

1999 DRAFTING REQUEST

Bill

Received: **04/26/1999**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Judy Rohson (608) 266-2253**

By/Representing: **Kathy**

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

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Employ Priv - miscellaneous**

Extra Copies: **DAK**

Pre Topic:

No specific pre topic given

Topic:

Occupational safety and health standards; bloodborne pathogens

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>
/?	malaigm 04/28/1999	jgeller 05/10/1999		_____			S&L
/1			kfollet 05/12/1999	_____	lrb_docadmin 05/12/1999	lrb_docadminS&L 05/20/1999	
/2	malaigm 10/22/1999	jgeller 10/26/1999	jfrantze 10/27/1999	_____	lrb_docadmin 10/27/1999	lrb_docadminS&L 10/29/1999	
/3	malaigm 01/08/2000	jgeller 01/10/2000	martykr 01/10/2000	_____	lrb_docadmin 01/10/2000	lrb_docadmin 01/10/2000	

FE Sent For:

↳ 01-25-00

<END>

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/2	malaigm 10/22/1999	jgeller 10/26/1999	jfrantze 10/27/1999	_____	lrb_docadmin 10/27/1999	lrb_docadmin 10/29/1999	

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1/2 Must get jacket back

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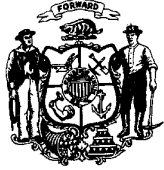
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Judith B. Robson
State Senator

Dear Debora

For your information.

Per your request.

Please let me know if I can be of further assistance.

As we discussed, the model legislation for needle sticks to be drafted for Wisconsin.

Thanks,

Kathy

15 South, State Capitol
Post Office Box 7882, Madison, WI 53707-7882
Telephone (608) 266-2253
Toll-free 1-800-334-1468

MODEL LEGISLATION FOR FEDERAL OSHA STATES

Section 1. Section X is added to the XXX Code, to read:

XXX. (a) The [Department of Health]¹ shall, no later than 6 months from the date of enactment of this bill, adopt a bloodborne pathogen standard governing occupational exposure of public sector employees to blood and other potentially infectious materials in accordance with subdivision (c).

(b) For purposes of this section, the following definitions shall apply:

"Bloodborne Pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, ~~but are not limited to,~~ hepatitis B virus (HBV), hepatitis C virus (HCV) and human immunodeficiency virus (HIV).

"Engineered Sharps Injury Protection" means ~~either:~~ ^{any of the following}

(1) A physical attribute built into a needle device used for withdrawing body fluids, accessing a vein or artery, ~~or administering medications or other fluids, which that~~ effectively reduces the risk of an exposure incident by a mechanism such as barrier creation, blunting, encapsulation, withdrawal, retraction, destruction or other effective mechanisms ~~or,~~

(2) A physical ^{that} attribute built into any other type of needle device, or into a non-needle sharp, ~~which~~ effectively reduces the risk of an exposure incident.

"Needleless system" means a device that does not ~~utilize~~ ^{use} needles for:

(1) ~~The withdrawal~~ ^{withdrawing} of body fluids after initial venous or arterial access is established;

(2) ~~The administration~~ ^{administering} of medication or fluids; and

(3) ~~Any other procedure~~ ^{performing} involving the potential for an exposure incident.

"Public Employer" means each employer having public employee(s) with occupational exposure to blood or other material potentially containing bloodborne pathogens.

"Public Employee" means an employee of the state or a local governmental unit or agency thereof employed in a public or private health care facility, home health care organization, or other facility providing health care related services.

¹ Insert name of agency, if any exists, responsible for development of standards for workplace safety affecting public employees (i.e. NY: Public Employee Health and Safety (PESH)).

"Sharp" means any object used or encountered in a health care setting that can be reasonably anticipated to penetrate the skin or any other part of the body, and to result in an exposure incident, including, but not limited to, needle devices, scalpels, lancets, broken glass, broken capillary tubes, exposed ends of dental wires and dental knives, drills and burs.

"Sharps Injury" means any injury caused by a sharp, including, but not limited to, cuts, abrasions, needlesticks or human bites. ? not caused by a "sharp"

"Sharps Injury Log" means a written or electronic record satisfying the requirements of subsection (c)(2).

