



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 578**

January 25, 2010 – Offered by Representative MASON.

1 **AN ACT** *to create* 15.197 (5) and 254.565 of the statutes; **relating to:** healthy and
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 substitute amendment requires the Department of Health Services (DHS) to promulgate rules requiring cleaning that minimizes adverse effects on human health and the environment (healthy and environmentally sensitive cleaning) in school buildings, buildings on University of Wisconsin campuses, other buildings owned or leased by this state, buildings owned by a technical college district board, and buildings owned by a city, village, town, or county (political subdivision). DHS must consult with the Council on Healthy and Environmentally Sensitive Cleaning, created by the substitute amendment, in promulgating the rules. Under the substitute amendment, DHS may grant an exemption from a requirement in the rules (for one year at a time) if a person responsible for complying with the requirement demonstrates that compliance would increase its cleaning costs.

The substitute amendment requires DHS to include, in the initial rules for healthy and environmentally sensitive cleaning, requirements to use certain products that are approved by the Environmental Protection Agency (EPA) under its voluntary Design for the Environment Program or by one or more of four specified

private groups. The products include restroom cleaners, general purpose cleaners, hand soap, vacuum cleaners, and carpet extractors. The initial requirements for using approved products take effect two years after the substitute amendment is enacted. DHS may later modify the requirements for approvals for those products. The substitute amendment authorizes DHS to adopt, by rule, an approval requirement for an additional type of product for janitorial or sanitation use, other than a paper product, if EPA, Green Seal, Inc., or TerraChoice Environmental Marketing (which operates the EcoLogo program) approves the type of product. DHS may require approval by a group other than one of the specified groups, if DHS determines that the other group bases its approval on a standard that is practical and promotes healthy and environmentally sensitive cleaning.

The substitute amendment treats paper products differently than other products. Under the substitute amendment, DHS must include in the initial rules for healthy and environmentally sensitive cleaning, requirements to use toilet paper, paper towels, and paper napkins that meet the standards, in effect on January 1, 2010, of Green Seal, Inc., or TerraChoice Environmental Marketing (which operates the EcoLogo program) or that meet the recommended standards under EPA's comprehensive procurement guidelines. Under the substitute amendment, DHS may not change the requirements related to toilet paper, paper towels, and paper napkins or impose an approval requirement for other kinds of paper products.

The substitute amendment also requires DHS to include in its rules requirements concerning cleaning systems. A cleaning system consists of cleaning products, materials for applying the cleaning products, equipment, and instructions for a specified cleaning use. The substitute amendment requires DHS, in its initial rules for cleaning systems, to require the use of one of the following, beginning in four years:

1. A cleaning system that meets the standards for certification under the LEED for Existing Buildings: Operations and Maintenance rating system of the U.S. Green Building Council.
2. A cleaning system that meets the Environmental Standard for Commercial and Institutional Cleaning Services, of Green Seal, Inc.
3. A cleaning system that complies with the Healthy Schools Campaign's Quick and Easy Guide to Green Cleaning in Schools.
4. A cleaning system that meets the Cleaning Industry Management Standard for Green Building, of the International Sanitary Supply Association.
5. A cleaning system that meets the Children and Schools standard of the Greenguard Environmental Institute.
6. A cleaning system that meets the standard of another entity if the standards are protective of human health or preventive of the spread of infection and disease, are practical, and promote environmentally sensitive cleaning.

The substitute amendment authorizes DHS to later modify the rules specifying standards applicable to cleaning systems.

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 HEALTHY AND ENVIRONMENTALLY SENSITIVE CLEANING. (a)
- 3 In this subsection, “school” has the meaning given in s. 254.565 (1) (i).
- 4 (b) There is created in the department of health services a council on healthy
- 5 and environmentally sensitive cleaning consisting of the following members:
- 6 1. The superintendent of public instruction or the superintendent’s designee.
- 7 2. The secretary of natural resources or the secretary’s designee.
- 8 3. A representative of a producer of cleaning products in this state.
- 9 4. A representative of a labor union that represents workers who use cleaning
- 10 products.
- 11 5. A representative of the organization Wisconsin Association of School Nurses
- 12 or a similar organization.
- 13 6. Two parents of school students.
- 14 7. One school student.
- 15 8. One school principal.
- 16 9. One school teacher.
- 17 10. One school district administrator, as defined in s. 115.001 (8).
- 18 11. One health professional with expertise in public health.
- 19 12. A representative of the University of Wisconsin System.
- 20 13. A representative of the technical college system.

1 14. A representative of the Association of Wisconsin School Administrators who
2 has professional expertise in building maintenance and a background in the
3 supervision of building maintenance.

4 (c) The secretary of health services shall appoint the members under par. (b)
5 3. to 14. for 3–year terms.

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

7 **254.565 Healthy and environmentally sensitive cleaning in certain**
8 **buildings. (1) DEFINITIONS.** In this section:

9 (a) “Approved” includes certified and recognized.

