

## 2005 DRAFTING REQUEST

### Senate Amendment (SA-AB15)

Received: 02/22/2006

Received By: btradewe

Wanted: Soon

Identical to LRB:

For: Stephen Freese (608) 266-7502

By/Representing: John Stolzenberg, Leg. Council

This file may be shown to any legislator: NO

Drafter: btradewe

May Contact:

Addl. Drafters:

Subject: Buildings/Safety - misc.  
Environment - air quality

Extra Copies:

Submit via email: YES

Requester's email: Rep.Freese@legis.state.wi.us

Carbon copy (CC:) to: John.Stolzenberg@legis.state.wi.us

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#### Pre Topic:

No specific pre topic given

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#### Topic:

Changes related to ending ethanol requirement

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#### Instructions:

See Attached

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#### 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>
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/P1	btradewe 02/22/2006	csicilia 02/22/2006	jfrantze 02/22/2006	_____	mbarman 02/22/2006		
/P2	btradewe 02/24/2006	csicilia 02/24/2006	rschluet 02/24/2006	_____	lnorthro 02/24/2006		
/P3	btradewe 02/24/2006	csicilia 02/24/2006	pgreensl 02/24/2006	_____	lnorthro 02/24/2006		

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/P4	btradewe 02/28/2006	csicilia 02/28/2006	jfrantze 02/28/2006	_____	Inorthro 02/28/2006		
/P5	btradewe 02/28/2006	csicilia 02/28/2006	chaugen 02/28/2006	_____	sbasford 02/28/2006		
/1	btradewe 03/08/2006	csicilia 03/08/2006	pgreensl 03/08/2006	_____	Inorthro 03/08/2006	Inorthro 03/08/2006	

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/P5	btradewe 02/28/2006	csicilia 02/28/2006	chaugen 02/28/2006	_____	sbasford 02/28/2006		

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*PS 2-28*  
**<END>**

*/PS gjs 2/28*  
*06*

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*John Freese*  
2/28

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**SENATE**

**INTRODUCTION AND REFERRAL OF PROPOSALS**

**(February 24, 2006)**

**SENATE BILL 628 (LRB -4727)**

Relating to: virtual charter schools.

By Senators Olsen and S. Fitzgerald; cosponsored by Representatives Davis, Towns, Montgomery, Underheim and Musser.

Referred to Committee on EDUCATION.

**SENATE BILL 629 (LRB -2901)**

Relating to: sexual assault of a child and providing a penalty.

By Senators Lazich, Grothman, Kedzie and Roessler; cosponsored by Representatives Kleefisch, Gundrum, Kaufert, Musser, Gunderson, Jeskewitz, Townsend and LeMahieu.

Referred to Committee on JUDICIARY, CORRECTIONS AND PRIVACY.

**SENATE BILL 630 (LRB -3882)**

Relating to: requiring instruction in public schools on the history of organized labor in America and the collective bargaining process.

By Senators Hansen and Wirch; cosponsored by Representatives Sheridan, Lehman, Seidel, Grigsby, Fields, Pocan, Berceau and Black.

Referred to Committee on EDUCATION.

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66*

*[Handwritten signature]*  
22/06  
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/?	btradewe	P1 cjs 2/22 06	J 2/22	J/Sllb 2/22			

FE Sent For: **<END>**

## Tradewell, Becky

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**From:** Stolzenberg, John  
**Sent:** Tuesday, February 21, 2006 10:29 PM  
**To:** Tradewell, Becky  
**Subject:** Drafting Instructions for a Senate Amendment to Assembly Bill 15

Becky,

I realized after we talked late this afternoon that I will be tied up at the Legislative Council symposium and a committee hearing tomorrow morning. Thus, I prepared the drafting instructions presented below to start the amendment preparation process.

This request is for a Senate Amendment to Assembly Bill 15 for Representative Freese.

