CHAPTER 101
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES —
REGULATION OF INDUSTRY, BUILDINGS AND SAFETY

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REGULATION OF INDUSTRY, BUILDINGS AND SAFETY

101.01 Definitions. In this chapter, the following words and phrases have the designated meanings unless a different meaning is expressly provided:

(1m) “Department” means the department of safety and professional services.

(2m) “Deputy” means any person employed by the department designated as a deputy, who possesses special, technical, scientific, managerial or personal abilities or qualities in matters within the jurisdiction of the department, and who may be engaged in the performance of duties under the direction of the secretary, calling for the exercise of such abilities or qualities.

(3) “Employee” means any person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go or work or be at any time in any place of employment.

(4) “Employer” means any person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district, long-term care district and other public or quasi-public corporations as well as any agent, manager, representative or other person having control or custody of any employment, place of employment or of any employee.

(5) “Employment” means any trade, occupation or process of manufacture, or any method of carrying on such trade, occupation or process of manufacture in which any person may be engaged, except in such private domestic service as does not involve the use of mechanical power and in farm labor as used in sub. (11).

(6) “Frequenter” means every person, other than an employee, who may go in or be in a place of employment or public building under circumstances which render such person other than a trespasser. Such term includes a pupil or student when enrolled in or receiving instruction at an educational institution.

(7) “General order” means such order as applies generally throughout the state to all persons, employments, places of employment or public buildings, or all persons, employments or places of employment or public buildings of a class under the jurisdiction of the department. All other orders of the department shall be considered special orders.

(8) “Local order” means any ordinance, order, rule or determination of any common council, board of alderpersons, board of trustees or the village board, of any village or city, a regulation or order of the local board of health, as defined in s. 250.01 (3), or an order or direction of any official of a municipality, upon any matter over which the department has jurisdiction.

(9) “Order” means any decision, rule, regulation, direction, requirement or standard of the department, or any other determination arrived at or decision made by the department.

(10) “Owner” means any person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district and other public or quasi–public corporations as well as any manager, representative, officer, or other person having ownership, control or custody of any place of employment or public building, or of the construction, repair or maintenance of any place of employment or public building, or who prepares plans for the construction of any place of employment or public building.

This subchapter shall apply, so far as consistent, to all architects and builders.

(11) “Place of employment” includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade, or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade, or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. “Farming” includes those activities specified in s. 102.04 (3), and also includes the transportation of farm products, supplies, or equipment directly to the farm by the operator of the farm or employees for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, “place of employment” does not include any of the following:

(a) An adult family home, as defined in s. 50.01 (1).
(b) Except for the purposes of s. 101.11, a previously constructed building used as a community-based residential facility, as defined in s. 50.01 (1g), which serves 20 or fewer residents who are not related to the operator or administrator.
(c) A home-based business, as defined by the department by rule.

(12) “Public building” means any structure, including exterior parts of such building, such as a porch, exterior platform, or steps providing means of ingress or egress, used in whole or in part as a place of resort, assembly, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants. When used in relation to building codes, “public building” does not include any of the following:

(a) A previously constructed building used as a community-based residential facility as defined in s. 50.01 (1g) which serves 20 or fewer residents who are not related to the operator or administrator.
(b) An adult family home, as defined in s. 50.01 (1).
(c) A home-based business, as defined by the department by rule.

(13) “Safe” or “safety”, as applied to an employment or a place of employment or a public building, means such freedom from danger to the life, health, safety or welfare of employees or frequenter, or the public, or tenants, or fire fighters, and such reasonable means of notification, egress and escape in case of fire, and such freedom from danger to adjacent buildings or other property, as the nature of the employment, place of employment, or public building, will reasonably permit.
(14) “Secretary” means the secretary of safety and professional services.

(15) “Welfare” includes comfort, decency and moral well-being.