(c) The Department of Health shall adopt a bloodborne pathogen standard governing public employees, as described in subdivision (a), to be developed no later than 6 months from the date of enactment of this legislation. The standard shall be at least as prescriptive as the standard promulgated by the federal Occupational Safety and Health Administration and shall include, but not be limited to, the following: all of

(1) A requirement that ^{used} needleless systems and sharps with engineered sharps injury protection be implemented in all facilities employing public employees, as defined in subdivision (b), except in cases where an evaluation committee, established by the employer, at least half the members of which are front-line health care workers, determines by means of objective product evaluation criteria that use of such devices will jeopardize patient or employee safety with regard to a specific medical procedure.

A public employer shall maintain a sharps injury log... They shall include

(2) A requirement that information concerning exposure incidents be recorded in a sharps injury log, including, but not limited to:

- a. Date and time of the exposure incident ^{to}
- b. Type and brand of sharp involved in the exposure incident, ^{and}
- c. Description of the exposure incident which shall include: ^{all of the following}
 1. ^{The} Job classification of the exposed employee ^{to}
 2. ^{The} Department or work area where the exposure incident occurred ^{to}
 3. ^{The} procedure that the exposed employee was performing at the time of the incident ^{to}
 4. How the ^{exposure} incident occurred ^{to}
 5. The body part involved in the exposure incident ^{to}

6. If the sharp had engineered sharps injury protection, whether the protective mechanism was activated, and whether the injury occurred before the protective mechanism was activated, during activation of the mechanism or after activation of the mechanism, if applicable.

7. If the sharp had no engineered sharps injury protection, the injured employee's opinion as to whether and how such a protective mechanism could have prevented the injury, as well as the basis for the opinion, and

8. The employee's opinion about whether any other engineering, administrative or work practice control could have prevented the injury, as well as the basis for the opinion.

(d) The Department of Public Health shall consider additional enactments as part of the bloodborne pathogen standard to prevent sharps injuries or exposure incidents, including, ~~but not limited to~~, training and educational requirements, measures to increase vaccinations, strategic placement of sharps containers as close to the work area as practical, and increased use of personal protective equipment.

(e) The Department of Public Health shall compile and maintain a list of ~~existing~~ needleless systems and sharps with engineered sharps injury protection, which shall be available to assist employers in complying with the requirements of the bloodborne pathogen standard adopted pursuant to this section. The list may be developed from existing sources of information, including ~~but not limited to~~, the federal Food and Drug Administration, the federal Centers for Disease Control, the National Institute of Occupational Safety and Health, and the United States Department of Veterans Affairs.

(f) A fund shall be established to provide for research and development, as well as product evaluations, of needleless systems and sharps with engineered sharps injury protection.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2986/2

GMM.....

JLg

gen cat

1 AN ACT ...; relating to: occupational exposure of public employes to blood and
2 other material potentially containing blood-borne pathogens and granting
3 rule-making authority.

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 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 that any health care facility or health care provider 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 in the health care facility or by the health care provider, except when an evaluation committee established by the health care facility or health care provider, 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.

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 health care facility or health care provider 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.

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:

6 101.055 (2) (ag) "Engineered sharps injury protection" means any of the
7 following:

8 1. A physical attribute that is built into a needle device used for withdrawing
9 bodily fluids, accessing a vein or artery, administering medication or any other fluid
10 or performing any other procedure involving the potential for an exposure incident
11 and that effectively reduces the risk of an exposure incident by use of such

1 mechanisms as barrier creation, blunting, encapsulation, withdrawal, retraction or
2 destruction.

3 2. A physical attribute that is built into any other type of needle device, or into
4 a non-needle sharp, that effectively reduces the risk of an exposure incident.

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

6 101.055 (2) (aj) "Exposure incident" means a specific contact with blood or other
7 material potentially containing blood-borne pathogens.

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

9 101.055 (2) (am) "Health care facility" has the meaning given in s. 150.84 (3).

