

STATE OF WISCONSIN  
**Senate Journal**  
Ninety–Seventh Regular Session

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WEDNESDAY, January 11, 2006

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The Chief Clerk makes the following entries under the above date.

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**CHIEF CLERK’S ENTRIES**

The Chief Clerk makes the following entries dated Thursday, January 5, 2006.

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The Chief Clerk records:

**Senate Bill 58**  
**Senate Bill 70**  
**Senate Bill 138**  
**Senate Bill 171**  
**Senate Bill 402**

Presented to the Governor on January 5, 2006.

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The Chief Clerk makes the following entries dated Friday, January 6, 2006.

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Read first time and referred:

**Senate Bill 498**

Relating to: excavation notices and installation of certain water and sewer laterals.

By Senators Leibham and Kanavas; cosponsored by Representatives Nass, LeMahieu, Hines, Hahn, Pettis, Ainsworth and Montgomery.

To committee on **Natural Resources and Transportation**.

**Senate Bill 499**

Relating to: recording and filing transportation project plats.

By Senators Grothman, Roessler, Lassa and Kedzie; cosponsored by Representatives Hahn, Krawczyk, Hines, F. Lasee, Albers, Gunderson, Strachota, Ott and Van Roy.

To committee on **Natural Resources and Transportation**.

**Senate Bill 500**

Relating to: the applicability of rules concerning the storage of bulk fertilizer and bulk pesticides.

By Senator Olsen; cosponsored by Representatives Hines, Towns and Gronemus.

To committee on **Natural Resources and Transportation**.

**Senate Bill 501**

Relating to: damages for frivolous claims.

By Senators Grothman, Stepp, Roessler, Darling, Reynolds and Lazich; cosponsored by Representatives Gundrum, Travis, Gard, Kestell, Hahn, LeMahieu, Van Roy, Hundertmark,

Musser, Jensen, Pettis, Nischke, Gottlieb, Vos, Gunderson, Ballweg, Krawczyk, Owens, Bies and McCormick.

To committee on **Judiciary, Corrections and Privacy**.

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**State of Wisconsin**  
**Office of the Governor**

January 6, 2006

The Honorable, The Senate:

I am vetoing Senate Bill 58. The bill makes sweeping changes to Wisconsin’s product liability law and places a larger burden on consumers to prove the defective condition of products.

I am committed to investing in all of our industries and fostering a business climate in Wisconsin that promotes growth. However, growing Wisconsin’s economy should not be at the expense of injured consumers’ and workers’ ability to hold wrongdoers accountable. For example, the bill grants automatic immunity for any product that has been in the marketplace for 15 years. This arbitrary time limit is inherently unfair and puts consumers and workers at a disadvantage, given that a defect in a product may not manifest until years after the product is placed in the stream of commerce.

In addition, the bill creates a presumption that a manufactured product is not defective if it complies with the relevant state and federal laws, at the time of sale. Unfortunately, history is full of examples – like the Ford Pinto – where manufacturers complied with existing government regulations, all the while concealing information about a product that threatened public health and safety. Producers who hide information from government regulators and the public shouldn’t have an advantage against more responsible companies.

The bill also provides a liability shield for distributors and sellers when they receive products in a sealed container. By shielding these two groups from liability, it takes away the incentive of the industry as a whole to produce, sell, and market the safest products possible. Moreover, there is no definition of sealed container in the legislation, making this a dangerously vague exception.

This bill simply goes too far. Protecting products like the Ford Pinto doesn’t help consumers or the economy; it simply puts the public at risk. Companies should be held fully accountable if they make a product that hurts people – especially if they knowingly do so and conceal information from government regulators.

Growing Wisconsin’s economy and protecting the safety of consumers in Wisconsin are both priorities of my Administration. Any legislation must fairly balance the interests of consumers with those of manufacturers, distributors, and sellers.

Sincerely,  
JIM DOYLE  
Governor

**State of Wisconsin  
Office of the Governor**

January 6, 2006

The Honorable, The Senate:

I am vetoing Senate Bill 70. This bill would change the state standard for admissibility of lay and expert witness testimony in our courts and administrative hearings. Under current law, juries weigh the reliability and credibility of witness testimony while challenges are made through cross-examination. This bill would require judges to act as “gatekeepers” of information and the arbiters of what is allowable expert testimony based on what they perceive to be sound scientific method.