History: 1971 c. 185 ss. 1, 5; 1971 c. 228 ss. 15, 44; 1975 c. 413, 421; 1977 c. 29; 1983 a. 189 ss. 142, 143, 329 (d); 1985 a. 135 ss. 83 (3); 1987 a. 161; 1993 a. 27, 184, 327, 1995 a. 27 ss. 1 to 3629, 9116 (5); 1997 a. 237; 1999 a. 9; 2001 a. 16; 2007 a. 20; 2011 a. 32, 146.

In a safe place action by a plaintiff injured through contact with home power lines while installing aluminum trim on the premises, the power lines did not constitute a place of employment under sub. (2) (i) [now sub. (10)]. Luterbach v. Mochon Schutte Hackworthy Hurwitz,

A vocational school was not place of employment. Korenak v. Curative Workshop Adult Rehabilitation Center, 71 Wis. 2d 77, 257 N.W.2d 43 (1976).

The right to make progress inspections and to stop construction for noncompliance with specifications is not an exercise of control sufficient to make an architect an owner under sub. (2) (e) [now sub. (11)]. Luterbach v. Mochon Schutte Hackworthy Hurwitz, 71 Wis. 2d 77, 257 N.W.2d 43 (1976).

“Safe employment” and “safe place of employment” are distinguished. There is a duty to provide safe employment to employees that does not extend to frequenters, while the duty to provide a safe place of employment does extend to frequenters. Letterer v. Milwaukee County, 94 Wis. 2d 186, 287 N.W.2d 803 (1980).

An Elks Club was a “place of employment.” Schmorrow v. Sentry Ins. Co., 138 Wis. 2d 405, 407 N.W.2d 672 (Ct. App. 1987).

101.02 Powers, duties and jurisdiction of department.

(1) The department shall adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings.

(1m) Notwithstanding sub. (1), the department may not promulgate or enforce a rule related to fire safety that prohibits the seasonal placement of a Christmas tree in the rotunda of the state capitol building or in a church.

(2) The department may sue and be sued.

(3) The department shall employ, promote and remove deputies, clerks and other assistants as needed, to fix their compensation, and to assign to them their duties; and shall appoint advisers who shall, without compensation except reimbursement for actual and necessary expenses, assist the department in the execution of its duties.

(4) The department shall collect, collate and publish statistical and other information relating to the work under its jurisdiction and shall make public reports in its judgment necessary.

(5) (a) The department shall conduct such investigations, hold such public meetings and attend or be represented at such meetings, conferences and conventions inside or outside of the state as may, in its judgment, tend to better the execution of its functions.

(b) For the purpose of making any investigation with regard to any employment or place of employment or public building, the secretary may appoint, by an order in writing, any deputy who is a citizen of the state, or any other competent person as an agent whose duties shall be prescribed in such order.

(c) In the discharge of his or her duties such agent shall have every power of an inquisitorial nature granted in this subchapter to the department, the same powers as a supplemental court commissioner with regard to the taking of depositions and all powers granted by law to a supplemental court commissioner relative to depositions.

(d) The department may conduct any number of such investigations contemporaneously through different agents, and may delegate to such agent the taking of all testimony bearing upon any investigation or hearing. The decision of the department shall be based upon its examination of all testimony and records. The recommendations made by such agents shall be advisory only and shall not preclude the taking of further testimony if the department so orders or preclude further investigation.

(e) The secretary may direct any deputy who is a citizen to act as special prosecutor in any action, proceeding, investigation, hearing or trial relating to the matters within its jurisdiction.

(f) Upon the request of the department, the department of justice or district attorney of the county in which any investigation, hearing or trial had under this subchapter is pending, shall aid the department in the investigation, hearing or trial and, under the supervision of the department, prosecute all necessary actions or proceedings for the enforcement and punishment of violations of this subchapter and all other laws of this state relating to the protection of life, health, safety and welfare.