10 SECTION 5. 101.055 (2) (ap) of the statutes is created to read:

11 101.055 (2) (ap) "Health care provider" has the meaning given in s. 150.84 (4).

12 SECTION 6. 101.055 (2) (at) of the statutes is created to read:

13 101.055 (2) (at) "Needleless system" means a device that does not use a needle
14 for withdrawing body fluids after initial venous or arterial access is established,
15 administering medication or any other fluid or performing any other procedure
16 involving the potential for an exposure incident.

17 SECTION 7. 101.055 (2) (e) of the statutes is created to read:

18 101.055 (2) (e) "Sharp" means any object used or encountered in a health care
19 setting that can be reasonably anticipated to penetrate the skin or any other part of
20 the body and to result in an exposure incident, including broken glass; a needle
21 device, scalpel, lancet, drill, bur, dental knife or broken capillary tube; or the exposed
22 end of a dental wire.

23 SECTION 8. 101.055 (2) (f) of the statutes is created to read:

24 101.055 (2) (f) "Sharps injury" means any injury caused by a sharp, including
25 a cut, abrasion or a needle stick.

1 SECTION 9. 101.055 (3) (cm) of the statutes is created to read:

2 101.055 (3) (cm) The standards adopted by the department shall include
3 standards governing occupational exposure of public employes to blood and other
4 materials potentially containing blood-borne pathogens. Those standards shall
5 require any health care facility or health care provider employing a public employe
6 in an occupation in which the public employe is at risk of occupational exposure to
7 blood or other materials potentially containing blood-borne pathogens due to a
8 sharps injury to provide needleless systems and sharps with engineered sharps
9 injury protection for use in all medical procedures conducted in the health care
10 facility or by the health care provider, except when an evaluation committee
11 established by the health care facility or health care provider, at least ~~one-~~
12 members of which are front-line health care workers, determines by means of
13 objective product evaluation criteria that use of a needleless system or a sharp with
14 engineered sharps injury protection will jeopardize patient or employe safety with
15 regard to a specific medical procedure. In adopting the standards described in this
16 paragraph, the department shall also consider including additional requirements to
17 prevent or mitigate sharps injuries and other exposure incidents such as training
18 and educational requirements, requirements relating to the strategic placement of
19 sharps containers as close to the work area as practicable and measures to encourage
20 public employes to use personal protective equipment when handling blood or other
21 materials potentially containing blood-borne pathogens and to receive vaccinations
22 against blood-borne pathogens. The department shall maintain a list of needleless
23 systems and sharps with engineered sharps injury protection and shall make that
24 list available to all health care facilities and health care providers that are required

1 to comply with the standards adopted under this paragraph[✓] to assist those health
2 care facilities and health care providers in complying with those standards.

3 SECTION 10. 101.055 (5) (e) of the statutes is amended to read:

4 101.055 (5) (e) A representative of the department shall have access to the
5 records required under sub. (7) (a) and ~~(b)~~^(b) and (bm) and to any other records
6 maintained by a public employer which are related to the purpose of the inspection.

History: 1981 c. 360, 391; 1985 a. 182 s. 57; 1991 a. 39; 1995 a. 27 ss. 3652 to 3659, 9130 (4); 1995 a. 342; 1997 a. 3.

7 SECTION 11. 101.055 (7) (bm) of the statutes is created to read:

8 101.055 (7) (bm) A health care facility or health care provider employing a
9 public employe in an occupation in which the public employe is at risk of occupational
10 exposure to blood or other materials potentially containing blood-borne pathogens
11 due to a sharps injury shall maintain a sharps injury log and shall make reports of
12 all sharps injuries to the department at time intervals specified by rule[✓] of the
13 department. The health care facility or health care provider shall make the sharps
14 injury log available to the department, to the public employes of the health care
15 facility or health care provider and to the public employes' representatives. This
16 paragraph[✓] does not authorize disclosure of patient health care records except as
17 provided in ss. 146.82[✓] and 146.83[✓]. The sharps injury log shall include all of the
18 following information:

- 19 1. The date and time of each exposure incident.
- 20 2. The type and brand of sharp involved in the exposure incident.
- 21 3. A description of the exposure incident, which shall include all of the following
22 information:
- 23 a. The job classification of the exposed public employe.
- 24 b. The department or work area in which the exposure incident occurred.