I am vetoing this bill for many of the same reasons that I vetoed the similar, Senate Bill 49, from last session. As I previously stated, I am aware of no evidence that Wisconsin’s existing rules governing the admissibility of lay and expert witness testimony have produced unfair results and require revision. Wisconsin judges are already empowered under current law to reject evidence because it is superfluous, prejudicial or inherently improbable.

Moreover, SB 70 would hinder the efforts of state prosecutors in criminal prosecutions. Under this bill, state prosecutors would face an additional obstacle in introducing key expert testimony that relies on disciplines such as psychiatry, DNA testing, fingerprinting or forensics.

In short, this bill is a solution in search of a problem, and it would only make the job of prosecutors in Wisconsin harder. Judges and juries can already reject evidence if it is superfluous or improbable, so there is simply no reason to add additional procedural hurdles to the system. I trust juries in this state to properly weigh the credibility and reliability of evidence when making their decisions, and I must therefore veto this bill.

Sincerely,

JIM DOYLE  
Governor

**State of Wisconsin  
Office of the Governor**

January 6, 2006

The Honorable, The Senate:

I am vetoing Senate Bill 138, which requires doctors to make certain statements to women seeking abortions.

A woman considering an abortion is confronted with a profoundly personal dilemma. Her decision making process becomes more difficult the further along the pregnancy. Few abortions occur after the twentieth week of gestation and when they are being considered it is often because of serious, sometimes fatal, health care complications for the fetus and/or the pregnant woman. In any such circumstance, it is my hope that a woman’s family, friends and personal physician will be available to assist her in making the best decision for her and her family. Certainly, they are the individuals best positioned to do so.

The state already intervenes in this decision making process by requiring that a woman considering an abortion provide informed consent. Her physician must provide information on fetal development and the risks of undergoing an abortion. According to state law the information currently provided must be objective and accurate.

The required notice of fetal pain in this bill fails to reflect a consensus of medical opinion. In fact, a recent article in the Journal of the American Medical Association reported that after a thorough review of the available literature, there is no conclusive scientific evidence of when a fetus first feels pain.

Many of the studies reviewed indicate that pain perception probably does not function before the third trimester.

For any medical procedure, the information that a doctor provides to a patient should be based on the best available science and proven medical practice. All the more so when the medical procedure involves a pregnant woman with potentially serious medical complications. It would be reckless to inject a requirement that doctors communicate unproven science to their patients during an already difficult and sometimes traumatic time. Certainly, the legislature is in no position to decide what is and what is not settled medical fact.

This bill intrudes on the doctor patient relationship in a heavy handed manner and contravenes the requirement that doctors provide objective and accurate information to their patients. In any case, I trust doctors, not the Legislature, to make medical judgments. We should keep the doctor-patient relationship between doctors and patients and keep the Legislature out of it.

Sincerely,

JIM DOYLE  
Governor

**State of Wisconsin  
Office of the Governor**

January 6, 2006

The Honorable, The Senate:

I am vetoing Senate Bill 171 in its entirety. This bill prohibits school boards from calling a special election to hold referenda to seek voter approval for the purpose of borrowing money or exceeding the revenue limit applicable to the school district.

Under current law, school boards must obtain, through referenda, approval of the school district’s electors for either of these purposes. Referenda may be held at the next regularly scheduled primary or election held at least 45 days after adopting the borrowing resolution or at least 42 days after adopting the resolution to exceed the limit is filed. Additionally, referenda may be held at a special election. This bill prohibits a school board from calling a special election for either of these purposes, except that a special election could occur in the odd-numbered years on the second Tuesday in September and the first Tuesday after the first Monday in November. Under the bill, referenda to borrow money or exceed the revenue limit could be held on just four possible dates in any year.

I am vetoing Senate Bill 171 because I believe it places an unnecessary and burdensome restriction on local communities. Current law already requires school boards to provide ample notice for upcoming referenda held during a special election. This bill would limit the ability of school boards to respond to emergencies or financial crises. The children in a school building where a roof collapsed should not have to wait an additional three months or more for repairs simply because the roof happened to collapse just after a regularly scheduled election.

Elected school board members are accountable to local voters. The best way to influence the scheduling of school referenda is to encourage citizens to vote for school board members who reflect their views, not by eroding local control with more state mandates.

