

Selkove, Vicky

From: Childress, Jason M. [JChildress@foley.com]
Sent: Monday, April 27, 2009 8:15 PM
To: Selkove, Vicky; Rep.Mason
Subject: Green Schools bill

RET
 From Shelle
 Michalak
 Rep. Mason
 6-0634
 need
 4/29 - I
 thank

From the Desk of: Jason M. Childress

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Re: LRB 0316/P2

Here are our thoughts on changes to the Green Schools bill.... the consensus position of Kranz and JD.

- ✓ * The new law would apply to all taxpayer-supported entities, not just schools. This would include all local and state-owned facilities.
- ✓ * The law would apply to all product categories for which there are third party independent standards available. Specifically mention vacuum cleaners and floor scrubbers. Specify that new standards for machines would apply when those machines require replacement.
- ✓ * Have the bill establish baseline standards for product categories as follows: (a) general purpose cleaning chemicals = EPA's DfE or GreenSeal GS-37 standard; (b) hand soap = GreenSeal GS-41; (c) can liners = EPA standard; (d) paper towels and tissues = GreenSeal GS-1 and GS-9 and (e) carpet and rug cleaning machines = the carpet and rug institute green label.
- * The established Council shall review these standards every three years, or sooner if new technology emerges, and have the authority to change the standards to meet the goals of "green cleaning."
- * When reviewing standards, the Council shall favorably weight and give preference to products which advance human health and wellness.

Is this helpful? Could we see the next draft when it's done? Is Rep. Black still trying to hold hearings soon?



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4/30/2009

5/6 Telephone conversation with Jason Childress

1. Add other state buildings. Have DDA be responsible person.

2. He will look into how to describe (generally) the kinds of products this is to cover.

3. He will look into what 3rd party standards should be used. They do not want to limit the department to just one standard.

4. EPA DFE means Design For Environment. Do not want to require products to be certified. Carpet and Rug Institute = carpet-rug.org

5. I explained that a Council may not be given powers.

6. If there are alternatives, preference should be given to one that are best in terms of human health.

Tradewell, Becky

From: Michalak, Michelle
Sent: Tuesday, May 12, 2009 10:20 AM
To: Tradewell, Becky
Subject: FW: Clarification on Green Cleaning

Hi Becky,

I wanted to follow up with you regarding LRB-0136/P2dn, the Green Schools bill with some clarifications on some of the questions you raised. Please feel free to touch base with either myself or Jason if you have further questions.

Also, we are hoping to circulate this bill for co-sponsorship maybe as soon as Friday if possible. Can you let me know if you think that we'd be able to review the draft bill before then?

Thanks so much,

Shelle
 Office of Rep. Mason
 6-0634

From: Childress, Jason M. [mailto:JChildress@foley.com]
Sent: Monday, May 11, 2009 5:57 PM
To: Michalak, Michelle
Subject: Clarification on Green Cleaning

From the Desk of: Jason M. Childress

FOLEY

FOLEY & LARDNER LLP

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I think these answer the drafter's questions. If you agree can you forward this on to her?

* On compliance: DOA should be in charge of compliance, its not feasible to have DHS do that.

* On product categories: let's start with specific categories and then give the Council the discretion to add categories. There aren't that many, so let's start with the following: (1) "hand cleaners and hand soaps" for restroom or general usage; (2) "general cleaning chemicals" to include general purpose cleaners used to clean offices, restrooms and other institutional space, including carpet cleaners; (3) laundry care products, including powder or pre-measured dosage laundry detergents and stain removers; (4) tissue paper to include only toilet paper; (5) "Paper towels" to include all paper toweling, including restroom and toweling for general purpose usage, including paper napkins; (6) carpet and rug cleaning machines; (7) garbage can liners and (8) floor care and floor finishing products. Then empower the Council to create add new product categories, for janitorial and sanitation usage, after a review process. Empower the Council to clarify what products belong in what product categories in the event there is confusion. Tissue should be defined to mean only toilet paper.

* Empower the Council to add product categories if either the EPA or Green Seal has created a standard for that product, although the Council is not required to apply either of those standards. But the existence of an EPA or Green Seal standard for a product category would signal the existence of a "third party" standard.

* If a third party standard has been selected and that third party changes the details of the product standard, then compliance would have to adhere to the new standard. The Council should be empowered to de-select a standard if, after review, it is determined that the modifications made by the third party to the selected standard were too burdensome or perhaps no longer "green" enough for the state, which might prompt the Board to select a new third party standard. This would also apply to

05/12/2009

those standards that are initially be spelled out in statute per our previous instructions (meaning they are subject to review also)

* I don't think having the numbers in place for the initial standards spelled out in the statute is necessary (they may be with rulemaking though).

* Have the Council advisory to DHS, with DHS having the power promulgate rules. However, give the Council the authority to initiate reviews, convene and make recommendations without being called to do so by DHS and require DHS to respond to the Council's advice. (NOTE THIS IS THE Johnson Diversey position. I have asked Jeff Neubauer if he agrees and will let you know).

*Toilet paper, hand towels for the bathroom and floor care and laundry products should be included.

*



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Tradewell, Becky

From: Childress, Jason M. [JChildress@foley.com]
Sent: Tuesday, May 12, 2009 5:56 PM
To: Tradewell, Becky
Subject: RE: Green cleaning question

From the Desk of: Jason M. Childress



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I will check



From: Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]
Sent: Tuesday, May 12, 2009 5:14 PM
To: Childress, Jason M.
Cc: Michalak, Michelle
Subject: Green cleaning question

Jason,

I do not see an EPA standard for can liners. I have looked in vain at the DfE web materials and done a general search of EPA's Web site. I do not see a Green Seal standard either. Can you tell me where to find the desired standard for can liners?

Thank you,
Becky Tradewell
(608) 266-7290

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05/13/2009



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0136/P 3

RCT:kjf:jf

Monday, 5/18, if possible

VMV

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 AN ACT *to create* 15.197 (5) and 254.565 of the statutes; relating to:
 2 environmentally sensitive cleaning in certain buildings and granting
 3 rule-making authority. *and providing an exemption to emergency rule procedures, and from*

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

Analysis sheet

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 4 SECTION 1. 15.197 (5) of the statutes is created to read:
 5 15.197 (5) COUNCIL ON ENVIRONMENTALLY SENSITIVE CLEANING. (a) There is
 6 created in the department of health services a council on environmentally sensitive
 7 cleaning consisting of the following members:
 8 1. The superintendent of public instruction or the superintendent's designee.
 9 2. The secretary of natural resources or the secretary's designee.
 10 3. A representative of a distributor of cleaning products in this state.

- 1 4. A representative of a producer of cleaning products in this state.
- 2 5. A representative of a labor union that represents workers who use cleaning
- 3 products.
- 4 6. A representative of the organization Healthy Schools Campaign.
- 5 (b) The secretary of health services shall appoint the members under par. (a)
- 6 3. to 6. for 3-year terms.