10 (am) “Campus” has the meaning given in s. 36.05 (3).

11 (b) “Charter school” has the meaning given in s. 115.001 (1).

12 (bm) “Cleaning system” means cleaning products, materials for applying
13 cleaning products, equipment, and instructions for a specified cleaning use.

14 (c) “Council” means the council on healthy and environmentally sensitive
15 cleaning.

16 (d) “Healthy and environmentally sensitive cleaning” means cleaning that
17 minimizes adverse impacts on human health and the environment.

18 (e) “Political subdivision” means a city, village, town, or county.

19 (f) “Private school” has the meaning given in s. 115.001 (3r).

20 (g) “Public school” means a school described in s. 115.01 (1).

21 (h) “Responsible person” means one of the following:

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

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

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

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

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

4 6. For a building on a campus, the Board of Regents of the University of
5 Wisconsin System.

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

8 (i) “School” means any of the following:

9 1. A public school, including a charter school.

10 2. A private school with 50 or more students.

11 (j) “School board” has the meaning given in s. 115.001 (7).

12 **(2) RULES.** (a) *General.* The department, in consultation with the council, shall
13 promulgate rules requiring healthy and environmentally sensitive cleaning in all of
14 the following:

15 1. School buildings.

16 2. Buildings owned by political subdivisions.

17 3. Buildings owned by technical college district boards.

18 4. Buildings on a campus.

19 5. Buildings owned or leased by this state, other than buildings on a campus.

20 (am) *Sanitizers.* In the rules under this subsection, the department may not
21 prohibit the use in accordance with responsible cleaning procedures of disinfectants,
22 sanitizers, or any other antimicrobial products registered under the federal
23 Insecticide, Fungicide, and Rodenticide Act, 7 USC 136 to 136y, when necessary to
24 protect public health or of hand sanitizers.

1 (b) *Initial rules for products for janitorial or sanitation use.* In the initial rules
2 under this subsection, the department shall include all of the following:

3 1. A requirement to use hand cleaners and hand soap approved by Green Seal,
4 Inc.

5 2. A requirement to use general purpose cleaners, restroom cleaners, glass
6 cleaners, and carpet cleaners that are approved by Green Seal, Inc.; by TerraChoice
7 Environmental Marketing, Inc., under its EcoLogo standard; by the federal
8 environmental protection agency under its Design for the Environment Program; or
9 by the Greenguard Environmental Institute under its Children and Schools
10 standard.

11 3. A requirement to use laundry care products that are approved by
12 TerraChoice Environmental Marketing, Inc., under its EcoLogo standard, or by the
13 federal environmental protection agency under its Design for the Environment
14 Program.

15 4. A requirement to use toilet paper that meets the standards, in effect on
16 January 1, 2010, of Green Seal, Inc., or of TerraChoice Environmental Marketing,
17 Inc., under its EcoLogo program, or that meets the recommended standards of the
18 federal environmental protection agency under its comprehensive procurement
19 guidelines, in effect on January 1, 2010.

20 5. A requirement to use paper towels and paper napkins meet the standards,
21 in effect on January 1, 2010, of Green Seal, Inc., or of TerraChoice Environmental
22 Marketing, Inc., under its EcoLogo program, or that meet the recommended
23 standards of the federal environmental protection agency under its comprehensive
24 procurement guidelines, in effect on January 1, 2010.

1 6. A requirement to use vacuum cleaners that are approved by the Carpet and
2 Rug Institute under its Green Label Program or its Seal of Approval/Green Label
3 Program.

4 7. A requirement to use carpet extractors that are approved by the Carpet and
5 Rug Institute under its Seal of Approval Program.

6 (d) *Initial rules for cleaning systems.* In the initial rules under this subsection
7 for cleaning systems, the department shall include a requirement to use one of the
8 following:

9 1. A cleaning system that meets the standards for certification under the LEED
10 for Existing Buildings: Operations and Maintenance rating system of the U.S. Green
11 Building Council.

12 2. A cleaning system that meets the Environmental Standard for Commercial
13 and Institutional Cleaning Services, of Green Seal, Inc.

14 3. A cleaning system that complies with the Healthy Schools Campaign's Quick
15 and Easy Guide to Green Cleaning in Schools.

16 4. A cleaning system that meets the Cleaning Industry Management Standard
17 for Green Building, of the International Sanitary Supply Association.

18 5. A cleaning system that meets the Children and Schools standard of the
19 Greenguard Environmental Institute.

20 6. A cleaning system that meets the standard of another entity, if the
21 department determines that the entity's standard for cleaning systems is protective
22 of human health or preventive of the spread of infection and disease, is practical, and
23 promotes environmentally sensitive cleaning.

