

ASSEMBLY BILL 277 (LRB -2567)

An Act to amend 285.60 (1) (a) 1., 285.60 (3) (a), 285.66 (2) (b) (intro.), 285.66 (2) (b) 1., 285.66 (2) (b) 3. and 285.81 (1m) (b) of the statutes; relating to: general air pollution control permits, the term of registration air pollution control permits, the effect of a challenge to an emission limitation in an air pollution operation permit, and a report on regulatory barriers affecting manufacturing. (FE)

2005

03-30. A. Introduced by Representatives **Hundertmark, Gard, Gunderson, Suder, Jeskewitz, Wieckert, Huebsch, Nischke, Vrakas, Loeffelholz, Wood, Kaufert, Hines, LeMahieu, Hahn, Vos, Strachota, Owens, Moulton, Towns, Mursau, Nerison, McCormick, Honadel, Montgomery, Krawczyk, Kleefisch, Davis, Van Roy, Petrowski, Albers, Pridemore, Meyer, Kreibich, Gielow, J. Fitzgerald and Ott**; cosponsored by Senators **Stepp, Schultz, Darling, Leibham, Olsen, Grothman, S. Fitzgerald, Zien and A. Lasee.**

03-30. A. Read first time and referred to committee on Natural Resources 153

03-30. A. Public hearing held.

04-04. A. Assembly amendment 1 offered by Representatives Hundertmark, Gunderson and Gard (**LRB a0368**) 156

04-04. A. Representatives Lothian and Jensen added as coauthors 159

04-04. A. Fiscal estimate received.

04-05. A. Executive action taken.

04-06. A. Fiscal estimate received.

04-07. A. Report Assembly Amendment 1 adoption recommended by committee on Natural Resources, Ayes 12, Noes 3 168

04-07. A. Report passage as amended recommended by committee on Natural Resources, Ayes 12, Noes 3 168

04-07. A. Referred to committee on Rules 169

04-07. A. Made a special order of business at 11:10 A.M. on 4-12-2005 pursuant to Assembly Resolution 12 174

04-12. A. Senator Brown added as a cosponsor 180

04-12. A. Read a second time 183

04-12. A. Refused to refer to committee on Natural Resources, Ayes 36, Noes 62 183

04-12. A. Assembly amendment 1 **adopted** 183

04-12. A. Assembly amendment 2 offered by Representatives Molepske, Hebl, Black and Parisi (**LRB a0444**) 183

04-12. A. Assembly amendment 2 laid on table, Ayes 63, Noes 35 183

04-12. A. Ordered to a third reading 184

04-12. A. Rules suspended 184

04-12. A. Read a third time and **passed**, Ayes 73, Noes 25 184

04-12. A. Ordered immediately messaged 184

04-13. S. Received from Assembly 170

04-13. S. Read first time and referred to committee on Natural Resources and Transportation 170

05-26. S. Public hearing held.

06-16. S. Executive action taken.

06-17. S. Report concurrence recommended by committee on Natural Resources and Transportation, Ayes 4, Noes 1 265

06-17. S. Available for scheduling.

06-22. S. Placed on calendar 6-23-2005 by committee on Senate Organization.

06-23. S. Read a second time.

06-23. S. Ordered to a third reading.

06-23. S. Rules suspended.

06-23. S. Read a third time and **concurred in**, Ayes 21, Noes 12.

06-23. S. Ordered immediately messaged.

06-23. A. Received from Senate concurred in 330

**2005
ENROLLED BILL**

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ADOPTED DOCUMENTS:

Orig

Engr

A SubAmdt

05 2567 2

Amendments to above (if none, write "NONE"): AA1

Corrections - show date (if none, write "NONE"): None

Topic ~~related general air~~

air pollution control permits

6/24/05

Date

[Signature]

Enrolling Drafter

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2005 ASSEMBLY BILL 277

March 30, 2005 - Introduced by Representatives HUNDERTMARK, GARD, GUNDERSON, SUDER, JESKEWITZ, WIECKERT, HUEBSCH, NISCHKE, VRAKAS, LOEFFELHOLZ, WOOD, KAUFERT, HINES, LEMAHIEU, HAHN, VOS, STRACHOTA, OWENS, MOULTON, TOWNS, MURSAU, NERISON, MCCORMICK, HONADEL, MONTGOMERY, KRAWCZYK, KLEEFISCH, DAVIS, VAN ROY, PETROWSKI, ALBERS, PRIDEMORE, MEYER, KREIBICH, GIELOW, J. FITZGERALD and OTT, cosponsored by Senators STEPP, SCHULTZ, DARLING, LEIBHAM, OLSEN, GROTHMAN, S. FITZGERALD, ZIEN and A. LASEE. Referred to Committee on Natural Resources.

1 **AN ACT to amend** 285.60 (1) (a) 1., 285.60 (3) (a), 285.66 (2) (b) (intro.), 285.66
2 (2) (b) 1., 285.66 (2) (b) 3. and 285.81 (1m) (b) of the statutes; **relating to:**
3 general air pollution control permits, the term of registration air pollution
4 control permits, the effect of a challenge to an emission limitation in an air
5 pollution operation permit, and a report on regulatory barriers affecting
6 manufacturing.

Analysis by the Legislative Reference Bureau

Under current law, a person must generally obtain an air pollution construction permit from the Department of Natural Resources (DNR) before constructing or modifying a stationary source of air pollution. A person must also generally obtain an air pollution operation permit from DNR before operating a stationary source of air pollution, except that a stationary source that was constructed before the operation permit requirement became law is allowed to continue to operate pending DNR's issuance of an operation permit if a complete application was submitted to DNR.