7 SECTION 2. 254.565 of the statutes is created to read:

8 **254.565 Environmentally sensitive cleaning in certain buildings. (1)**

9 DEFINITIONS. In this section:

- 10 (a) "Campus" has the meaning given in s. 36.05 (3).
- 11 *INSERT* (b) "Charter school" has the meaning given in s. 115.001 (1).
- 12 *2-11* (c) "Environmentally sensitive cleaning" means cleaning that minimizes
- 13 adverse impacts on human health and the environment.
- 14 (d) "Political subdivision" means a city, village, town, or county.
- 15 (e) "Private school" has the meaning given in s. 115.001 (3r).
- 16 (f) "Public school" means a school described in s. 115.01 (1).
- 17 (g) "Responsible person" means one of the following:
 - 18 1. For a public school, other than a charter school, the school board.
 - 19 2. For a charter school, the governing body of the charter school.
 - 20 3. For a private school with 50 or more students, the governing body of the
 - 21 private school.
 - 22 4. For a building owned by a political subdivision, the political subdivision.
 - 23 5. For a building owned by a technical college district board, the technical
 - 24 college district board.

1 6. For a building on a campus, the Board of Regents of the University of
2 Wisconsin System.

Insert
3-2
3

→ (1) "School" means any of the following:

- 4 1. A public school, including a charter school.
- 5 2. A private school with 50 or more students.

(6) (2) "School board" has the meaning given in s. 115.001 (7).

(7) (2) RULES. (a) The department ^{*Insert 3-7*} shall promulgate rules requiring
8 environmentally sensitive cleaning in all of the following:

- 9 1. School buildings.
- 10 2. Buildings that are owned by political subdivisions.
- 11 3. Buildings that are owned by technical college district boards.
- 12 4. Buildings on a campus.

Insert
3-12

→ (b) In the rules under this subsection, the department shall prohibit the use of
13 all of the following:

(15) 2. ~~General purpose cleaners, restroom cleaners, glass cleaners, and carpet
16 cleaners that are not certified by Green Seal, Inc.~~ *standards for*
based on the standards of
Insert 3-16

~~2. Bathroom tissue and paper napkins that are not certified by Green Seal, Inc.,
18 as including 100 percent postconsumer materials.~~

(c) The department shall review the rules under this subsection annually to
19 determine whether to revise the rules.
20

(21) (d) The department shall provide information about the rules under this
22 subsection, including revisions to the rules, to each school board, to the governing
23 body of each charter school, and to the governing body of each private school with 50
24 or more students.

1 (3) REQUIREMENT. (a) Except as provided in par. (b) or (c), beginning on the first
 2 day of the 12th month beginning after the effective date of this paragraph [LRB
 3 inserts date], each responsible person shall ensure that the rules promulgated under
 4 sub. (2) are complied with in a building for which the responsible person is
 5 responsible.

6 (b) The rules promulgated under sub. (2) do not apply to the use of cleaning
 7 products purchased before the first day of the 12th month beginning after the
 effective date of this paragraph [LRB inserts date].

Insert
4-9-8

8 (c) A responsible person is exempt for one year from a requirement in the rules
 9 promulgated under sub. (2) relating to the use of a cleaning product if the responsible
 10 person demonstrates to the department that complying with the requirement would
 11 increase the responsible person's cleaning costs for the year.

Insert
4-12

12 **SECTION 3. Nonstatutory provisions.**

13 (1) RULE MAKING.

14 (a) The department of health services shall submit in proposed form the rules
 15 required under section 254.565 (2) of the statutes, as created by this act, to the
 16 legislative council staff under section 227.15 (1) of the statutes no later than the first
 17 day of the 7th month beginning after the effective date of this subsection.

18 (b) Using the procedure under section 227.24 of the statutes, the department
 19 of health services may promulgate the rules required under section 254.565 (2) of the
 20 statutes, as created by this act, for the period before the effective date of the rules
 21 submitted under paragraph (a), but not to exceed the period authorized under section
 22 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b),
 23 and (3) of the statutes, the department is not required to provide evidence that
 24 promulgating a rule under this paragraph as an emergency rule is necessary for the
 25

1 preservation of the public peace, health, safety, or welfare and is not required to
2 provide a finding of emergency for a rule promulgated under this paragraph.

3 (2) INITIAL TERMS OF MEMBERS OF COUNCIL. Notwithstanding the length of terms
4 specified under section 15.197 (5) (b) of the statutes, as created by this act, the
5 secretary of health services shall appoint initial members of the council on
6 environmentally sensitive cleaning as follows:

7 (a) The members under section 15.197 (5) (a) 3. and 6. of the statutes, as created
8 by this act, for terms expiring on July 1, 2012.

9 (b) The member under section 15.197 (5) (a) 4. of the statutes, as created by this
10 act, for a term expiring on July 1, 2013.

11 (c) The member under section 15.197 (5) (a) 5. of the statutes, as created by this
12 act, for a term expiring on July 1, 2014.

13 (END)

D-Note

1 **Analysis insert**

This bill requires the Department of Health Services (DHS) to promulgate rules requiring cleaning that minimizes adverse effects on human health and the environment (environmentally sensitive cleaning) in school buildings, buildings on University of Wisconsin campuses, other buildings owned by this state, buildings owned by a technical college district board, and buildings owned by a city, village, town, or county. DHS must consult with the Council on Environmentally Sensitive Cleaning, created by the bill, in promulgating the rules. The rules apply beginning one year after the bill is enacted. Under the bill, DHS may grant a one-year exemption from a requirement in the rules if a person responsible for complying with the requirement demonstrates that compliance would increase its cleaning costs.

The bill requires DHS to include, in the initial rules for environmentally sensitive cleaning, standards for certain products, based on existing voluntary standards adopted by the Environmental Protection Agency or specified private groups. The products include restroom cleaners, general purpose cleaners, floor finishing products, toilet paper and paper towels, and vacuum cleaners. DHS may later modify the standards for those products and may add standards for additional products for janitorial or sanitation use.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

2 **Insert 2-11**

3 (c) "Council" means the council on environmentally sensitive cleaning.

4 **Insert 3-2**

5 6. For a building owned by this state, other than a building on a campus, the
6 department of administration.

7 **Insert 3-7**

8 no \$, in consultation with the council,

9 **Insert 3-12**

10 5. Buildings owned by this state, other than buildings on a campus.

11 (b) In the initial rules under this subsection, the department shall include all
12 of the following:

1 1. Standards for hand cleaners and hand soap based on the standards of Green
2 Seal, Inc., that are in effect on the effective date of this subdivision [LRB inserts
3 date].

4 **Insert 3-16**

5 **NOTE**, that are in effect on the effective date of this subdivision [LRB inserts date],
6 or on the standards of the federal environmental protection agency under its Design
7 for the Environment Program that are in effect on the effective date of this
8 subdivision [LRB inserts date]

9 3. Standards for laundry care products based on the standards of the federal
10 environmental protection agency under its Design for the Environment Program
11 that are in effect on the effective date of this subdivision [LRB inserts date].