24 (e) *Additional rules for products for janitorial or sanitation use.* After
25 promulgating the rules under par. (b), the department, in consultation with the

1 council, may promulgate rules requiring approval by a specified entity or may specify
2 more than one entity whose approval is acceptable for a type of product, other than
3 a paper product, for janitorial or sanitation use, in addition to the types of products
4 covered in par. (b), if Green Seal, Inc., or TerraChoice Environmental Marketing,
5 Inc., has adopted a standard for the type of product or if the federal environmental
6 protection agency has adopted a voluntary standard for the type of product. The
7 department is not required to select Green Seal, Inc., TerraChoice Environmental
8 Marketing, Inc., or the federal environmental protection agency as an entity whose
9 approval is acceptable for a type of product, but may select any entity if the
10 department determines that the entity's standard is practical and promotes healthy
11 and environmentally sensitive cleaning. The department may request Green Seal,
12 Inc., TerraChoice Environmental Marketing, Inc., or the federal environmental
13 protection agency to adopt a standard for a type of product, other than a paper
14 product, for janitorial or sanitation use for which a standard has not been adopted.

15 (f) *Modifying rules.* 1. The department, in consultation with the council, may
16 promulgate rules that modify the rules promulgated under par. (b) 1. to 3., 6., or 7.
17 or (e).

18 2. Whenever an entity whose approval is acceptable under a rule promulgated
19 under par. (b) 1. to 3., 6., or 7. or (e) modifies the standard on which its approval is
20 based, the department, in consultation with the council, shall review the modified
21 standard and determine whether to continue to accept approval by that entity.
22 Under this subdivision, the department may accept approval by another entity if the
23 department determines that the other entity's standard is practical and more
24 protective of human health and preventive of the spread of infection and disease.

1 3. Whenever an entity specified under par. (d) modifies its standard for
2 cleaning systems, the department, in consultation with the council, shall review the
3 modified standard and determine whether to continue to authorize the use of
4 cleaning systems that meet that entity's standard. The department, in consultation
5 with the council, shall periodically review the standards of entities for cleaning
6 systems to determine whether to continue to authorize the use of cleaning systems
7 that meet the standards of entities designated in rules under par. (d) or under this
8 subdivision and whether to authorize the use of cleaning systems that meet the
9 standards of other entities, if the standards comply with par. (d) 6., instead of or in
10 addition to the standards of the designated entities.

11 (g) *Providing information.* The department shall provide information about
12 the rules under this subsection, including modifications to the rules, to each school
13 board, to the governing body of each charter school, and to the governing body of each
14 private school with 50 or more students.

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

20 (am) Except as provided in pars. (c) and (d), beginning on the first day of the
21 36th month beginning after the effective date of this paragraph [LRB inserts
22 date], each responsible person shall ensure that the rules promulgated under sub.
23 (2) (d) are complied with in the building for which the person is responsible.

1 (b) Subject to par. (c), the rules promulgated under sub. (2) (b) do not apply to
2 the use of products purchased before the first day of the 12th month beginning after
3 the effective date of this paragraph [LRB inserts date].

4 (c) A rule promulgated under sub. (2) requiring use of a type of machine with
5 a specified approval does not apply to the use of a machine of that type purchased
6 before the effective date of the rule.

7 (d) 1. A responsible person may obtain an exemption for one year from a
8 requirement in the rules promulgated under sub. (2) relating to the use of a product
9 or cleaning system if the responsible person submits to the department a request
10 letter, a report documenting why complying with the requirement would increase the
11 responsible person's cleaning costs for the year, and supporting bid documents.

12 2. A responsible person that has obtained an exemption under subd. 1. for a
13 year may obtain an exemption for a later year only by providing a letter, report, and
14 supporting bid documents, as described in subd. 1., relating to the later year.

15 (e) If a requirement in a rule under sub. (2) (d) or (f) 3. conflicts with a
16 requirement in a rule under sub. (2) (b), (e), or (f) 1. or 2., the requirement in the rule
17 under sub. (2) (d) or (f) 3. controls.

18 **(4) COUNCIL.** (a) The council shall advise the department on the program under
19 this section. The council shall review the rules under sub. (2) at least every 3 years
20 and provide recommendations on changes to the rules. The council may not meet
21 more than 4 times per year.

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

1 (c) The council may annually give awards for healthy and environmentally
2 sensitive cleaning to political subdivisions, school districts, and institutions of
3 higher education subject to the requirements under this section.

4 (5) INSPECTIONS NOT REQUIRED. The department is not required to make any
5 inspections for the program under this section.

6 (6) INTERNET SITE. The department shall maintain an Internet site that shows
7 the political subdivisions, school districts, and institutions that comply with the
8 requirements under this section.

9 (7) NO PENALTIES. The department may not assess a fee or other penalty for
10 noncompliance with this section.

11 **SECTION 3. Nonstatutory provisions.**

12 (1) RULE MAKING.

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

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