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

3 d. How the exposure incident occurred.

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

5 f. If the sharp involved in the exposure incident had engineered sharps injury
6 protection, whether the protective mechanism was activated and, if so, whether the
7 sharps injury occurred before the protective mechanism was activated, during
8 activation of the mechanism or after activation of the mechanism.

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

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

16 **SECTION 12. Nonstatutory provisions.**

17 (1) The department of commerce shall submit in proposed form the rules
18 required under section 101.055 (3) (cm) of the statutes, as created by this act, to the
19 legislative council staff under section 227.15 (1) of the statutes no later than the first
20 day of the 6th month beginning after the effective date of this subsection.

21 **SECTION 13. Initial applicability.**

22 (1) The treatment of section 101.055 (5) (e) and (7) (bm) of the statutes first
23 applies to a sharps injury, as defined in section 101.055 (2) (f) of the statutes, as

1 created by this act, that occurs on the effective date of the rules promulgated under
2 section 101.055 (3) (cm) of the statutes, as created by this act.

3 (END)

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 5/12/99

To: Senator Robson

Relating to LRB drafting number: LRB-2986

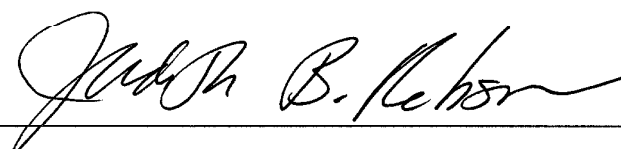
Topic

Occupational safety and health standards; bloodborne pathogens

Subject(s)

Employ Priv - miscellaneous

1. **JACKET** the draft for introduction _____



in the **Senate** or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Gordon M. Malaise, Senior Legislative Attorney
Telephone: (608) 266-9738



JUDITH B. ROBSON

STATE SENATOR • WISCONSIN LEGISLATURE
CHAIR, HUMAN SERVICES AND AGING COMMITTEE
CO-CHAIR, JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

October 20, 1999

Gordon Malaise
LRB

Gordon:

This letter is to request a re-draft of LRB 2986.

First, we would like to broaden the scope of the bill. As written it seems to apply only to statutorily defined health care facilities. We would like it to also apply EMTs, police officers, fire-fighters and prison guards.

One way to do this might be to include definitions for employer and public employee like those included in the model legislation I will attach to this letter.

Second, should we include a definition of the phrase "front-line health care worker" since that phrase is used on p.4, line 17? If so, a definition is also provided in the model legislation.

If you have questions, please feel to contact me via email (austin, david) or at 6-2253.

Thanks for your help.

A handwritten signature in cursive script that reads "David A. Austin".

David A. Austin

MADISON OFFICE: STATE CAPITOL, PO BOX 7882, MADISON, WI 53707 • 608/266-2253
DISTRICT ADDRESS: 2411 EAST RIDGE ROAD, БЕЛОIT, WI 53511
LEGISLATIVE HOTLINE: 800/362-WISC(9472)
TOLL FREE: 800/334-1468

AMR

1999 BILL

D-Note

of the state, of any agency of the state or
of any political subdivision of the state
(public employees)

Regen

Regen

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) (ap), 101.055 (2) (at), 101.055 (2)
3 (e), 101.055 (2) (f), 101.055 (3) (cm) and 101.055 (7) (bm) of the statutes;
4 relating to: occupational exposure of public employes to blood and other
5 material potentially containing blood-borne pathogens and granting
6 rule-making authority.

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 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 that ~~any health care facility or health care provider~~ employing a public employe in

the state, any agency of the state and any political subdivision of the state (public employer)

BILL

by the public employer or in the place of employment of the public employer

public employer

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 in the health care facility or by the health care provider, except when an evaluation committee established by the health care facility or health care provider, 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.

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 health care facility or health care provider 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.