(6) (a) All orders of the department in conformity with law shall be in force, and shall be prima facie lawful; and all such orders shall be valid and in force, and prima facie reasonable and lawful until they are found otherwise upon judicial review thereof pursuant to ch. 227 or until altered or revoked by the department.

(b) All general orders shall take effect as provided in s. 227.22. Special orders shall take effect as therein directed.

(c) The department shall, upon application of any employer or owner, grant such time as may be reasonably necessary for compliance with any order.

(d) Any person may petition the department for an extension of time, which the department shall grant if it finds such an extension of time necessary.

(e) Any employer or other person interested either because of ownership in or occupation of any property affected by any such order, or otherwise, may petition for a hearing on the reasonableness of any order of the department in the manner provided in this subchapter.

(f) Such petition for hearing shall be verified petition filed with the department, setting out specifically and in full detail the order upon which a hearing is desired and every reason why such order is unreasonable, and every issue to be considered by the department on the hearing. The petitioner shall be deemed to have finally waived all objections to any irregularities and illegitimations in the order upon which a hearing is sought other than those set forth in the petition. All hearings of the department shall be open to the public.

(g) Upon receipt of such petition, if the issues raised in such petition have theretofore been adequately considered, the department shall determine the same by confirming without hearing its previous determination, or if such hearing is necessary to determine the issues raised, the department shall order a hearing thereon and consider and determine the matter or matters in question at such times as shall be prescribed. Notice of the time and place of such hearing shall be given to the petitioner and to such other persons as the department may find directly interested in such decision.

(h) Upon such investigation, if it shall be found that the order complained of is unjust or unreasonable the department shall substitute therefor such other order as shall be just and reasonable.

(i) Whenever at the time of the final determination upon such hearing it shall be found that further time is reasonably necessary for compliance with the order of the department, the department shall grant such time as may be reasonably necessary for such compliance.

(7) (a) Nothing contained in this subchapter may be construed to deprive the common council, the board of alderpersons, the board of trustees or the village board of any village or city, or a local board of health, as defined in s. 250.01 (3), of any power or jurisdiction over or relative to any place of employment or public building, provided that, whenever the department shall, by an order, fix a standard of safety or any hygienic condition for employment or places of employment or public buildings, the order shall, upon the filing by the department of a copy of the order
with the clerk of the village or city to which it may apply, be held to amend or modify any similar conflicting local order in any particular matters governed by the order of the department. Thereafter no local officer may make or enforce any order contrary to the order of the department.

(b) Any person affected by any local order in conflict with an order of the department, may in the manner provided in s. 101.02 (6) (e) to (i), petition the department for a hearing on the ground that such local order is unreasonable and in conflict with the order of the department. The petition for such hearing shall conform to the requirements set forth for a petition in s. 101.02 (6) (e) to (i).

(c) Upon receipt of such petition the department shall order a hearing thereon, to consider and determine the issues raised by such appeal, such hearing to be held in the village, city or municipality where the local order appealed from was made. Notice of the time and place of such hearing shall be given to the petitioner and such other persons as the department may find directly interested in such decision, including the clerk of the municipality or town from which such appeal comes. If upon such investigation it shall be found that the local order appealed from is unreasonable and in conflict with the order of the department, the department may modify its order and shall substitute for the local order appealed from such order as shall be reasonable and legal in the premises, and thereafter the said local order shall, in such particulars, be void and of no effect.

(7e) (a) Notwithstanding sub. (7) (a), no city, village, or town may enact or enforce an ordinance related to fire safety that prohibits the seasonal placement of a Christmas tree in the rotunda of the state capitol building or in a church.

(b) If a city, village, or town has in effect on April 1, 2016, an ordinance that prohibits the seasonal placement of a Christmas tree in the rotunda of the state capitol building or in a church, the ordinance does not apply and may not be enforced.