***NOTE: It appears that Green Seal does not yet have a standard for laundry products.

12 4. Standards for toilet paper based on the standards of Green Seal, Inc., that
13 are in effect on the effective date of this subdivision [LRB inserts date].

14 5. Standards for paper towels and paper napkins based on the standards of
15 Green Seal, Inc., that are in effect on the effective date of this subdivision [LRB
16 inserts date].

17 6. Standards for vacuum cleaners that are based on the standards of the Carpet
18 and Rug Institute under its Green Label Program that are in effect on the effective
19 date of this subdivision [LRB inserts date].

***NOTE: An examination of the Carpet and Rug Institute Internet site indicates that the Green Label Program does not cover other carpet cleaning machines. The standards for other carpet cleaning machines appear to be based only on effectiveness, not "greenness."

20 7. Standards for garbage can liners.

***NOTE: Information has not yet been provided concerning the source of the standards on which this is to be based.

1 8. Standards for floor care and floor finishing products based on the standards
2 of Green Seal, Inc., that are in effect on the effective date of this subdivision [LRB
3 inserts date].

4 (c) The department, in consultation with the council, may promulgate rules
5 that modify the initial rules promulgated under par. (b).

6 (d) The department, in consultation with the council, may promulgate rules
7 specifying standards for a product for janitorial or sanitation use, in addition to the
8 products covered in par. (b), if Green Seal, Inc., has adopted a standard for the
9 product or if the federal environmental protection agency has adopted a voluntary
10 standard for the product.

11 (e) When the department considers two or more standards on which to base a
12 rule under this subsection, the department shall give a preference to standards that
13 are more protective of human health.

14 **Insert 4-8**

15 (c) A rule promulgated under sub. (2) relating to a kind of machine does not
16 apply to the use of a machine of that type purchased before the effective date of the
17 rule.

18 **Insert 4-12**

19 (4) COUNCIL. (a) The council shall advise the department on the program under
20 this section. The council shall review the rules under sub. (2) at least every three
21 years and provide recommendations on changes to the rules. The council shall
22 review changes to a standard on which a rule under sub. (2) is based and advise the
23 department on whether to modify the rule to reflect the changes in the standard, to
24 modify the rule so that it is based on a different standard, or to make no changes to
25 the rule.

1 (b) The department shall review and provide a written response to any advice
2 that it receives from the council concerning the program under this section.

3

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

LRB-0136/P3dn

RCT. *kyf*

Date

✓
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.

X
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.

X
I am not certain whether the intent is to allow the Department of Health Services (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.

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

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.

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

Tradewell, Becky

From: Michalak, Michelle
Sent: Wednesday, May 20, 2009 8:23 AM
To: Tradewell, Becky
Subject: FW: FW: Draft review: LRB 09-0136/P3 Topic: Environmentally sensitive cleaning in schools and other public buildings

Attachments: pic17609.jpg; 09-0136P3.pdf; 09-0136P3dn.pdf



pic17609.jpg (2 KB) 09-0136P3.pdf (31 KB) 09-0136P3dn.pdf (7 KB)

Hi Becky,

I am forwarding you information regarding your most recent drafter's note. We have been working with Dr. Israel and Jason Childress on this issue and I wanted to be sure to share this information with you. Does this information help answer some of your questions?

Shelle Michalak
Office of State Representative Cory Mason
321 East -- State Capitol
PO Box 8953, Madison, WI 53708
Phone: (608) 266-0634

-----Original Message-----

If I understand the concern correctly, this seems to apply to situations where an entity such as EPA or Green Seal add standards or modify existing ones. I think it is in the best interest of the State and its stakeholders to have DHS assess the new or modified standard perhaps taking the recommendation of the council.

Just because an entity develops a new standard or modifies an existing standard, there needs to be an assessment whether these standards are based on sound scientific principles and address the purpose of the legislation.

By way of example, many are concerned with Green Seal's latest version Of GS-37 for cleaners. Some of the new criteria has been brought into question whether the appropriate benchmarks and scientific data are credible to be used in such a standard. The State of New York, who actually sponsored the development of version 2 of this standard, has not yet adopted it because of the concern surrounding the scientific validity of the data regarding sensitization potential. As another example, New York did not adopt GS-40 for floor finishes because they questioned Green Seal's decision to exclude zinc from floor finishes. New York recognized that from a total lifecycle standing, it is not clear whether excluding zinc (therefore requiring more frequent maintenance and reapplication) was the best approach.

So, these examples illustrate the need for Wisconsin to be able to assess new and modified standards defining green in order to ensure the proper science is being used to balance short term and long term health and environmental benefits. Options could include DHS as the ultimate decision maker but the council could provide valuable input into that decision.

I hope this helps. Call with questions.

Bob
(Embedded image moved to file: pic17609.jpg) Robert J. Israel, Ph.D., Vice President,
Global Environmental Sustainability & Regulatory Affairs
Voice: 262.631.4437
Mobile: 262.880.9239
Email: robert.israel@johnsondiversey.com

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Tradewell, Becky

From: Michalak, Michelle
Sent: Tuesday, May 26, 2009 6:24 PM
To: Tradewell, Becky
Subject: RE: FW: Draft review: LRB 09-0136/P3 Topic: Environmentally sensitive cleaning in schools and other public buildings

Hi Becky,

I agree with you that it appears that no change is necessary on the first point.

On the second point, DHS should be allowed to enact a green product standard based that best protects children and other school occupants and also protects the environment. If neither Green Seal nor EPA (or Ecologo) have such a standard and/or if DHS should find that the science does not adequately protect, then DHS should seek to find the best standard available should one exist.

In other words, DHS **should not necessarily be tied to EPA or Green Seal** but seek out the best available approach to protecting humans and the environment (What if some new standard setting body proves they have the best standard?). Should a standard be desired by DHS for a certain product type, the department could solicit standard setting bodies for proposals to develop standards where they don't exist. The request should stipulate best scientific principles be used in the development. The council could serve a role in this process as well. It is the existence of standards from one of those two entities that signals a viable third party standard and allows further rulemaking on other janitorial/sanitation standards not already listed in the bill. However, the Council could recommend another third party standard if one exists. This does require clarification.

On the third point, unfortunately we have been unable to find a standard for garbage can liners.

Are these answers helpful and/or do you need further clarification on anything else mentioned in your drafter's note.

Please let me know your thoughts.

Thank you,

Shelle

Shelle Michalak
Office of State Representative Cory Mason
321 East -- State Capitol
PO Box 8953, Madison, WI 53708
Phone: (608) 266-0634

From: Tradewell, Becky
Sent: Wednesday, May 20, 2009 10:26 AM
To: Michalak, Michelle
Subject: RE: FW: Draft review: LRB 09-0136/P3 Topic: Environmentally sensitive cleaning in schools and other public buildings

Shelle,

Thank you for forwarding Dr. Israel's message.