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

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

6 101.055 (2) (ag) "Engineered sharps injury protection" means any of the
7 following:

BILL

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

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

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

10 101.055 (2) (aj) "Exposure incident" means a specific contact with blood or other
 11 material potentially containing blood-borne pathogens.

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

13 ~~101.055 (2) (am) "Health care facility" has the meaning given in s. 150.84 (2).~~

14 ~~SECTION 5. 101.055 (2) (ap) of the statutes is created to read:~~

15 ~~101.055 (2) (ap) "Health care provider" has the meaning given in s. 150.84 (3).~~

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

17 101.055 (2) (at) "Needleless system" means a device that does not use a needle
 18 for withdrawing body fluids after initial venous or arterial access is established,
 19 administering medication or any other fluid or performing any other procedure
 20 involving the potential for an exposure incident.

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

22 101.055 (2) (e) "Sharp" means any object used or encountered in a health care
 23 setting that can be reasonably anticipated to penetrate the skin or any other part of
 24 the body and to result in an exposure incident, including broken glass; a needle

✓
Insert
3-15 →

BILL

1 device, scalpel, lancet, drill, bur, dental knife or broken capillary tube; or the exposed
2 end of a dental wire.

3 SECTION 8. 101.055 (2) (f) of the statutes is created to read:

4 101.055 (2) (f) "Sharps injury" means any injury caused by a sharp, including
5 a cut, abrasion or a needle stick.

Public employer ✓

6 SECTION 9. 101.055 (3) (cm) of the statutes is created to read:

7 101.055 (3) (cm) The standards adopted by the department shall include
8 standards governing occupational exposure of public employes to blood and other
9 materials potentially containing blood-borne pathogens. Those standards shall
10 require any ~~health care facility or health care provider~~ employing a public employe

11 in an occupation in which the public employe is at risk of occupational exposure to
12 blood or other materials potentially containing blood-borne pathogens due to a
13 sharps injury to provide needleless systems and sharps with engineered sharps
14 injury protection for use in all ~~medical~~ ^{ster} procedures conducted ~~in the health care~~

15 ~~facility or by the health care provider~~, except when an evaluation committee

16 established by the ~~health care facility or health care provider~~, at least one-half the
17 members of which are front-line health care workers, determines by means of
18 objective product evaluation criteria that use of a needleless system or a sharp with
19 engineered sharps injury protection will jeopardize patient or employe safety with
20 regard to a specific medical procedure. In adopting the standards described in this
21 paragraph, the department shall also consider including additional requirements to
22 prevent or mitigate sharps injuries and other exposure incidents such as training
23 and educational requirements, requirements relating to the strategic placement of
24 sharps containers as close to the work area as practicable and measures to encourage
25 public employes to use personal protective equipment when handling blood or other

Public employer ✓

by the public employer or in the place
of employment of the public employer ✓

BILL

public employers

1 materials potentially containing blood-borne pathogens and to receive vaccinations
 2 against blood-borne pathogens. The department shall maintain a list of needleless
 3 systems and sharps with engineered sharps injury protection and shall make that
 4 list available to all ~~health care facilities and health care providers~~ that are required
 5 to comply with the standards adopted under this paragraph to assist those ~~health~~
 6 ~~care facilities and health care providers~~ in complying with those standards.

SECTION 10. 101.055 (5) (e) of the statutes is amended to read:

8 101.055 (5) (e) A representative of the department shall have access to the
 9 records required under sub. (7) (a) ~~and~~ (b) ~~and~~ (bm) and to any other records
 10 maintained by a public employer which are related to the purpose of the inspection.

SECTION 11. 101.055 (7) (bm) of the statutes is created to read:

public employer

11 101.055 (7) (bm) A ~~health care facility or health care provider~~ employing a
 12 public employe in an occupation in which the public employe is at risk of occupational
 13 exposure to blood or other materials potentially containing blood-borne pathogens
 14 due to a sharps injury shall maintain a sharps injury log and shall make reports of
 15 all sharps injuries to the department at time intervals specified by rule of the
 16 department. The ~~health care facility or health care provider~~ shall make the sharps
 17 injury log available to the department, to the ~~public~~^{stat} employes of the ~~health care~~
 18 ~~facility or health care provider~~ and to the public employes' representatives. This
 19 paragraph does not authorize disclosure of patient health care records except as
 20 provided in ss. 146.82 and 146.83. The sharps injury log shall include all of the
 21 following information:
 22

- 23 1. The date and time of each exposure incident.
- 24 2. The type and brand of sharp involved in the exposure incident.