The new amendment should contain the following components:

- ✓ 1. Change the effective date for the Department of Commerce's rule setting the ethanol content standards for automotive gasoline to be October 1, 2007 [same as page 1, line 3 in Senate Amendment 1].
- ✓ 2. Insert "or hemicellulosic" after "lignocellulosic" in the definition of the "cellulosic biomass ethanol" in the material inserted by Assembly Amendment 4 [same as page 2, lines 7 and 8 in Senate Amendment 1].
- ✓ 3. Modify the air quality impact provisions in the Assembly-passed version of the bill [SEC. 3 in Assembly Substitute Amendment 3 to Assembly Bill 15] by:
  - a. Specifying that the process the DNR must use in making the determination under s. 285.14 (3) (a) [page 3, lines 10 to 17 in ASA 3 to AB 15] must be based on first determining what, if any, reductions in emissions of air contaminants are necessary to attain and maintain a federal ambient air quality standard or to protect visibility, assuming that the bill has not been enacted, and then comparing those reductions to the necessary reductions to attain and maintain a federal ambient air quality standard or to protect visibility, based on the bill being enacted.
  - b. Deleting s. 285.14 (3) (b) [page 3, lines 18 to 24, in ASA 3 to AB 15].
  - c. Retaining s. 285.14 (3) (c) [page 4, lines 1 to 4 in ASA 3 to AB 15].
4. Create two other process which can lead to the voiding of the ethanol content standards required under the Assembly-passed version of the bill:
  - ✓ a. One process would be based on the process in Senate Amendment 1. This process should direct the Department of Natural Resources (DNR) to determine whether the ethanol content standards cause or will cause or contribute to or will contribute to the violation of a federal ambient air called a standard or a requirement to protect visibility. If the DNR makes this determination, it should lead to

the voiding of the ethanol content standards. [The Department of Commerce/Revisor of Statutes process on page 2, lines 1 to 8 in ASA 3 to AB 15 will have to be reconciled with this process].

Also, add to the provisions in Senate Amendment 1 two directives to the DNR:

- i. If the Department determines that the ethanol content standards cause or will cause the violation, the department may not impose additional emission reductions on any air contaminant source in any part of the state to address the violation.
  - ii. If the Department determines that the ethanol content standards contribute to or will contribute to the violation, the department may not impose additional emission reductions on any air contaminant source in any part of the state that compensate for, or offset, the contribution of the ethanol content standards to the violation.
- b. Another process should direct the Department of Natural Resources (DNR) to determine, if the US Environmental Protection Agency (EPA) has found that a Wisconsin state implementation plan submitted to the EPA does not meet the minimum criteria established pursuant to 42 USC 7410 (k) (1) (A) or is substantially inadequate under 42 USC 7410 (k) (5) because the plan does not adequately account for emissions caused by the ethanol content standards required under the bill, whether it is necessary, as a result of the ethanol content standards, to revise this plan to include additional requirements for emissions reductions by air contaminant sources in any part of the state in order to attain and maintain the federal ambient air quality standard or to protect visibility addressed in the plan. If the DNR makes this determination, it should lead to the voiding of the ethanol content standards. [The Department of Commerce/Revisor of Statutes process on page 2, lines 1 to 8 in ASA 3 to AB 15 will have to be reconciled with this procedure.] Also, add a directive to the DNR that the department may not include the additional requirements in revisions to the state implementation plan. [This is like the provision on page 4, lines 3 and 4 in ASA 3 to AB 15].

I recognize that item 3. a. may not be necessary, as the current text of ASA 3 to AB 15 reflects how we understand s. 285.14 (3) (a) should be implemented, but Representative Freese wants this elaboration to make this process clear and obvious to anyone reading the provision.

Re item 4. b., the Clean Air Act has a number of procedures under which the EPA can send a state implementation plan back to the state. In particular, I've highlighted below in bold the operative phrases in the text in 42 USC 7410 (k) that I think should be included.