This does address the issue raised in the second paragraph of my drafter's note. The draft does not automatically adopt

new third-party standards or changes in standards. It does require the council to review changes to standards and advise DHS on whether to adopt the changes. Then DHS would make the final decision. It seems to me that no change needs to be made to the draft in response to Dr. Israel's comments.

The message does not address the issues raised in the third paragraph of the drafter's note. Those issues are whether the draft should allow DHS to enact a standard for a product only if either EPA or Green Seal has adopted a standard for the product and, if so, whether DHS's standard must be based on the EPA or Green Seal standard.

Another unresolved matter is the source of the third-party standard for garbage can liners.

Please let me know about any desired any changes in the draft or if have any questions.

Becky Tradewell
Managing Attorney
Legislative Reference Bureau
(608) 266-7290

-----Original Message-----

From: Michalak, Michelle
Sent: Wednesday, May 20, 2009 8:23 AM
To: Tradewell, Becky
Subject: FW: Draft review: LRB 09-0136/P3 Topic: Environmentally sensitive cleaning in schools and other public buildings

Hi Becky,

I am forwarding you information regarding your most recent drafter's note. We have been working with Dr. Israel and Jason Childress on this issue and I wanted to be sure to share this information with you. Does this information help answer some of your questions?

Shelle Michalak
Office of State Representative Cory Mason
321 East -- State Capitol
PO Box 8953, Madison, WI 53708
Phone: (608) 266-0634

-----Original Message-----

If I understand the concern correctly, this seems to apply to situations where an entity such as EPA or Green Seal add standards or modify existing ones. I think it is in the best interest of the State and its stakeholders to have DHS assess the new or modified standard perhaps taking the recommendation of the council.

Just because an entity develops a new standard or modifies an existing standard, there needs to be an assessment whether these standards are based on sound scientific principles and address the purpose of the legislation.

By way of example, many are concerned with Green Seal's latest version Of GS-37 for cleaners. Some of the new criteria has been brought into question whether the appropriate benchmarks and scientific data are credible to be used in such a standard. The State of New York, who actually sponsored the development of version 2 of this standard, has not yet adopted it because of the concern surrounding the scientific validity of the data regarding sensitization potoential. As another example, New York did not adopt GS-40 for floor finishes because they questioned Green Seals decision to exclude zinc from floor finishes. New York recognized that from a total lifecycle standing, it is not clear whether excluding zinc (therefore requiring more frequent maintenance and reapplication) was the best approach.

So, these examples illustrate the need for Wisconsin to be able to assess new and modified standards defining green in order to ensure the proper science is being used to balance short term and long term health and environmental benefits. Options could include DHS as the ultimate decision maker but the council could provide valuable input into that decision.

I hope this helps. Call with questions.

Bob
(Embedded image moved to file: pic17609.jpg) Robert J. Israel, Ph.D., Vice President, Global Environmental Sustainability & Regulatory Affairs
Voice: 262.631.4437

Mobile: 262.880.9239
Email: robert.israel@johnsondiversey.com

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Tradewell, Becky

From: Michalak, Michelle
Sent: Thursday, May 28, 2009 8:53 PM
To: Tradewell, Becky
Subject: RE: FW: Draft review: LRB 09-0136/P3 Topic: Environmentally sensitive cleaning in schools and other public buildings

Hi Becky,

I know that you have a lot on your plate right now – but I wanted to be sure to also include further comments on this draft.

The one other change we have would be to remove the floor care standard. There is only one standard for floor care products and that is Green Seal. But when the State of New York wrote its law it rejected the Green Seal standard for floor care products because they deemed it impractical and counterproductive. The Green Seal standard requires use of a product that dramatically shortens the life cycle of the floor finish, requiring more applications and therefore defeating the purpose of green cleaning (and being more expensive). It is very important that the floor care standard be removed.

Shelle Michalak
Office of State Representative Cory Mason
321 East -- State Capitol
PO Box 8953, Madison, WI 53708
Phone: (608) 266-0634

From: Tradewell, Becky
Sent: Wednesday, May 27, 2009 8:59 AM
To: Michalak, Michelle
Subject: RE: FW: Draft review: LRB 09-0136/P3 Topic: Environmentally sensitive cleaning in schools and other public buildings

Shelle,

Because of budget workload, it will be a little while before I can focus on this. I will get back to you as soon as I can.

Becky

From: Michalak, Michelle
Sent: Tuesday, May 26, 2009 6:24 PM
To: Tradewell, Becky
Subject: RE: FW: Draft review: LRB 09-0136/P3 Topic: Environmentally sensitive cleaning in schools and other public buildings

Hi Becky,

I agree with you that it appears that no change is necessary on the first point.

On the second point, DHS should be allowed to enact a green product standard based that best protects children and other school occupants and also protects the environment. If neither Green Seal nor EPA (or Ecologo) have such a standard and/or if DHS should find that the science does not adequately protect, then DHS should seek to find the best standard available should one exist.

In other words, DHS **should not necessarily be tied to EPA or Green Seal** but seek out the best available

approach to protecting humans and the environment (What if some new standard setting body proves they have the best standard?). Should a standard be desired by DHS for a certain product type, the department could solicit standard setting bodies for proposals to develop standards where they don't exist. The request should stipulate best scientific principles be used in the development. The council could serve a role in this process as well. It is the existence of standards from one of those two entities that signals a viable third party standard and allows further rulemaking on other janitorial/sanitation standards not already listed in the bill. However, the Council could recommend another third party standard if one exists. This does require clarification.

On the third point, unfortunately we have been unable to find a standard for garbage can liners.

Are these answers helpful and/or do you need further clarification on anything else mentioned in your drafter's note.

Please let me know your thoughts.

Thank you,

Shelle

Shelle Michalak
Office of State Representative Cory Mason
321 East -- State Capitol
PO Box 8953, Madison, WI 53708
Phone: (608) 266-0634

From: Tradewell, Becky
Sent: Wednesday, May 20, 2009 10:26 AM
To: Michalak, Michelle
Subject: RE: FW: Draft review: LRB 09-0136/P3 Topic: Environmentally sensitive cleaning in schools and other public buildings

Shelle,

Thank you for forwarding Dr. Israel's message.

This does address the issue raised in the second paragraph of my drafter's note. The draft does not automatically adopt new third-party standards or changes in standards. It does require the council to review changes to standards and advise DHS on whether to adopt the changes. Then DHS would make the final decision. It seems to me that no change needs to be made to the draft in response to Dr. Israel's comments.

The message does not address the issues raised in the third paragraph of the drafter's note. Those issues are whether the draft should allow DHS to enact a standard for a product only if either EPA or Green Seal has adopted a standard for the product and, if so, whether DHS's standard must be based on the EPA or Green Seal standard.

Another unresolved matter is the source of the third-party standard for garbage can liners.

Please let me know about any desired any changes in the draft or if have any questions.