BILL

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

- 3 a. The job classification of the exposed public employe.
- 4 b. The department or work area in which the exposure incident occurred.
- 5 c. The procedure that the exposed public employe was performing at the time
6 of the exposure incident.
- 7 d. How the exposure incident occurred.
- 8 e. The body part involved in the exposure incident.
- 9 f. If the sharp involved in the exposure incident had engineered sharps injury
10 protection, whether the protective mechanism was activated and, if so, whether the
11 sharps injury occurred before the protective mechanism was activated, during
12 activation of the mechanism or after activation of the mechanism.
- 13 g. If the sharp involved in the exposure incident did not have engineered sharps
14 injury protection, the injured public employe's opinion as to whether and how a
15 protective mechanism could have prevented the sharps injury and the basis for that
16 opinion.
- 17 h. The public employe's opinion as to whether any other engineering,
18 administrative or work practice control could have prevented the sharps injury and
19 the basis for that opinion.

20 **SECTION 12. Nonstatutory provisions.**

21 (1) The department of commerce shall submit in proposed form the rules
22 required under section 101.055 (3) (cm) of the statutes, as created by this act, to the
23 legislative council staff under section 227.15 (1) of the statutes no later than the first
24 day of the 6th month beginning after the effective date of this subsection.

25 **SECTION 13. Initial applicability.**

BILL

1 (1) The treatment of section 101.055 (5) (e) and (7) (bm) of the statutes first
2 applies to a sharps injury. as defined in section 101.055 (2) (f) of the statutes. as
3 created by this act, that occurs on the effective date of the rules promulgated under
4 section 101.055 (3) (cm) of the statutes, as created by this act.

5

(END)

Insert 3-15

SEC CR; 101.055 (2) (am)

101.055 (2) (am) ^③ "Front-line health care worker"

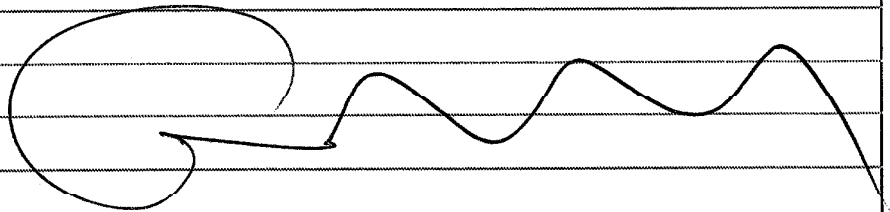
means a nonmanagerial public employee who is responsible for direct patient care and who is at risk of occupational exposure to blood or other materials potentially containing blood-borne pathogens due to a sharps injury.

(ed of, nt)

D-Note

¶ This redraft broadens the scope of the draft to include ^{as} all public employees, including law enforcement officers, fire fighters and correctional officers, who are at risk of occupational exposure to blood-borne pathogens due to a sharps injury. This redraft accomplishes that broadening by substituting "public employee" for "health care facility, or health care provider" wherever found.

¶ This redraft also provides a definition of "front-line health care worker".



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

LRB-2986/2dn
GMM:jl:gf

October 27, 1999

This redraft broadens the scope of the draft to include *all* public employes, including law enforcement officers, fire fighters and correctional officers, who are at risk of occupational exposure to blood-borne pathogens due to a sharps injury. This redraft accomplishes that broadening by substituting "public employer" for "health care facility or health care provider" whenever found. This redraft also provides a definition of "front-line health care worker".

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: Gordon.Malaise@legis.state.wi.us

Malaise, Gordon

From: Austin, David
Sent: Friday, January 07, 2000 12:15 PM
To: Malaise, Gordon
Subject: LRB 2986

Gordon:

Senator Robson would like to make two changes to LRB 2986 (safe needles).