Current law requires DNR to promulgate rules for general air pollution control permits that authorize the construction or operation or both for similar stationary sources of air pollution. This bill authorizes DNR, in its rules, to exempt a person who qualifies for a general permit from the requirement to obtain a construction permit.

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Current law generally provides that the term of an air pollution operation permit may not exceed five years. Under current law, however, coverage under a general permit generally does not expire. Current law requires DNR to promulgate rules providing a simplified process under which the department issues a permit, called a registration permit, for a stationary source of air pollution with low actual or potential emissions. This bill provides that a registration permit generally does not expire.

Under current law, if a person who is issued either a construction permit or an operation permit files a timely challenge to part of the permit, the remainder of the permit takes effect and the person may begin the activity for which the permit was issued, except that if the person challenges an emission limitation, the emission limitation applies pending resolution of the challenge unless the administrative hearing examiner or court considering the challenge stays the emission limitation.

Under this bill, if a permit holder challenges an emission limitation in an air pollution operation permit, the emission limitation does not apply pending resolution of the challenge. The bill takes effect retroactively to February 6, 2004, so that if a timely challenge was filed to an emission limitation in an operation permit that was issued on that date or later, the emission limit does not apply pending resolution of the challenge. The bill does not change current law with respect to a challenge to an emission limitation in an air pollution construction permit.

This bill also requires the Department of Administration to prepare a report that identifies regulatory barriers to the growth of this state's manufacturing sector.

For further information see the *state* 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.** 285.60 (1) (a) 1. of the statutes is amended to read:

2 285.60 (1) (a) *Construction permit.* 1. Except as provided in sub. (2g), (3), (5m),
3 or (6), no person may commence construction, reconstruction, replacement, or
4 modification of a stationary source unless the person has a construction permit from
5 the department.

6 **SECTION 2.** 285.60 (3) (a) of the statutes is amended to read:

7 285.60 (3) (a) *Rules.* The department shall promulgate rules for the issuance
8 of general permits authorizing construction or operation or both for similar
9 stationary sources. In the rules, the department shall specify criteria for identifying

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coverage under

1 categories of sources for which the department may issue general permits and
2 general requirements applicable to sources that qualify for general permits. In the
3 rules, the department may exempt persons who qualify for a general permit from the
4 requirement to obtain a construction permit.

5 SECTION 3. 285.66 (2) (b) (intro.) of the statutes is amended to read:

6 285.66 (2) (b) (intro.) Notwithstanding par. (a), the department may not specify
7 that a registration permit under s. 285.60 (2g) or coverage under a general permit
8 under s. 285.60 (3) expires except as follows:

9 SECTION 4. 285.66 (2) (b) 1. of the statutes is amended to read:

10 285.66 (2) (b) 1. The department may specify an expiration date for a
11 registration permit or for coverage under a general permit at the request of an owner
12 or operator.

13 SECTION 5. 285.66 (2) (b) 3. of the statutes is amended to read:

14 285.66 (2) (b) 3. The department may specify a term of 5 years or less for a
15 registration permit or for coverage under a general permit if required by the federal
16 clean air act.

17 SECTION 6. 285.81 (1m) (b) of the statutes is amended to read:

18 285.81 (1m) (b) An emission limitation contained in a construction permit
19 becomes effective despite a challenge under par. (a), unless the permit holder or
20 applicant challenging the emission limitation obtains a stay of the emission
21 limitation from the hearing examiner or court considering the challenge.

22 SECTION 7. Nonstatutory provisions.

23 (1) REPORT ON REGULATORY BARRIERS. The department of administration, in
24 consultation with representatives of industry and others, shall prepare a report that
25 identifies major regulatory barriers to the growth of this state's manufacturing

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1 sector. The department shall examine state rules in areas that include employment,
2 the environment, financial services, utilities, and transportation and shall report on
3 unnecessary barriers to growth and on consistency with the requirements of federal
4 law and the laws of surrounding states. The department shall submit the report
5 under this subsection to the joint committee for review of administrative rules no
6 later the first day of the 13th month beginning after the effective date of this
7 subsection.

SECTION 8. Initial applicability.

8
9 (1) The treatment of section 285.81 (1m) (b) of the statutes first applies to
10 challenges to operation permits that were issued on the effective date of this
11 subsection.

12 **SECTION 9. Effective dates.** This act takes effect on the day after publication,
13 except as follows:

14 (1) The treatment of section 285.81 (1m) (b) of the statutes and SECTION 8 take
15 effect retroactively to February 6, 2004.

16 (END)

**ASSEMBLY AMENDMENT 1,
TO 2005 ASSEMBLY BILL 277**

April 4, 2005 - Offered by Representatives HUNDERTMARK, GUNDERSON and GARD.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 7: after "that" insert "coverage under".

3 **2.** Page 3, line 10: after "for" insert "coverage under".

4 **3.** Page 3, line 12: after that line insert:

5 "**SECTION 4m.** 285.66 (2) (b) 2. of the statutes is amended to read:

6 285.66 (2) (b) 2. The department may specify a term of 5 years or longer for

7 coverage under a registration permit or for coverage under a general permit if the

8 department finds that expiring coverage would significantly improve the likelihood

9 of continuing compliance with applicable requirements compared to coverage that

10 does not expire."

11 **4.** Page 3, line 14: after "for" insert "coverage under".

12

(END)