Becky Tradewell
Managing Attorney
Legislative Reference Bureau
(608) 266-7290

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From: Michalak, Michelle
Sent: Wednesday, May 20, 2009 8:23 AM
To: Tradewell, Becky

Subject: FW: FW: Draft review: LRB 09-0136/P3 Topic: Environmentally sensitive cleaning in schools and other public buildings

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Shelle Michalak
Office of State Representative Cory Mason
321 East -- State Capitol
PO Box 8953, Madison, WI 53708
Phone: (608) 266-0634

-----Original Message-----

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Just because an entity develops a new standard or modifies an existing standard, there needs to be an assessment whether these standards are based on sound scientific principles and address the purpose of the legislation.

By way of example, many are concerned with Green Seal's latest version Of GS-37 for cleaners. Some of the new criteria has been brought into question whether the appropriate benchmarks and scientific data are credible to be used in such a standard. The State of New York, who actually sponsored the development of version 2 of this standard, has not yet adopted it because of the concern surrounding the scientific validity of the data regarding sensitization potoential. As another example, New York did not adopt GS-40 for floor finishes because they questioned Green Seals decision to exclude zinc from floor finishes. New York recognized that from a total lifecycle standing, it is not clear whether excluding zinc (therefore requiring more frequent maintenance and reapplication) was the best approach.

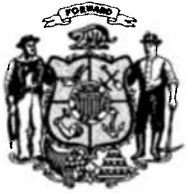
So, these examples illustrate the need for Wisconsin to be able to assess new and modified standards defining green in order to ensure the proper science is being used to balance short term and long term health and environmental benefits. Options could include DHS as the ultimate decision maker but the council could provide valuable input into that decision.

I hope this helps. Call with questions.

Bob
(Embedded image moved to file: pic17609.jpg) Robert J. Israel, Ph.D., Vice President, Global Environmental Sustainability & Regulatory Affairs
Voice: 262.631.4437
Mobile: 262.880.9239
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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0136/P3 1

RCT:kjf:jf

soon (IN 6/5)

1WY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 AN ACT to create 15.197 (5) and 254.565 of the statutes; relating to:
2 environmentally sensitive cleaning in certain buildings, providing an
3 exemption from emergency rule procedures, and granting rule-making
4 authority.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Health Services (DHS) to promulgate rules requiring cleaning that minimizes adverse effects on human health and the environment (environmentally sensitive cleaning) in school buildings, buildings on University of Wisconsin campuses, other buildings owned by this state, buildings owned by a technical college district board, and buildings owned by a city, village, town, or county. DHS must consult with the Council on Environmentally Sensitive Cleaning, created by the bill, in promulgating the rules. The rules apply beginning one year after the bill is enacted. Under the bill, DHS may grant a one-year exemption from a requirement in the rules if a person responsible for complying with the requirement demonstrates that compliance would increase its cleaning costs.

The bill requires DHS to include, in the initial rules for environmentally sensitive cleaning, standards for certain products, based on existing voluntary standards adopted by the Environmental Protection Agency or specified private groups. The products include restroom cleaners, general purpose cleaners, floor finishing products, toilet paper and paper towels, and vacuum cleaners. DHS may later modify the standards for those products and may add standards for additional products for janitorial or sanitation use.

hand soap
hand soap

(EPA)

*
*
*

Analysis insert

For further information see the *state and local* 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. 15.197 (5) of the statutes is created to read:

2 15.197 (5) COUNCIL ON ENVIRONMENTALLY SENSITIVE CLEANING. (a) There is
3 created in the department of health services a council on environmentally sensitive
4 cleaning consisting of the following members:

- 5 1. The superintendent of public instruction or the superintendent's designee.
- 6 2. The secretary of natural resources or the secretary's designee.
- 7 3. A representative of a distributor of cleaning products in this state.
- 8 4. A representative of a producer of cleaning products in this state.
- 9 5. A representative of a labor union that represents workers who use cleaning
10 products.
- 11 6. A representative of the organization Healthy Schools Campaign.

12 (b) The secretary of health services shall appoint the members under par. (a)
13 3. to 6. for 3-year terms.

14 SECTION 2. 254.565 of the statutes is created to read:

15 **254.565 Environmentally sensitive cleaning in certain buildings. (1)**

16 DEFINITIONS. In this section:

- 17 (a) "Campus" has the meaning given in s. 36.05 (3).
- 18 (b) "Charter school" has the meaning given in s. 115.001 (1).
- 19 (c) "Council" means the council on environmentally sensitive cleaning.
- 20 (d) "Environmentally sensitive cleaning" means cleaning that minimizes
21 adverse impacts on human health and the environment.

- 1 (e) "Political subdivision" means a city, village, town, or county.
- 2 (f) "Private school" has the meaning given in s. 115.001 (3r).
- 3 (g) "Public school" means a school described in s. 115.01 (1).
- 4 (h) "Responsible person" means one of the following:
- 5 1. For a public school, other than a charter school, the school board.
- 6 2. For a charter school, the governing body of the charter school.
- 7 3. For a private school with 50 or more students, the governing body of the
- 8 private school.
- 9 4. For a building owned by a political subdivision, the political subdivision.
- 10 5. For a building owned by a technical college district board, the technical
- 11 college district board.
- 12 6. For a building on a campus, the Board of Regents of the University of
- 13 Wisconsin System.
- 14 7. For a building owned by this state, other than a building on a campus, the
- 15 department of administration.
- 16 (i) "School" means any of the following:
- 17 1. A public school, including a charter school.
- 18 2. A private school with 50 or more students.
- 19 (j) "School board" has the meaning given in s. 115.001 (7).
- 20 **(2) RULES.** (a) The department, in consultation with the council, shall
- 21 promulgate rules requiring environmentally sensitive cleaning in all of the
- 22 following:
- 23 1. School buildings.
- 24 2. Buildings that are owned by political subdivisions.
- 25 3. Buildings that are owned by technical college district boards.

1 4. Buildings on a campus.

2 5. Buildings owned by this state, other than buildings on a campus.

3 (b) In the initial rules under this subsection, the department shall include all
4 of the following:

5 1. Standards for hand cleaners and hand soap based on the standards of Green
6 Seal, Inc., that are in effect on the effective date of this subdivision ... [LRB inserts
7 date].

8 2. Standards for general purpose cleaners, restroom cleaners, glass cleaners,
9 and carpet cleaners based on the standards of Green Seal, Inc., that are in effect on
10 the effective date of this subdivision ... [LRB inserts date], or on the standards of the
11 federal environmental protection agency under its Design for the Environment
12 Program that are in effect on the effective date of this subdivision ... [LRB inserts
13 date].

14 3. Standards for laundry care products based on the standards of the federal
15 environmental protection agency under its Design for the Environment Program
16 that are in effect on the effective date of this subdivision ... [LRB inserts date].

****NOTE: It appears that Green Seal does not yet have a standard for laundry products.

17 4. Standards for toilet paper based on the standards of Green Seal, Inc., that
18 are in effect on the effective date of this subdivision ... [LRB inserts date].

