

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0136/P3dn
RCT:kjf:jf

May 14, 2009

Michelle Michalak:

This is a redraft of the green cleaning proposal. I have kept it a preliminary draft because there are many changes from the last version and because there are still issues to be resolved. Please see the notes in the draft itself. The entire draft should be reviewed carefully. If this version is close to what is wanted, it will not take long to convert it to introducible form.

The redraft instructions implied that the state would simply adopt voluntary standards issued by third parties as Wisconsin law and that changes in those standards would automatically apply. There are some problems with that approach. It may be difficult for those subject to the law to find the third-party standards and particularly to know when they change. Also, this would mean delegating law-making authority to persons other than the legislature, which raises constitutional concerns. To avoid these problems, this draft requires the Department of Health Services (DHS) to promulgate initial rules based on third-party standards described in the draft that are in effect when the bill is enacted. Any changes would have to also be promulgated by rule.

I am not certain whether the intent is to allow DHS to enact standards for a product only if either EPA or Green Seal, Inc., has adopted a standard for the product. If so, is the intent that DHS may only enact a standard based on the standard adopted by EPA or Green Seal, Inc.? The draft should be clarified in this respect.

The redrafting instructions indicated that the council should be able to convene on its own initiative. Section 15.09 (3) authorizes a council to meet on the call of its chairperson or a majority of its members.

Please contact me with any questions or requests for changes in the draft.

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