Sincerely,

JIM DOYLE  
Governor

**State of Wisconsin  
Office of the Governor**

January 6, 2006

The Honorable, The Senate:

I am vetoing Senate Bill 402. This bill is the Legislature's response to *Thomas v. Mallett*, 2005 WI 129, the recent Wisconsin Supreme Court decision that allows persons injured by lead paint to pursue claims against lead paint manufacturers, in instances where an injured claimant is unable to identify the specific manufacturer that manufactured the specific lead paint that caused the claimant's injury. SB 402 would undo the effect of this decision and shield the lead paint industry from otherwise viable claims brought by persons injured by the ingestion of lead paint.

I am vetoing this bill because the problem of lead paint poisoning in Wisconsin is substantial and ongoing, and children injured by the ingestion of lead paint should have some recourse against the companies that manufactured lead paint. Since 1987, over 100,000 children have been poisoned by lead paint in Wisconsin, and thousands more cases are reported each year. Milwaukee has one of the highest rates of lead paint poisoning among children in the United States. The children injured by lead paint face potentially lifelong medical costs that they should not be forced to bear alone. They deserve to have justice.

In short, this bill puts lead paint companies first and children last. It is an attempt to whitewash decades of negligence by the lead paint companies. Many of these companies knew there was reason to believe their product was dangerous, yet they ignored that evidence in order to turn a profit. There is no reason why these companies should be given special legal protections given their documented record of endangering America's children.

I recognize that Wisconsin's manufacturing sector may have legitimate concerns in wanting to limit what it perceives as the potential reach of the Wisconsin Supreme Court decision in *Thomas*. I encourage the Legislature to craft a responsible solution that addresses the concerns of manufacturers as a whole, but I will not sign into law a bill that shuts the doors of justice on children poisoned by lead paint. I therefore must veto this bill.

Sincerely,

JIM DOYLE  
Governor

Pursuant to Senate Rule 17 (5), Senator Brown added as a coauthor of **Senate Joint Resolution 33**.

**Senate Clearinghouse Rule 02-137**

Relating to unemployment insurance availability.  
Submitted by Department of Workforce Development .  
Report received from Agency, January 6, 2006.

Referred to committee on **Job Creation, Economic Development and Consumer Affairs**, January 6, 2006.

**Senate Clearinghouse Rule 05-067**

Relating to garnishment.  
Submitted by Department of Workforce Development .  
Report received from Agency, January 6, 2006.

Referred to committee on **Job Creation, Economic Development and Consumer Affairs**, January 6, 2006.

The Chief Clerk makes the following entries dated Monday, January 9, 2006.

Read first time and referred:

**Senate Bill 502**

Relating to: references to certificates granted by the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board and eligibility requirements for training certificates for marriage and family therapists and professional counselors.

By Senators Harsdorf and Cowles; cosponsored by Representatives Montgomery, Lamb, Wasserman, Hahn, Turner, Musser, Krawczyk, Albers, Ott, Owens, Van Roy and Lehman.

To committee on **Health, Children, Families, Aging and Long Term Care**.

The committee on **Veterans, Homeland Security, Military Affairs, Small Business and Government Reform** reports and recommends:

**Assembly Bill 775**

Relating to: fermented malt beverages wholesalers.

Concurrence.

Ayes, 5 – Senators Brown, Zien, Kanavas, Breske and Wirch.

Noes, 0 – None.

BABLITCH, STEPHEN, of Whitefish Bay, as Secretary of the Department of Administration, to serve for the term ending at the pleasure of the Governor.

Confirmation.

Ayes, 5 – Senators Brown, Zien, Kanavas, Breske and Wirch.

Noes, 0 – None.

RONALD BROWN  
Chairperson

**State of Wisconsin  
Office of the Governor**

January 6, 2006

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint JANSEN, ALLAN, of Hazel Green, as a member of the Waste Facilities Siting Board, to serve for the term ending May 1, 2006.

Sincerely,

JIM DOYLE  
Governor

Read and referred to committee on **Natural Resources and Transportation**.

**State of Wisconsin  
Office of the Governor**

January 6, 2006

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint BIELECKI, DARIN, of Madison, as a member of the Accounting Examining Board, to serve for the term ending July 1, 2009.

Sincerely,

JIM DOYLE  
Governor

Read and referred to committee on **Job Creation, Economic Development and Consumer Affairs**.