19 5. Standards for paper towels and paper napkins based on the standards of
20 Green Seal, Inc., that are in effect on the effective date of this subdivision ... [LRB
21 inserts date].

1 6. Standards for vacuum cleaners that are based on the standards of the Carpet
2 and Rug Institute under its Green Label Program that are in effect on the effective
3 date of this subdivision [LRB inserts date].

****NOTE: An examination of the Carpet and Rug Institute Internet site indicates that the Green Label Program does not cover other carpet cleaning machines. The standards for other carpet cleaning machines appear to be based only on effectiveness, not "greenness."

7. Standards for garbage can liners.

****NOTE: Information has not yet been provided concerning the source of the standards on which this is to be based.

8. Standards for floor care and floor finishing products based on the standards of Green Seal, Inc., that are in effect on the effective date of this subdivision [LRB inserts date].

8 (c) The department, in consultation with the council, may promulgate rules
9 that modify the initial rules promulgated under par. (b).

10 (d) The department, in consultation with the council, may promulgate rules
11 specifying standards for a product for janitorial or sanitation use, in addition to the
12 products covered in par. (b), if Green Seal, Inc., has adopted a standard for the
13 product or if the federal environmental protection agency has adopted a voluntary
14 standard for the product. *Insert 5-14*

15 (e) When the department considers 2 or more standards on which to base a rule
16 under this subsection, the department shall give a preference to standards that are
17 more protective of human health.

18 (f) The department shall provide information about the rules under this
19 subsection, including revisions to the rules, to each school board, to the governing
20 body of each charter school, and to the governing body of each private school with 50
21 or more students.

1 **(3) REQUIREMENT.** (a) Except as provided in pars. (b) to (d), beginning on the
2 first day of the 12th month beginning after the effective date of this paragraph
3 [LRB inserts date], each responsible person shall ensure that the rules promulgated
4 under sub. (2) are complied with in a building for which the responsible person is
5 responsible.

6 (b) Except as provided in par. (c), the rules promulgated under sub. (2) (b) do
7 not apply to the use of products purchased before the first day of the 12th month
8 beginning after the effective date of this paragraph [LRB inserts date].

9 (c) A rule promulgated under sub. (2) relating to a kind of machine does not
10 apply to the use of a machine of that type purchased before the effective date of the
11 rule.

12 (d) A responsible person is exempt for one year from a requirement in the rules
13 promulgated under sub. (2) relating to the use of a product if the responsible person
14 demonstrates to the department that complying with the requirement would
15 increase the responsible person's cleaning costs for the year.

16 **(4) COUNCIL.** (a) The council shall advise the department on the program under
17 this section. The council shall review the rules under sub. (2) at least every 3 years
18 and provide recommendations on changes to the rules. The council shall review
19 changes to a standard on which a rule under sub. (2) is based and advise the
20 department on whether to modify the rule to reflect the changes in the standard, to
21 modify the rule so that it is based on a different standard, or to make no changes to
22 the rule.

23 (b) The department shall review and provide a written response to any advice
24 that it receives from the council concerning the program under this section.

25 **SECTION 3. Nonstatutory provisions.**

1 (1) RULE MAKING.

2 (a) The department of health services shall submit in proposed form the rules
3 required under section 254.565 (2) (b) of the statutes, as created by this act, to the
4 legislative council staff under section 227.15 (1) of the statutes no later than the first
5 day of the 7th month beginning after the effective date of this subsection.

6 (b) Using the procedure under section 227.24 of the statutes, the department
7 of health services may promulgate the rules required under section 254.565 (2) (b)
8 of the statutes, as created by this act, for the period before the effective date of the
9 rules submitted under paragraph (a), but not to exceed the period authorized under
10 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
11 (2) (b), and (3) of the statutes, the department is not required to provide evidence that
12 promulgating a rule under this paragraph as an emergency rule is necessary for the
13 preservation of the public peace, health, safety, or welfare and is not required to
14 provide a finding of emergency for a rule promulgated under this paragraph.

15 (2) INITIAL TERMS OF MEMBERS OF COUNCIL. Notwithstanding the length of terms
16 specified under section 15.197 (5) (b) of the statutes, as created by this act, the
17 secretary of health services shall appoint initial members of the council on
18 environmentally sensitive cleaning as follows:

19 (a) The members under section 15.197 (5) (a) 3. and 6. of the statutes, as created
20 by this act, for terms expiring on July 1, 2012.

21 (b) The member under section 15.197 (5) (a) 4. of the statutes, as created by this
22 act, for a term expiring on July 1, 2013.

23 (c) The member under section 15.197 (5) (a) 5. of the statutes, as created by this
24 act, for a term expiring on July 1, 2014.

25 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0136/lins
RCT.....

1 **Analysis insert**

noFF

The bill authorizes DHS to adopt, by rule, a standard for an additional product for janitorial or sanitation use if EPA or Green Seal, Inc., has adopted a standard for the product. DHS is not required to base the rule on the standard adopted by EPA or Green Seal, Inc., if DHS determines that another body has adopted a better standard.

2 **Insert 5-14**

noFF

3 The department is not required to base a rule under this paragraph on the
4 standard adopted by Green Seal, Inc., or the federal environmental protection
5 agency for a product, but may base a rule on a standard for the product adopted by
6 another entity if the department determines that the other entity's standard is
7 practical and better promotes environmentally sensitive cleaning. The department
8 may request Green Seal, Inc., or the federal environmental agency to adopt a
9 standard for a product for janitorial or sanitation use for which a standard has not
10 been adopted.

Tradewell, Becky

From: Selkowe, Vicky
Sent: Monday, August 24, 2009 11:14 AM
To: Tradewell, Becky
Subject: Changes to Draft LRB-0136/1

Hi Becky –

Rep. Mason has a couple of changes he'd like made to this bill draft and analysis. He would like to have this bill considered at a Natural Resources Committee hearing on September 2nd, so he needs these changes made ASAP so he can circulate it for co-sponsorship and introduce it.

Please take a look at the below and let me know if you have any questions. I'm around all day.

1. The emphasis of the bill should be clarified throughout to be about "healthy and environmentally sensitive cleaning" so please insert the word "healthy" or "healthy and" wherever you have "environmentally sensitive" in the draft language or analysis. So the created Council should be called the "Council on Healthy and Environmentally Sensitive Cleaning" and the word "healthy" should be added with every other reference to "environmentally sensitive" throughout.
2. Rep. Mason would like to ensure that the bill includes a focus not just on products, but on cleaning processes and tools used in those processes as well. So immediately following section 2(d) ["The department, in consultation with the council, may promulgate rules specifying standards for a product..."] please add a new section that relates to processes, that could be worded as follows:

"The department, in consultation with the council, may promulgate rules specifying standards for cleaning processes and tools used in the cleaning process for janitorial or sanitation use, if the GREENGUARD Environmental Institute or the U.S. Green Building Council has adopted a standard for cleaning processes. The department is not required to base a rule under this paragraph on the standard adopted by GREENGUARD or the U.S. Green Building Council for cleaning processes, but may base a rule on a standard for the processes adopted by another entity if the department determines that the other entity's standard is practical and better promotes healthy and environmentally sensitive cleaning processes. The department may request GREENGUARD or the U.S. Green Building Council adopt a standard for a cleaning process for janitorial or sanitation use for which a standard has not been adopted.