(7m) Notwithstanding sub. (7) (a), no city, village, or town may make or enforce any ordinance that is applied to any multifamily dwelling, as defined in s. 101.971 (2), and that does not conform to subch. VI and this section or is contrary to an order of the department under this subchapter. Any provision of a contract between a city, village, or town and a property owner of a multifamily dwelling that requires the property owner to comply with an ordinance that does not conform to subch. VI and this section or is contrary to an order of the department under this subchapter may be waived by the property owner and if waived is void and unenforceable.

(7r) (a) Notwithstanding sub. (7) (a), no city, village, or town may enact or enforce an ordinance that establishes minimum standards for constructing, altering, or adding to public buildings or buildings that are places of employment unless that ordinance strictly conforms to the applicable rules under sub. (15) (j), except as provided in paras. (b) to (d) and sub. (7m).

(b) Notwithstanding par. (a), a town, village, or city may enforce an ordinance establishing minimum standards for constructing, altering, or adding to public buildings or buildings that are places of employment that does not strictly conform to the applicable rules under sub. (15) (j) if all of the following apply:
  1. The ordinance was enacted before May 1, 2013.
  2. The ordinance was published by the town, village, or city in the manner required under s. 60.80, 61.50, or 62.11 (4).
  3. The ordinance relates to fire detection, prevention, or suppression components of buildings.
  4. The building is not a multifamily dwelling, as defined in s. 101.971 (2).
  5. The ordinance is submitted to the department within 60 days after April 18, 2014.
  6. The department determines that the ordinance requires standards that are at least as strict as the rules promulgated by the department.

(c) A town, village, or city may amend an ordinance that is enforceable under par. (b) if all of the following apply:
  1. The amendment will not broaden the applicability of the ordinance to any building components that are not subject to the ordinance under par. (b) 3.
  2. The amendment will not change the specific subject matter regulated by the ordinance.
  3. The town, village, or city submits a copy of the enacted amendment to the department at least 120 days before the effective date of the amendment.
  4. The town, village, or city publishes the enacted amendment in the manner required under s. 60.80, 61.50, or 62.11 (4) at least 120 days before the effective date of the amendment.
  5. The amendment will not change the specific subject matter regulated by the ordinance.

(d) 1. The department shall maintain a list of the ordinances that are enforceable under par. (b) and of the amendments that are enforceable under par. (c). The list shall be accessible to the public in electronic format, and shall include electronically photographed or scanned copies of the ordinances and amendments.

2. For an amendment submitted to the department under par. (c) 3., the department shall make it accessible as required under subd. 1. within 10 working days after receiving the amendment.

(e) Notwithstanding par. (a), a town, village, or city may enact and enforce an ordinance establishing a property maintenance code that is stricter than rules promulgated by the department under sub. (15) (j).

(f) Notwithstanding par. (a), a city of the 1st or 2nd class may enact and enforce an ordinance that relates to fire suppression that requires existing buildings to be altered to comply with the rules for the construction of buildings that are promulgated by the department under sub. (15) (j).

(g) (a) No action, proceeding or suit to set aside, vacate or annul any order of the department or to enjoin the enforcement thereof, shall be brought unless the plaintiff shall have applied to the department for a hearing thereon at the time and as provided in s. 101.02 (6) (e) to (i), and in the petition therefor shall have raised every issue raised in such action.

(b) Every order of the department shall, in every prosecution for violation thereof, be conclusively presumed to be just, reasonable and lawful, unless prior to the institution of prosecution for such violation a proceeding for judicial review of such order shall have been instituted, as provided in ch. 227.

9 A substantial compliance with the requirements of this subchapter shall be sufficient to give effect to the orders of the department, and no order may be declared inoperative, illegal or void for any omission of a technical nature with respect to the requirements of this subchapter.

10 Orders of the department under this subchapter shall be subject to review in the manner provided in ch. 227.

11 Proof by any person, firm or corporation employing a contractor to construct, repair, alter or improve any building or structure, that such contractor in performing such work has failed to comply with any applicable order or regulation of the department promulgated under this chapter shall constitute a defense to any action for payment by such contractor to the extent that it shall bar recovery for any part of the work which fails to comply. Advances paid to the contractor for work which fails to comply as well as any reasonable amount expended to effectuate compliance with any applicable order or regulation may be recovered from such contractor by way of counterclaim or in a separate action. This section shall not apply where plans or specifications were prepared by an architect or engineer licensed to do business in this state and the contract performed in accordance therewith.

