

2007 DRAFTING REQUEST

Bill

Received: 09/22/2006

Received By: btradewe

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Miner

This file may be shown to any legislator: NO

Drafter: btradewe

May Contact:

Addl. Drafters:

Subject: Environment - solid haz. waste

Extra Copies:

Submit via email: NO

Pre Topic:

DOA:.....Miner, BB0130 -

Topic:

Recover costs associated with prosecution of hazardous waste violations

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>
/?				_____			State
/P1	btradewe 09/27/2006	kfollett 09/29/2006	rschluet 09/29/2006	_____	mbarman 09/29/2006		State
/1	btradewe 10/11/2006	kfollett 10/11/2006	sherritz 10/11/2006	_____	sbasford 10/11/2006		State
/2	btradewe 01/30/2007	jdye 01/30/2007	nmatzke 01/30/2007	_____	cdurst 01/30/2007		

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<END>

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2/30 jld

*nwn
1/30*

*nwn
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Requester's email:

Carbon copy (CC:) to: **Eric.Ebersberger@dnr.state.wi.us**

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11/5/06
10/11
sh
10/11
sh/rs
10/11

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By/Representing:

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

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May Contact:

Addl. Drafters:

Subject: **Environment - solid haz. waste**

Extra Copies:

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Requester's email: **Eric.Ebersberger@dnr.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

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FE Sent For:

BA130

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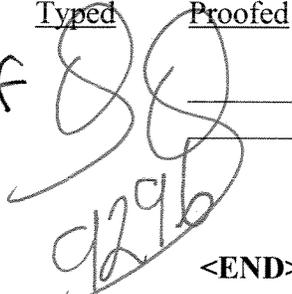
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/?	btradewe	1 P1/gf 9/29					
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FE Sent For:

<END>

2007-09 Statutory Language Proposals

Division:	Air and Waste
Bureau:	Waste and Materials Management
Issue/Topic:	Hazardous Waste Cost Recovery for Fines and Forfeitures
Proposed Change:	<p>1. Amend 20.455 (1) LEGAL SERVICES, to include 291.97(3) under: (gh) <i>Investigation and prosecution.</i> Moneys received under ss. 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3)(b), <u>291.97(3)</u>, 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., and 299.97 (2), for the expenses of investigation and prosecution of violations, including attorney fees.</p> <p>Add the following new language to 291.97 Violations and penalties:</p> <p>(3) Other Penalties. In addition to all other civil and criminal penalties prescribed under this chapter, the court may assess as an additional penalty a portion or all of the costs of the investigation, including monitoring, which led to the establishment of the violation. The court may award the department of justice the reasonable and necessary expenses of the prosecution, including attorney fees. The department of justice shall deposit in the state treasury for deposit into the general fund all moneys that the court awards to the department or the state under this subsection. The costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455(1)(gh).</p>
Explanatory Note:	<p>This change would allow the state to recover all or part of the costs associated with a successful prosecution (civil or criminal) of hazardous waste violations which result in monetary forfeitures. It would also reduce the dependency on Hazardous Waste fees to fund prosecution of civil and criminal violations because part of the penalty would be used to pay prosecution expenses. This language is the same language that currently exists for Solid Waste Facilities under s. 289.96(3).</p>
Desired Effective Date:	Effective Date of the 2007-09 Budget.
Contact Person:	Lance Potter, 267-7418



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0353/P1
RCT... kjf

SOON (in 9/27)
Agency budget draft

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Do Not Gen

1 AN ACT ...; relating to: recovery of the costs of prosecution of violations of
2 hazardous waste laws.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

This bill authorizes the judge in a case in which a person has been found to have violated this state's hazardous waste laws to order the person to pay DOJ the reasonable costs of the investigation and prosecution of the violation.

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:

3 SECTION 1. 20.455 (1) (gh) of the statutes is amended to read:
4 20.455 (1) (gh) *Investigation and prosecution.* Moneys received under ss. 49.49
5 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 291.97 (3), 292.99 (2),
6 293.87 (4) (b), 295.19 (3) (b) 2., and 299.97 (2), for the expenses of investigation and
7 prosecution of violations, including attorney fees.

History: 1971 c. 125; 1973 c. 90, 336; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 29, 418; 1979 c. 34 ss. 286m, 290, 523 to 526; 1979 c. 189, 219, 355; 1981 c. 20, 169; 1983 a. 27 ss. 427 to 430, 1800; 1983 a. 199, 523; 1985 a. 29, 120; 1987 a. 27, 326, 399; 1989 a. 31, 122, 336; 1991 a. 11, 39, 269; 1993 a. 16, 98, 193, 460, 496; 1995 a. 27



DOA

in 10/11

(m)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

This will have DOA budget info now

Don't Gen

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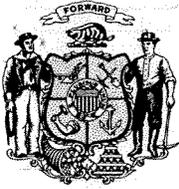
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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0353/2
RCT:kjf:sh ymv

In 1/30

DOA:.....Miner, BB0130 - Recover costs associated with prosecution of hazardous waste violations

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

note

donitgen

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1 293.87 (4) (b), 295.19 (3) (b) 2., and 299.97 (2), for the expenses of investigation and
2 prosecution of violations, including attorney fees.

3 **SECTION 2.** 291.97 (3) of the statutes is created to read:

4 291.97 (3) COST RECOVERY. In addition to the penalties provided under subs. (1)
5 and (2), the court may award the department of justice the reasonable and necessary
6 expenses of the investigation and prosecution of the violation, including attorney
7 fees and the costs of performing monitoring. The department of justice shall deposit
8 in the state treasury for deposit into the general fund all moneys that the court
9 awards to the department or the state under this paragraph. The costs of
10 investigation and the expenses of prosecution, including attorney fees, shall be
11 credited to the appropriation account under s. 20.455 (1) (gh).

12 **SECTION 9329. Initial applicability; Justice.**

13 (1) HAZARDOUS WASTE COST RECOVERY. The treatment of section[✓]291.97 (3) of the
14 statutes first applies to actions commenced on the effective date of this subsection.

15 (END)

Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0353/2dn

RCT: ^:...

date

Jld

Andrew Miner:

This draft reconciles LRB-0353[✓] and LRB-1510[✓]. Both of these drafts should continue to appear in the compiled bill.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
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LRB-0353/2dn
RCT:jld:nwn

January 30, 2007

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0353/2

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