3. Section 2(e) (which would then become (f)) should be amended to read: "When the department considers standards on which to base a rule under this subsection, the department shall give a preference to standards that are more protective of human health and preventative of the spread of infection and disease."

Thank you!
Vicky

Vicky Selkowe
Office of State Representative Cory Mason
62nd Assembly District
Room 321 East, State Capitol
PO Box 8953, Madison, WI 53708
Phone: (608) 266-0634
Toll-free: (888) 534-0062

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

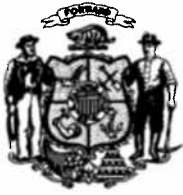
(behind the reference to "tools")

8/25/09 Telephone call from Jeff Neubauer (cell 414-870-2227, office 262-638-2227, jneubauer@kronzinc.com)

The idea is to make it clear that in specifying a process to be used, DHS may require use, for example, of a microfiber cleaning cloth. This kind of product is not likely to ever have a standard (for the item itself) so it would never fall under sub. (2) (d). But it would be important to require use of a microfiber cleaning cloth rather than a brown paper towel to protect indoor air quality.

He also said to drop the Green Building Council.

RJT



State of Wisconsin
2009 - 2010 LEGISLATURE

Today, if possible

LRB-0136/4²
RCT:kjfrs
jld vmy

2009 BILL

DNite

✓
 1 AN ACT ^{Regen} to create 15.197 (5) and 254.565 of the statutes; relating to:
 2 ^{Insert A ✓} environmentally sensitive cleaning in certain buildings, providing an
 3 exemption from emergency rule procedures, and granting rule-making
 4 authority. ✓

Healthy and ✓

Insert A ✓

Analysis by the Legislative Reference Bureau

This bill requires the Department of Health Services (DHS) to promulgate rules requiring cleaning that minimizes adverse effects on human health and the environment (environmentally sensitive cleaning) in school buildings, buildings on University of Wisconsin campuses, other buildings owned by this state, buildings owned by a technical college district board, and buildings owned by a city, village, town, or county. DHS must consult with the Council on Environmentally Sensitive Cleaning, created by the bill, in promulgating the rules. The rules apply beginning one year after the bill is enacted. Under the bill, DHS may grant a one-year exemption from a requirement in the rules if a person responsible for complying with the requirement demonstrates that compliance would increase its cleaning costs.

Insert A ✓

The bill requires DHS to include, in the initial rules for environmentally sensitive cleaning, standards for certain products, based on existing voluntary standards adopted by the Environmental Protection Agency (EPA) or specified private groups. The products include restroom cleaners, general purpose cleaners, hand soap, toilet paper and paper towels, and vacuum cleaners. DHS may later modify the standards for those products. The bill authorizes DHS to adopt, by rule, a standard for an additional product for janitorial or sanitation use if EPA or Green

BILL

Analysis insert ✓

one of the specified bodies ✓

@

Seal, Inc., has adopted a standard for the product. DHS is not required to base the rule on the standard adopted by EPA or Green Seal, Inc. if DHS determines that another body has adopted a better standard.

For further information see the *state and local* 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:

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- 7 3. A representative of a distributor of cleaning products in this state.
- 8 4. A representative of a producer of cleaning products in this state.
- 9 5. A representative of a labor union that represents workers who use cleaning
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15 254.565 Environmentally sensitive cleaning in certain buildings. (1)

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- 19 (c) "Council" means the council on environmentally sensitive cleaning.

BILL

*Healthy and
Environment*

1

(d) "Environmentally sensitive cleaning" means cleaning that minimizes adverse impacts on human health and the environment.

2

3

(e) "Political subdivision" means a city, village, town, or county.

4

(f) "Private school" has the meaning given in s. 115.001 (3r).

5

(g) "Public school" means a school described in s. 115.01 (1).

6

(h) "Responsible person" means one of the following:

7

1. For a public school, other than a charter school, the school board.

8

2. For a charter school, the governing body of the charter school.

9

3. For a private school with 50 or more students, the governing body of the

10

private school.

11

4. For a building owned by a political subdivision, the political subdivision.

12

5. For a building owned by a technical college district board, the technical

13

college district board.

14

6. For a building on a campus, the Board of Regents of the University of

15

Wisconsin System.

16

7. For a building owned by this state, other than a building on a campus, the

17

department of administration.

18

(i) "School" means any of the following:

19

1. A public school, including a charter school.

20

2. A private school with 50 or more students.

21

(j) "School board" has the meaning given in s. 115.001 (7).

22

(2) RULES. (a) The department, in consultation with the council, shall

23

promulgate rules requiring ^{✓ Insert A} environmentally sensitive cleaning in all of the

24

following:

25

1. School buildings.

BILL

1 2. Buildings that are owned by political subdivisions.

2 3. Buildings that are owned by technical college district boards.

3 4. Buildings on a campus.

4 5. Buildings owned by this state, other than buildings on a campus.

5 (b) In the initial rules under this subsection, the department shall include all
6 of the following:

7 1. Standards for hand cleaners and hand soap based on the standards of Green
8 Seal, Inc., that are in effect on the effective date of this subdivision ✓ ... [LRB inserts
9 date].

10 2. Standards for general purpose cleaners, restroom cleaners, glass cleaners,
11 and carpet cleaners based on the standards of Green Seal, Inc. plain that are in effect on
12 the effective date of this subdivision ... [LRB inserts date], or on the standards of the
13 federal environmental protection agency under its Design for the Environment
14 Program that are in effect on the effective date of this subdivision ... [LRB inserts
15 date].

16 3. Standards for laundry care products based on the standards of the federal
17 environmental protection agency under its Design for the Environment Program
18 that are in effect on the effective date of this subdivision ... [LRB inserts date].

19 4. Standards for toilet paper based on the standards of Green Seal, Inc., that
20 are in effect on the effective date of this subdivision ... [LRB inserts date].

21 5. Standards for paper towels and paper napkins based on the standards of
22 Green Seal, Inc., that are in effect on the effective date of this subdivision ... [LRB
23 inserts date].

BILL

1 6. Standards for vacuum cleaners that are based on the standards of the Carpet
2 and Rug Institute under its Green Label Program that are in effect on the effective
3 date of this subdivision ... [LRB inserts date].

4 (c) The department, in consultation with the council, may promulgate rules
5 that modify the initial rules promulgated under par. (b).