12 Every day during which any person or corporation, or any officer, agent or employee of a person or corporation, fails to observe and comply with any order of the department or to perform any duty specified under this subchapter shall constitute a
The attorney shall, at the time of provided in s. separate and distinct violation of the order or of the requirements of this subchapter, whichever is applicable.

(13) (a) If any employer, employee, owner, or other person violates this subchapter, or fails or refuses to perform any duty specified under this subchapter, within the time prescribed by the department, for which no penalty has been specifically provided, or fails, neglects or refuses to obey any lawful order given or made by the department, or any judgment or decree made by any court in connection with this subchapter, for each such violation, failure or refusal, such employer, employee, owner or other person shall forfeit and pay into the state treasury a sum not less than $10 nor more than $100 for each such offense.

(b) It shall be the duty of all officers of the state, the counties and municipalities, upon request of the department, to enforce in their respective departments, all lawful orders of the department, insofar as the same may be applicable and consistent with the general duties of such officers.

(14) (a) The secretary or any examiner appointed by the secretary may hold hearings and take testimony.

(b) Each witness who appears before the department by its order shall receive for attendance the fees and mileage provided for in s. 805.07 (4) and must be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of issuance, send a copy of the subpoena to the party or representative of the department responsible for conducting the proceeding.

(c) The department or any party may in any investigation cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for depositions in civil actions in circuit courts. The expense incurred by the state in the taking of such depositions shall be charged against the proper appropriations for the department.

(cm) A party’s attorney of record may issue a subpoena to compel the attendance of a witness or the production of evidence. A subpoena issued by an attorney must be substantially the same as provided in s. 805.07 (4) and must be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of issuance, send a copy of the subpoena to the appeal tribunal or other representative of the department responsible for conducting the proceeding.

(d) A full and complete record shall be kept of all proceedings had before the department on any investigation and all testimony shall be taken down by the stenographer appointed by the department.

(15) (a) The department has such supervision of every employment, place of employment and public building in this state as is necessary adequately to enforce and administer all laws and all lawful orders requiring such employment, place of employment or public building to be safe, and requiring the protection of the life, health, safety and welfare of every employee in such employment or place of employment and every frequenter of such place of employment, and the safety of the public or tenants in any such public building. This paragraph does not apply to occupational safety and health issues covered by standards established and enforced by the federal occupational safety and health administration.

(b) The department shall administer and enforce, so far as not otherwise provided for in the statutes, the laws relating to laundries, stores, licensed occupations, school attendance, bakeries, intelligence offices and bureaus, manufacture of cigars, sweatshops, corn shredders, wood sawing machines, fire escapes and means of egress from buildings, scaffolds, hoists, ladders and other matters relating to the erection, repair, alteration or painting of buildings and structures, and all other laws protecting the life, health, safety and welfare of employees in employments and places of employment and frequencers of places of employment.

(c) Upon petition by any person that any employment or place of employment or public building is not safe, the department shall proceed, with or without notice, to make such investigation as may be necessary to determine the matter complained of.

(d) After such hearing as may be necessary, the department may enter such order relative thereto as may be necessary to render such employment or place of employment or public building safe.

(e) Whenever the department shall learn that any employment or place of employment or public building is not safe it may of its own motion, summarily investigate the same, with or without notice, and enter such order as may be necessary relative thereto.

(f) The department shall investigate, ascertain and determine such reasonable classifications of persons, employments, places of employment and public buildings, as shall be necessary to carry out the purposes of this subchapter.

