amended to read:

5 166.22 (5) (am) A local agency seeking reimbursement under sub. (4) shall
6 submit a claim stating its expenses to the reviewing entity for the county in which
7 the ~~discharge~~ emergency occurred.

8 **SECTION 18.** 166.22 (5) (b) of the statutes is amended to read:

9 166.22 (5) (b) The reviewing entity shall review claims submitted under par.
10 (am) and determine the amount of reasonable and necessary expenses incurred. The
11 reviewing entity shall provide a person who is liable for reimbursement under sub.
12 (4) with a notice of the amount of expenses it has determined to be reasonable and
13 necessary that ~~arise~~ arose from ~~one discharge~~ the emergency involving the release
14 or potential release of a hazardous substance and are that were incurred by all local
15 agencies from which the reviewing entity receives a claim.

16 **SECTION 19.** 895.483 (title) of the statutes is amended to read:

17 **895.483 (title) Civil liability exemption; regional and county local**
18 **emergency response teams and their sponsoring agencies.**

19 **SECTION 20.** 895.483 (2) of the statutes is amended to read:

20 895.483 (2) A ~~county~~ local emergency response team, a member of such a team
21 and the county, city, village or town that contracts to provide the emergency response
22 team to the county are immune from civil liability for acts or omissions related to
23 carrying out responsibilities pursuant to a designation under s. 166.21 (2m) (e).

24 **SECTION 21. Initial applicability.**

