

## 1999 SENATE BILL 337

January 25, 2000 – Introduced by Senators ROBSON, MOORE, BURKE, ROSENZWEIG, PLACHE and RUDE, cosponsored by Representatives MUSSER, BERCEAU and SERATTI. Referred to Committee on Human Services and Aging.

1     **AN ACT** *to amend* 101.055 (5) (e); and *to create* 101.055 (2) (ad), 101.055 (2) (ag),  
2           101.055 (2) (aj), 101.055 (2) (am), 101.055 (2) (at), 101.055 (2) (e), 101.055 (2)  
3           (f), 101.055 (3) (cm) and 101.055 (7) (bm) of the statutes; **relating to:**  
4           occupational exposure of public employes to blood and other material  
5           potentially containing blood-borne pathogens and granting rule-making  
6           authority.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, the department of commerce is required to adopt, by administrative rule, standards to protect the health and safety of employes of the state, of any agency of the state or of any political subdivision of the state (public employes) that provide protection at least equal to the protection provided to private sector employes under standards promulgated by the federal occupational safety and health administration (OSHA). Currently, the standards promulgated by OSHA include standards to prevent exposure to blood-borne pathogens, such as hepatitis B virus, hepatitis C virus and human immunodeficiency virus, but those standards do not require the use of needleless systems or sharps, that is, objects that can penetrate the skin, with engineered sharps injury protection.

This bill requires the department of commerce to adopt standards governing occupational exposure of public employes to blood and other materials potentially containing blood-borne pathogens and to include in those standards a requirement

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that the state, any agency of the state and any political subdivision of the state (public employer) employing a public employe in an occupation in which the public employe is at risk of occupational exposure to blood or other materials potentially containing blood-borne pathogens due to a sharps injury provide needleless systems and sharps with engineered sharps injury protection for use in all medical procedures conducted by the public employer or in the place of employment of the public employer, except when an evaluation committee established by the public employer, at least half the members of which are front-line health care workers, determines that use of a needleless system or a sharp with engineered sharps injury protection will jeopardize patient or employe safety with regard to a specific medical procedure. Prior to October 1, 2003, however, those standards may not prohibit the use of a prefilled syringe that is approved by the federal food and drug administration.

The bill also requires the department of commerce, in adopting those standards, to consider including additional requirements to prevent or mitigate sharps injuries and other exposures to blood or other materials potentially containing blood-borne pathogens. Those additional requirements may include training and educational requirements, requirements relating to the strategic placement of sharps containers as close to the work area as practicable and measures to encourage public employes to use personal protective equipment when handling blood or other materials potentially containing blood-borne pathogens and to receive vaccinations against blood-borne pathogens. Finally, the bill requires a public employer employing a public employe in an occupation in which the public employe is at risk of occupational exposure to blood or other materials potentially containing blood-borne pathogens due to a sharps injury to maintain a sharps injury log and to make reports of all sharps injuries to the department of commerce at time intervals specified by rule of that department.

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.** 101.055 (2) (ad) of the statutes is created to read:

2           101.055 (2) (ad) “Blood-borne pathogen” means a pathogenic microorganism  
3 that is present in human blood and that can cause disease in humans, including  
4 hepatitis B virus, hepatitis C virus and human immunodeficiency virus.

5           **SECTION 2.** 101.055 (2) (ag) of the statutes is created to read:

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1           101.055 (2) (ag) “Engineered sharps injury protection” means any of the  
2 following:

3           1. A physical attribute that is built into a needle device used for withdrawing  
4 bodily fluids, accessing a vein or artery, administering medication or any other fluid  
5 or performing any other procedure involving the potential for an exposure incident  
6 and that effectively reduces the risk of an exposure incident by use of such  
7 mechanisms as barrier creation, blunting, encapsulation, withdrawal or retraction.

8           2. A physical attribute that is built into any other type of needle device, or into  
9 a nonneedle sharp, that effectively reduces the risk of an exposure incident.

10           **SECTION 3.** 101.055 (2) (aj) of the statutes is created to read:

11           101.055 (2) (aj) “Exposure incident” means a specific contact with blood or other  
12 material potentially containing blood-borne pathogens.

13           **SECTION 4.** 101.055 (2) (am) of the statutes is created to read:

14           101.055 (2) (am) “Front-line health care worker” means a nonmanagerial  
15 public employe who is responsible for direct patient care and who is at risk of  
16 occupational exposure to blood or other materials potentially containing blood-borne  
17 pathogens due to a sharps injury.

18           **SECTION 5.** 101.055 (2) (at) of the statutes is created to read:

19           101.055 (2) (at) “Needleless system” means a device that does not use a needle  
20 for withdrawing body fluids after initial venous or arterial access is established,  
21 administering medication or any other fluid or performing any other procedure  
22 involving the potential for an exposure incident.