✓ First, on p.3, lines 5-6, please delete the words "or retraction."

✓ Second, please add a section saying that the rules required by the bill will not apply to pre-filled syringes approved by the federal food and drug administration. Then have a sunset clause of three years for this exception.

✓ For example, the Texas version says, "The rules adopted under Subsection (a) may not prohibit the use of a prefilled syringe that is approved by the federal Food and Drug Administration. This subsection expires May 1, 2003."

I will send over the stripes so you can make these changes. Thanks for your help.

David Austin
Senator Robson's office
6-2253

D-Note**1999 SENATE BILL**

Regen

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.

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

SENATE BILL #

2003
Prior to October 1, 2003, however, those standards may not prohibit the use of a prefilled syringe that one is approved by the Federal Food and Drug Administration.

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 needless 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 needless system or a sharp with engineered sharps injury protection will jeopardize patient or employe safety with regard to a specific medical procedure.

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.

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

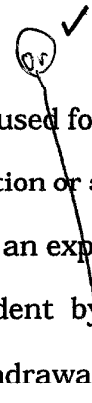
1 SECTION 1. 101.055 (2) (ad) of the statutes is created to read:

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:

6 101.055 (2) (ag) "Engineered sharps injury protection" means any of the
7 following:

SENATE BILL



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

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

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

10 101.055 (2) (aj) "Exposure incident" means a specific contact with blood or other
11 material potentially containing blood-borne pathogens.

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

13 101.055 (2) (am) "Front-line health care worker" means a nonmanagerial
14 public employe who is responsible for direct patient care and who is at risk of
15 occupational exposure to blood or other materials potentially containing blood-borne
16 pathogens due to a sharps injury.

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

18 101.055 (2) (at) "Needleless system" means a device that does not use a needle
19 for withdrawing body fluids after initial venous or arterial access is established,
20 administering medication or any other fluid or performing any other procedure
21 involving the potential for an exposure incident.

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

23 101.055 (2) (e) "Sharp" means any object used or encountered in a health care
24 setting that can be reasonably anticipated to penetrate the skin or any other part of
25 the body and to result in an exposure incident, including broken glass; a needle

SENATE BILL

1 device, scalpel, lancet, drill, bur, dental knife or broken capillary tube; or the exposed
2 end of a dental wire.

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

4 101.055 (2) (f) "Sharps injury" means any injury caused by a sharp, including
5 a cut, abrasion or a needle stick.

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

7 101.055 (3) (cm) ^(1.) The standards adopted by the department shall include
8 standards governing occupational exposure of public employes to blood and other
9 materials potentially containing blood-borne pathogens. Those standards shall
10 require any public employer employing a public employe in an occupation in which
11 the public employe is at risk of occupational exposure to blood or other materials
12 potentially containing blood-borne pathogens due to a sharps injury to provide
13 needleless systems and sharps with engineered sharps injury protection for use in
14 all medical procedures conducted by the public employer or in the place of
15 employment of the public employer, except when an evaluation committee
16 established by the public employer, at least one-half the members of which are
17 front-line health care workers, determines by means of objective product evaluation
18 criteria that use of a needleless system or a sharp with engineered sharps injury
19 protection will jeopardize patient or employe safety with regard to a specific medical

20 procedure. ^{subd. 1. ✓} In adopting the standards described in this paragraph, the department
21 shall also consider including additional requirements to prevent or mitigate sharps
22 injuries and other exposure incidents such as training and educational
23 requirements, requirements relating to the strategic placement of sharps containers
24 as close to the work area as practicable and measures to encourage public employes
25 to use personal protective equipment when handling blood or other materials

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

¶ 3. ^{SP}

SENATE BILL

H (4)

1 potentially containing blood-borne pathogens and to receive vaccinations against
2 blood-borne pathogens. The department shall maintain a list of needleless systems
3 and sharps with engineered sharps injury protection and shall make that list
4 available to all public employers that are required to comply with the standards
5 adopted under ^{Subd. 1.} ~~this paragraph~~ to assist those public employers in complying with
6 those standards.