42 USC 7410 (k) Environmental Protection Agency action on plan submissions.

(1) Completeness of plan submissions.

(A) Completeness criteria. Within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990 [enacted Nov. 15, 1990], the Administrator shall promulgate minimum criteria that any plan submission must meet before the Administrator is required to act on such submission under this subsection. The criteria shall be limited to the information necessary to enable the Administrator to determine whether the plan submission complies with the provisions of this Act.

(B) Completeness finding. Within 60 days of the Administrator's receipt of a plan or plan revision, but no later than 6 months after the date, if any, by which a State is required to submit the plan or revision, the Administrator shall determine whether the minimum criteria established pursuant to subparagraph (A) have been met. Any plan or plan revision that a State submits to the Administrator, and that has not been determined by the Administrator (by the date 6 months after receipt of the submission) to have failed to meet the minimum criteria established pursuant to subparagraph (A), shall on that date be deemed by operation of law to meet such minimum criteria.

(C) Effect of finding of incompleteness. Where the Administrator determines that a plan submission (or part thereof) **does not meet the minimum criteria established pursuant to subparagraph (A)**, the State shall be treated as not having made the submission (or, in the Administrator's discretion, part thereof).

(2) Deadline for action. Within 12 months of a determination by the Administrator (or a determination deemed by operation of law) under paragraph (1) that a State has submitted a plan or plan revision (or, in the Administrator's discretion, part thereof) that meets the minimum criteria established pursuant to paragraph (1), if applicable (or, if those criteria are not applicable, within 12 months of submission of the plan or revision), the Administrator shall act on the submission in accordance with paragraph (3).

(3) Full and partial approval and disapproval. In the case of any submittal on which the Administrator is required to act under paragraph (2), the Administrator shall approve such submittal as a whole if it meets all of the applicable requirements of this Act. If a portion of the plan revision meets all the applicable requirements of this Act, the Administrator may approve the plan revision in part and disapprove the plan revision in part. The plan revision shall not be treated as meeting the requirements of this Act until the Administrator approves the entire plan revision as complying with the applicable requirements of this Act.

(4) Conditional approval. The Administrator may approve a plan revision based on a commitment of the State to adopt specific enforceable measures by a date certain, but not later than 1 year after the date of approval of the plan revision. Any such conditional approval shall be treated as a disapproval if the State fails to comply with such commitment.

(5) Calls for plan revisions. Whenever the Administrator finds that the applicable implementation plan for any area **is substantially inadequate** to attain or maintain the relevant national ambient air quality standard, to mitigate adequately the interstate pollutant transport described in section 176A or section 184 [42 USCS § 7506a or § 7511c], or to otherwise comply with any requirement of this Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines (not to exceed 18 months after the date of such notice) for the submission of such plan revisions. Such findings and notice shall be public. Any finding under this paragraph shall, to the extent the Administrator deems appropriate, subject the State to the requirements of this Act to which the State was subject when it developed and submitted the plan for which such finding was made, except that the Administrator may adjust any dates applicable under such requirements as appropriate (except that the Administrator may not adjust any attainment date prescribed under part D [42 USCS §§ 7501 et seq.], unless such date has elapsed).

(6) Corrections. Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.

(I) Plan revisions. Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171 [42 USCS § 7501]), or any other applicable requirement of this Act.

I'll contact you early in the afternoon tomorrow to see if you have any questions on these instructions.

John

---

John Stolzenberg

Legislative Council  
266-2988





State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBa2439/P1  
RCT:.....

*Wanted 2:30 p.m. today*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION *gjs*  
SENATE AMENDMENT ,  
TO 2005 ASSEMBLY BILL 15

*DNote*

1 At the locations indicated, amend the bill, as shown by assembly substitute  
2 amendment 3, as follows:

3 1. Page 1, line 6: substitute "2007" for "2006".