The committee on **Veterans, Homeland Security, Military Affairs, Small Business and Government Reform** reports and recommends:

**Senate Clearinghouse Rule 04–135**

Relating to manufactured home parks and affecting small businesses.

No action taken.

**Senate Clearinghouse Rule 05–036**

Relating to conduct, examinations, continuing education, and affecting small business.

No action taken.

**Senate Clearinghouse Rule 05–050**

Relating to cheating on an examination and breach of examination security.

No action taken.

**Senate Clearinghouse Rule 05–090**

Relating to the military funeral honors program.

No action taken.

**Senate Clearinghouse Rule 05–091**

Relating to the veterans retraining grant program.

No action taken.

**Senate Clearinghouse Rule 05–096**

Relating to the veterans tuition reimbursement program.

No action taken.

**Senate Clearinghouse Rule 05–097**

Relating to the assistance to needy veterans program.

No action taken.

RONALD BROWN  
Chairperson

Senate amendment 1 to **Senate Bill 480** offered by Senator A. Lasee.

**INTRODUCTION, FIRST READING AND REFERENCE OF PROPOSALS**

Read and referred:

**Senate Resolution 12**

Relating to: the Professional Ambulance Association of Wisconsin.

By Senator Brown.

To committee on **Senate Organization**.

**Senate Joint Resolution 56**

Relating to: commending Barry Alvarez for his achievements as coach of the University of Wisconsin Badgers football team.

By Senators Risser, Erpenbach, Schultz, Plale, Breske, Taylor, Lazich, A. Lasee, Olsen, Kedzie, Roessler, Coggs and Darling; cosponsored by Representatives Black, Pocan, Cullen, Loeffelholz, Nelson, McCormick, Travis, Musser, Hebl, Wieckert, Rhoades, Van Akkeren, Jeskewitz, Lothian, Boyle,

Molepske, Berceau, Hahn, Vos, Petrowski, Ward, Towns, M. Williams, Sheridan, Lehman, Bies, Kerkman, Staskunas, Hundertmark, Stone, Ballweg, Gunderson and Owens.

To committee on **Senate Organization**.

**Senate Joint Resolution 57**

Relating to: commending the University of Wisconsin–Madison and James Thomson.

By Senators Miller, Erpenbach, Coggs, Robson and Risser; cosponsored by Representatives Black, Benedict, Molepske, Boyle, Lehman, Jeskewitz, Turner, Pope–Roberts, Pocan, Berceau, Seidel, Schneider and Wasserman.

To committee on **Senate Organization**.

Read first time and referred:

**Senate Bill 503**

Relating to: the compensation paid for temporary reserve judges.

By Senators Darling and Roessler; cosponsored by Representatives Gundrum, Jeskewitz, Staskunas, Townsend and Albers.

To committee on **Judiciary, Corrections and Privacy**.

**PETITIONS AND COMMUNICATIONS**

State of Wisconsin  
Office of the Secretary of State

To the Honorable, the Senate:

| <u>Bill Number</u>     | <u>Act Number</u> | <u>Publication Date</u> |
|------------------------|-------------------|-------------------------|
| <b>Senate Bill 21</b>  | <b>Act 90</b>     | January 19, 2006        |
| <b>Senate Bill 290</b> | <b>Act 97</b>     | January 19, 2006        |
| <b>Senate Bill 146</b> | <b>Act 98</b>     | January 19, 2006        |
| <b>Senate Bill 4</b>   | <b>Act 100</b>    | January 19, 2006        |
| <b>Senate Bill 175</b> | <b>Act 102</b>    | January 19, 2006        |

Sincerely,  
DOUGLAS LA FOLLETTE  
Secretary of State

**REFERRALS AND RECEIPT OF COMMITTEE REPORTS CONCERNING PROPOSED ADMINISTRATIVE RULES**

The joint committee for **Review of Administrative Rules** reports and recommends:

**Senate Clearinghouse Rule 05–059**

Relating to revising requirements for insurers offering defined network plans, preferred provider plans, and limited service health organization plans in order to comply with recent changes in state laws and affecting small businesses.

No action taken.

GLENN GROTHMAN  
Senate Chairperson

**AMENDMENTS OFFERED**

Senate amendment 1 to **Senate Bill 453** offered by Senator S. Fitzgerald.