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

8 101.055 (5) (e) A representative of the department shall have access to the
9 records required under sub. (7) (a) ~~and~~ (b) and (bm) and to any other records
10 maintained by a public employer which are related to the purpose of the inspection.

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

12 101.055 (7) (bm) A public employer employing a public employe in an
13 occupation in which the public employe is at risk of occupational exposure to blood
14 or other materials potentially containing blood-borne pathogens due to a sharps
15 injury shall maintain a sharps injury log and shall make reports of all sharps injuries
16 to the department at time intervals specified by rule of the department. The public
17 employer shall make the sharps injury log available to the department, to the public
18 employes of the public employer and to the public employes' representatives. This
19 paragraph does not authorize disclosure of patient health care records except as
20 provided in ss. 146.82 and 146.83. The sharps injury log shall include all of the
21 following information:

- 22 1. The date and time of each exposure incident.
- 23 2. The type and brand of sharp involved in the exposure incident.
- 24 3. A description of the exposure incident, which shall include all of the following
25 information:

SENATE BILL

- 1 a. The job classification of the exposed public employe.
- 2 b. The department or work area in which the exposure incident occurred.
- 3 c. The procedure that the exposed public employe was performing at the time
- 4 of the exposure incident.
- 5 d. How the exposure incident occurred.
- 6 e. The body part involved in the exposure incident.
- 7 f. If the sharp involved in the exposure incident had engineered sharps injury
- 8 protection, whether the protective mechanism was activated and, if so, whether the
- 9 sharps injury occurred before the protective mechanism was activated, during
- 10 activation of the mechanism or after activation of the mechanism.
- 11 g. If the sharp involved in the exposure incident did not have engineered sharps
- 12 injury protection, the injured public employe's opinion as to whether and how a
- 13 protective mechanism could have prevented the sharps injury and the basis for that
- 14 opinion.
- 15 h. The public employe's opinion as to whether any other engineering,
- 16 administrative or work practice control could have prevented the sharps injury and
- 17 the basis for that opinion.

SECTION 11. Nonstatutory provisions.

18

19 (1) The department of commerce shall submit in proposed form the rules

20 required under section 101.055 (3) (cm) of the statutes, as created by this act, to the

21 legislative council staff under section 227.15 (1) of the statutes no later than the first

22 day of the 6th month beginning after the effective date of this subsection.

SECTION 12. Initial applicability.

23

24 (1) The treatment of section 101.055 (5) (e) and (7) (bm) of the statutes first

25 applies to a sharps injury, as defined in section 101.055 (2) (f) of the statutes, as

SENATE BILL

① ✓

1 created by this act, that occurs on the effective date of the rules promulgated under
2 section 101.055 (3) (cm) of the statutes, as created by this act.

3 (END)

D-Note

- ① 1. The language found at page 3, lines 5-6, of the draft is "or destruction," not "or retraction." Accordingly, this redraft deletes "or destruction" from those lines and not "retraction" from line 5.
- 2. This draft calls for the language relating to prefilled syringes not to apply after September 30, 2003. That date was ^{calculated} ~~calculated~~ by assuming that this draft will be ~~enacted~~ ^{enacted} in April 2000, and that the department of commerce will submit the proposed rules required under the ^{draft} ~~act~~ by October 1, 2000, that is, the first day of the ^{draft} ~~bill~~ sixth month beginning after the effective date of the ~~bill~~. As such, the prefilled syringe language will sunset three years after ~~the~~ ^{the} that date on which the rules are submitted.

GMM

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

LRB-2986/3dn
GMM:jlg:km

January 10, 2000

1. The language found at page 3, lines 5-6, of the draft is "or destruction," not "or retraction". Accordingly, this redraft deletes "or destruction" from those lines and not "retraction" from line 5.
2. This draft calls for the language relating to prefilled syringes not to apply after September 30, 2003. That date was calculated by assuming that this draft will be enacted in April 2000 and that the department of commerce will submit the proposed rules required under the draft by October 1, 2000, that is, the first day of the sixth month beginning after the effective date of the draft. As such, the prefilled syringe language will sunset three years after the date on which the rules are submitted.

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