4 2. Page 2, line 1: after "(c)," insert "(e), or (g),".

5 3. Page 2, line 7: delete "on which" and substitute "in which".

6 4. Page 3, line 8: after that line insert:

7 "SECTION 2t. 285.14 (title) of the statutes is amended to read:

8 **285.14 (title) State implementation plans; ethanol requirements in**  
9 **automotive gasoline.**"

History: 2003 a. 118.

10 5. Page 3, line 17: after "7491." insert "To make the determination under this  
11 paragraph, the department shall determine what, if any, reductions in emissions of  
12 air contaminants would be necessary to attain and maintain a federal ambient air

1 quality standard or to protect visibility without the standards for automotive  
2 gasoline established under s. 168.02 (2m) (a) and compare those reductions to the  
3 reductions that would be necessary to attain and maintain a federal ambient air  
4 quality standard or to protect visibility with the standards for automotive gasoline  
5 established under s. 168.02 (2m) (a) in effect.”.

6 **6.** Page 3, line 18: delete lines 18 to 24.

7 **7.** Page 4, line 4: after that line, before the material inserted by assembly  
8 amendment 4, insert:

9 “(d) The department shall determine whether the standards for automotive  
10 gasoline established under s. 168.04 (2m) (a) cause or contribute to the violation of  
11 a federal ambient air quality standard promulgated under 42 USC 7409 or of a  
12 requirement to protect visibility promulgated under 42 USC 7491.

13 (e) If the department determines under par. (d) that the standards for  
14 automotive gasoline established under s. 168.04 (2m) (a) cause or contribute to the  
15 violation of a federal ambient air quality standard promulgated under 42 USC 7409  
16 or of a requirement to protect visibility promulgated under 42 USC 7491, all of the  
17 following apply:

18 1. The department shall notify the department of commerce of that  
19 determination.

20 2. The department may not impose additional emission reductions on any air  
21 contaminant source in any part of the state to address the violation or to compensate  
22 for, or offset, any contribution of the standards to the violation.

23 (f) If the federal environmental protection agency finds that a state  
24 implementation plan submitted by the department does not meet the minimum

1 criteria established under 42 USC 7410 (k) (1) (A) or is substantially inadequate  
2 under 42 USC 7410 (k) (5) because the plan does not adequately account for  
3 emissions caused by the standards for automotive gasoline established under s.  
4 168.04 (2m) (a), the department shall determine whether it would be necessary,  
5 because of those standards, to revise the plan to include additional requirements for  
6 the reduction of the emissions of an air contaminant by air contaminant sources in  
7 any part of this state in order to attain and maintain a federal ambient air quality  
8 standard promulgated under 42 USC 7409 or to protect visibility under 42 USC 7491.

9 (g) If the department determines under par. (a) that it would be necessary to  
10 include additional requirements in the state implementation plan, the department  
11 shall notify the department of commerce of that determination and the department  
12 may not include those requirements in the state implementation plan.”

13 8. Page 4, line 4: after that line, on page 1, line 5, of the material inserted by  
14 assembly amendment 4, after “lignocellulosic” insert “or hemicellulosic”. ✓

15 (END)

DWete

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

LRBa2439/P1dn

RCT...:...

gs

I understand that John Stolzenberg is looking into some possible changes to this amendment. I thought that it might be helpful to complete a preliminary version of the amendment in the meantime.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.state.wi.us](mailto:becky.tradewell@legis.state.wi.us)

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

LRBa2439/P1dn  
RCT:cjs:jf

February 22, 2006

I understand that John Stolzenberg is looking into some possible changes to this amendment. I thought that it might be helpful to complete a preliminary version of the amendment in the meantime.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.state.wi.us](mailto:becky.tradewell@legis.state.wi.us)

## Tradewell, Becky

---

**From:** Stolzenberg, John  
**Sent:** Friday, February 24, 2006 9:51 AM  
**To:** Tradewell, Becky  
**Subject:** AB 15 amendment

**Attachments:** AB 15 Senate amendment - P2 instructions.doc

Becky,

Here are the drafting instructions on the AB 15 amendment that I just mentioned to you.