6 (d) The department, in consultation with the council, may promulgate rules
7 specifying standards for a product for janitorial or sanitation use, in addition to the
8 products covered in par. (b), if Green Seal, Inc., has adopted a standard for the
9 product or if the federal environmental protection agency has adopted a voluntary
10 standard for the product. The department is not required to base a rule under this
11 paragraph on the standard adopted by Green Seal, Inc., or the federal environmental
12 protection agency for a product, but may base a rule on a standard for the product
13 adopted by another entity if the department determines that the other entity's
14 standard is practical and better promotes ^{Insert A} environmentally sensitive cleaning. The
15 department may request Green Seal, Inc., or the federal environmental agency to
16 adopt a standard for a product for janitorial or sanitation use for which a standard
17 has not been adopted.

18 ^{g f} (d) When the department considers 2 or more standards on which to base a rule
19 under this subsection, the department shall give a preference to standards that are
20 more protective of human health. ^{Insert 5-20} ✓

21 ^{d g} The department shall provide information about the rules under this
22 subsection, including revisions to the rules, to each school board, to the governing
23 body of each charter school, and to the governing body of each private school with 50
24 or more students.

✓
Insert
5-17
①



②

③

BILL

1 **(3) REQUIREMENT.** (a) Except as provided in pars. (b) to (d),[✓] beginning on the
2 first day of the 12th month beginning after the effective date of this paragraph
3 [LRB inserts date], each responsible person shall ensure that the rules promulgated
4 under sub. (2) are complied with in a building for which the responsible person is
5 responsible.

6 (b) Except as provided in par. (c), the rules promulgated under sub. (2) (b) do
7 not apply to the use of products purchased before the first day of the 12th month
8 beginning after the effective date of this paragraph [LRB inserts date].

9 (c) A rule promulgated under sub. (2) relating to a kind of machine does not
10 apply to the use of a machine of that type purchased before the effective date of the
11 rule.

12 (d) A responsible person is exempt for one year from a requirement in the rules
13 promulgated under sub. (2) relating to the use of a product if the responsible person
14 demonstrates to the department that complying with the requirement would
15 increase the responsible person's cleaning costs for the year.

16 **(4) COUNCIL.** (a) The council shall advise the department on the program under
17 this section. The council shall review the rules under sub. (2) at least every 3 years
18 and provide recommendations on changes to the rules. The council shall review
19 changes to a standard on which a rule under sub. (2) is based and advise the
20 department on whether to modify the rule to reflect the changes in the standard, to
21 modify the rule so that it is based on a different standard, or to make no changes to
22 the rule.

23 (b) The department shall review and provide a written response to any advice
24 that it receives from the council concerning the program under this section.

25 **SECTION 3. Nonstatutory provisions.**

BILL

1 (1) RULE MAKING.

2 (a) The department of health services shall submit in proposed form the rules
3 required under section 254.565 (2) (b) of the statutes, as created by this act, to the
4 legislative council staff under section 227.15 (1) of the statutes no later than the first
5 day of the 7th month beginning after the effective date of this subsection.

6 (b) Using the procedure under section 227.24 of the statutes, the department
7 of health services may promulgate the rules required under section 254.565 (2) (b)
8 of the statutes, as created by this act, for the period before the effective date of the
9 rules submitted under paragraph (a), but not to exceed the period authorized under
10 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
11 (2) (b), and (3) of the statutes, the department is not required to provide evidence that
12 promulgating a rule under this paragraph as an emergency rule is necessary for the
13 preservation of the public peace, health, safety, or welfare and is not required to
14 provide a finding of emergency for a rule promulgated under this paragraph.

15 (2) INITIAL TERMS OF MEMBERS OF COUNCIL. Notwithstanding the length of terms
16 specified under section 15.197 (5) (b) of the statutes, as created by this act, the
17 secretary of health services shall appoint initial members of the council on
18 [✓]environmentally sensitive cleaning[✓] as follows:

19 (a) The members under section 15.197 (5) (a) 3. and 6. of the statutes, as created
20 by this act, for terms expiring on July 1, 2012.

21 (b) The member under section 15.197 (5) (a) 4. of the statutes, as created by this
22 act, for a term expiring on July 1, 2013.

23 (c) The member under section 15.197 (5) (a) 5. of the statutes, as created by this
24 act, for a term expiring on July 1, 2014.

25

(END)

d-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0136/2dn

RCT: :...

date

JLD

Representative Mason:

This is a redraft of the "green cleaning" proposal, based on instructions sent on August 24th and discussions with Jeff Neubauer that day. I have not heard back from Jeff today on my proposed language for sub. (3) (e), but thought that I should go ahead with the draft because of your time constraints. *

As requested, the draft now authorizes the adoption of requirements for a janitorial or sanitation process if the Greenguard Environmental Institute adopts a standard for the process. A standard must be based on the Greenguard standard or another third-party standard. This is the same approach that the draft takes with respect to standards for products, although with a different designated third party. *

It appears that there has so far been little development of standards for green cleaning processes. For example, the Healthy Schools Campaign Web site indicates that there are no standards for green cleaning procedures but points out that Green Seal, Inc., has standards for cleaning service providers, including in-house and external cleaning services, covering indoor activities typically required to clean commercial, public, and industrial buildings.

When a law refers to a private entity, there is always the possibility that the entity will change its name, cease to exist, or cease to engage in the activity that the law relies on.

Please contact me with any questions or additional redrafting instructions.

Rebecca C. Tradewell
Managing Attorney
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E-mail: becky.tradewell@legis.wisconsin.gov

1 **Insert A (used numerous times)**

2 ~~NO~~ healthy and ~~NO~~

3 **Analysis insert**

~~NO~~ The bill also authorizes DHS[✓] to adopt, by rule, a standard for a janitorial or sanitation process if Greenguard Environmental Institute[✓] has adopted a standard for the process.

4 **Insert 5-17**

5 (e) The[✓] department, in consultation with the council[✓], may promulgate rules
6 specifying standards for a janitorial or sanitation process,[✓] which may include
7 requirements for items used to perform the janitorial or sanitation process, if
8 Greenguard Environmental Institute[✓] has adopted a standard for the process. The
9 department is not required to base a rule under this paragraph[✓] on the standard
10 adopted by Greenguard Environmental Institute[✓] for the process, but may base a rule
11 on a standard for the process adopted by another entity if the department determines
12 that the other entity's standard is practical and better promotes[✓] healthy and
13 environmentally sensitive cleaning. The department may request Greenguard
14 Environmental Institute[✓] to adopt a standard for a janitorial or sanitation process for
15 which a standard has not been adopted.[✓]

16 **Insert 5-20**

17 ~~NO~~ and preventive of the spread of infection and disease[✓]

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

LRB-0136/2dn
RCT:jld:rs

August 25, 2009

Representative Mason:

This is a redraft of the "green cleaning" proposal, based on instructions sent on August 24th and discussions with Jeff Neubauer that day. I have not heard back from Jeff today on my proposed language for sub. (2) (e), but thought that I should go ahead with the draft because of your time constraints.

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Plan - 3 things we want to be able to refer



- 1. Standard
- 2. lists of products that meet those standards

certifying entities
 applied by certifying entity

- 3. certified products or process