23           **SECTION 6.** 101.055 (2) (e) of the statutes is created to read:

24           101.055 (2) (e) “Sharp” means any object used or encountered in a health care  
25 setting that can be reasonably anticipated to penetrate the skin or any other part of

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1 the body and to result in an exposure incident, including broken glass; a needle  
2 device, scalpel, lancet, drill, bur, dental knife or broken capillary tube; or the exposed  
3 end of a dental wire.

4 **SECTION 7.** 101.055 (2) (f) of the statutes is created to read:

5 101.055 (2) (f) “Sharps injury” means any injury caused by a sharp, including  
6 a cut, abrasion or a needle stick.

7 **SECTION 8.** 101.055 (3) (cm) of the statutes is created to read:

8 101.055 (3) (cm) 1. The standards adopted by the department shall include  
9 standards governing occupational exposure of public employes to blood and other  
10 materials potentially containing blood-borne pathogens. Those standards shall  
11 require any public employer employing a public employe in an occupation in which  
12 the public employe is at risk of occupational exposure to blood or other materials  
13 potentially containing blood-borne pathogens due to a sharps injury to provide  
14 needleless systems and sharps with engineered sharps injury protection for use in  
15 all medical procedures conducted by the public employer or in the place of  
16 employment of the public employe, except when an evaluation committee  
17 established by the public employer, at least one-half the members of which are  
18 front-line health care workers, determines by means of objective product evaluation  
19 criteria that use of a needleless system or a sharp with engineered sharps injury  
20 protection will jeopardize patient or employe safety with regard to a specific medical  
21 procedure.

22 2. The standards adopted under subd. 1. may not prohibit the use of a prefilled  
23 syringe that is approved by the federal food and drug administration. This  
24 subdivision does not apply after September 30, 2003.

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1           3. In adopting the standards described in subd. 1., the department shall also  
2 consider including additional requirements to prevent or mitigate sharps injuries  
3 and other exposure incidents such as training and educational requirements,  
4 requirements relating to the strategic placement of sharps containers as close to the  
5 work area as practicable and measures to encourage public employes to use personal  
6 protective equipment when handling blood or other materials potentially containing  
7 blood-borne pathogens and to receive vaccinations against blood-borne pathogens.

8           4. The department shall maintain a list of needleless systems and sharps with  
9 engineered sharps injury protection and shall make that list available to all public  
10 employers that are required to comply with the standards adopted under subd. 1. to  
11 assist those public employers in complying with those standards.

12           **SECTION 9.** 101.055 (5) (e) of the statutes is amended to read:

13           101.055 (5) (e) A representative of the department shall have access to the  
14 records required under sub. (7) (a) ~~and~~ (b) and (bm) and to any other records  
15 maintained by a public employer which are related to the purpose of the inspection.

16           **SECTION 10.** 101.055 (7) (bm) of the statutes is created to read:

17           101.055 (7) (bm) A public employer employing a public employe in an  
18 occupation in which the public employe is at risk of occupational exposure to blood  
19 or other materials potentially containing blood-borne pathogens due to a sharps  
20 injury shall maintain a sharps injury log and shall make reports of all sharps injuries  
21 to the department at time intervals specified by rule of the department. The public  
22 employer shall make the sharps injury log available to the department, to the public  
23 employes of the public employer and to the public employes' representatives. This  
24 paragraph does not authorize disclosure of patient health care records except as

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1 provided in ss. 146.82 and 146.83. The sharps injury log shall include all of the  
2 following information:

3 1. The date and time of each exposure incident.

4 2. The type and brand of sharp involved in the exposure incident.

5 3. A description of the exposure incident, which shall include all of the following  
6 information:

7 a. The job classification of the exposed public employe.

8 b. The department or work area in which the exposure incident occurred.

9 c. The procedure that the exposed public employe was performing at the time  
10 of the exposure incident.

11 d. How the exposure incident occurred.

12 e. The body part involved in the exposure incident.

13 f. If the sharp involved in the exposure incident had engineered sharps injury  
14 protection, whether the protective mechanism was activated and, if so, whether the  
15 sharps injury occurred before the protective mechanism was activated, during  
16 activation of the mechanism or after activation of the mechanism.

17 g. If the sharp involved in the exposure incident did not have engineered sharps  
18 injury protection, the injured public employe's opinion as to whether and how a  
19 protective mechanism could have prevented the sharps injury and the basis for that  
20 opinion.

21 h. The public employe's opinion as to whether any other engineering,  
22 administrative or work practice control could have prevented the sharps injury and  
23 the basis for that opinion.

24 **SECTION 11. Nonstatutory provisions.**