John



AB 15 Senate  
amendment - P2 in..

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John Stolzenberg  
Legislative Council  
266-2988

## Changes to LRBa2439/P1

### *Changes to the Air Quality Impact Test Based Upon a NAAQS Violation*

1. Change par. (d) on page 2, lines 9 to 12, to condition this provision on the DNR recording a NAAQS violation in an attainment area after October 1, 2007, and drop the reference to violation of a requirement to protect visibility since areas with protected visibility affected by Wisconsin emissions are in Minnesota and Michigan.

*Comment:* It is not necessary to address exacerbating a violation in a nonattainment area as this situation will lead to review by DNR and EPA and, if needed, EPA requesting a revision in the applicable SIP. This revision would then be addressed under other provisions in the draft.

*Example text:* “(d) If, based on ambient air monitoring conducted after September 30, 2007, the department establishes that the ambient air quality in an attainment area violates a federal ambient air quality standard promulgated under 42 USC 7409, the department shall determine whether the standards for automotive gasoline established under s. 168.04 (2m) (a) caused or contributed to the violation.

2. Change par. (e) (intro) on page 2, lines 13 to 17, to reflect the changes in par. (d).

*Example text:* (e) If the department determines under par. (d) that the standards for automotive gasoline established under s.168.04 (2m) (a) caused or contributed to the violation of a federal ambient air quality standard promulgated under 42 USC 7409, all of the following apply:

3. Clarify par. (e) 2. on page 2, lines 20 to 22, to establish that the prohibition on the DNR imposing additional emission reductions to address [all of] the violation occurs if the ethanol content standards caused the violation.

4. Create a new provision (in s. 285.23?) that if the DNR determines under s. 285.14 (3) (d) that the ethanol content standards caused or significantly contributed to the violation of a NAAQS and the Revisor of Statutes has published the notice specified in s. 168.04 (2m) (c), the department may not issue a document under s. 285.23 (2) that defines or lists the area in which the ambient air monitor that recorded the violation of the standard is located as a nonattainment area, unless EPA requires this definition or listing. As appropriate, add a reference to this prohibition in s. 285.14 (3) (e).

*Comment:* The purpose of this provision is to prevent the recording of the violation leading to the designation of a new nonattainment area in the state with the associated regulations such as stationary source offset requirements. Since the provisions in the draft lead to the voiding of the ethanol content standards, if these standards caused the violation, per DNR's determination, then their voiding removes the rationale for the nonattainment designation. The "significantly contributed to" language is intended to address the situation where the ethanol content standards were not the sole cause of the violation, but were a sufficient contributor so that their voiding would likely prevent any violation in the future under conditions similar to when the violation occurred.

*Changes to the Air Quality Impact Test Based Upon the EPA Finding a Wisconsin SIP Incomplete or Inadequate*

Incorporate this test in the /P1 draft into the air quality impact test in ASA 3 to AB 15, which is also based upon amending a SIP. One way to do this is by deleting pars. (f) and (g) on page 2, line 23 to page 3, line 12, and adding a new provision that establishes that the reporting requirement in s. 285.14 (2) applies to a revision to a state implementation plan that the department previously submitted to the EPA if the revision is a response to the EPA finding the previous [or original] plan to be incomplete or substantially inadequate [under 42 USC 7410 (k) (1) (A) or (5)] based on the plan's treatment of emissions caused by the ethanol content standards.

*Comment:* Apparently, EPA's formal notice of a SIP being inadequate states that the EPA has found the SIP to be inadequate without giving the reason for the finding. The rationale is provided in supporting documentation. Thus, this provision should not reference the content of EPA's finding but could identify the basis of the finding.