(g) The secretary or any deputy of the department may enter any place of employment or public building, for the purpose of collecting facts and statistics, examining the provisions made for the health, safety and welfare of the employees, frequenters, the public or tenants therein and bringing to the attention of every employer or owner any law, or any order of the department, and any failure on the part of such employer or owner to comply therewith. No employer or owner may refuse to admit the secretary or any deputy of the department to his or her place of employment or public building.

(h) The department shall investigate, ascertain, declare and prescribe what safety devices, safeguards or other means or methods of protection are best adapted to render the employees of every employment and place of employment and frequenters of every place of employment safe, and to protect their welfare as required by law or lawful orders.

(i) The department shall ascertain and fix such reasonable standards and shall prescribe, modify and enforce such reasonable orders for the adoption of safety devices, safeguards and other means or methods of protection to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life, health, safety and welfare of employees in employments and places of employment or frequenters of places of employment.

(j) The department shall ascertain, fix and order such reasonable standards or rules for constructing, altering, adding to, repairing, and maintaining public buildings and places of employment in order to render them safe.

(jm) Paragraphs (a) to (j) do not apply to public employee occupational safety and health issues covered under s. 101.055.

(k) Every employer and every owner shall furnish to the department all information that the department requires to administer and enforce this subchapter, and shall provide specific answers to all questions that the department asks relating to any information that the department requires.

(L) Any employer receiving from the department any form requesting information that the department requires to administer and enforce this subchapter, along with directions to complete the form, shall properly complete the form and answer fully and correctly each question asked in the form. If the employer is unable to answer any question, the employer shall give a good and sufficient reason for his or her inability to answer the question. The employer’s answers shall be verified under oath by the employer, or by the president, secretary or other managing officer of the corporation, if the employer is a corporation, and the completed form shall be returned to the department at its office within the period fixed by the department.

(16) The department shall comply with the requirements of ch. 160 in the administration of any program, responsibility or activity assigned or delegated to it by law.
The department may establish a schedule of fees for publications and seminars provided by the department for which no fee is otherwise authorized, required or prohibited by statute. Fees established under this subsection for publications and seminars provided by the department may not exceed the actual cost incurred in providing those publications and seminars.

(a) The department shall, after consulting with the department of health services, develop a report form to document contact with blood or body fluids that constitutes a significant exposure, for use under s. 252.15 (5g) (c). The form shall contain the following language for use by a person who may have had a significant exposure: "REMEMBER — WHEN YOU ARE INFECTED WITH AN HIV TEST RESULT BY USING THIS FORM, IT IS A VIOLATION OF THE LAW FOR YOU TO REVEAL TO ANYONE ELSE THE IDENTITY OF THE PERSON WHO IS THE SUBJECT OF THAT TEST RESULT. (PENALTY: POSSIBLE JAIL AND UP TO $50,000 FINE)."

(b) The department shall determine whether a report form that is not the report form under par. (a) that is used or proposed for use to document significant exposure to blood or body fluids, is substantially equivalent to the report form under par. (a).

(a) For purposes of this subsection, "license" means a license, permit, or certificate of certification or registration issued by the department for an occupation or profession under s. 101.122 (2) (c), 101.15 (2) (e), 101.16 (3g), 101.17, 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.96 (2), 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.17, 145.175, 145.18, or 167.10 (6m) or under rules promulgated under ch. 101 or 145.

(b) Except as provided in par. (c), the department of safety and professional services may not issue or renew a license unless each applicant who is an individual provides the department of safety and professional services with his or her social security number and each applicant that is not an individual provides the department of safety and professional services with its federal employer identification number. The department of safety and professional services may not disclose the social security number of the federal employer identification number of an applicant for a license or license renewal except to the department of revenue for the sole purpose of requesting certifications under s. 73.0301 and to the department of workforce development for the sole purpose of requesting certifications under s. 108.227.

(c) The department of safety and professional services may not issue or renew a license if the department of revenue certifies under s. 101.122 (2) (c), 101.15 (2) (e), 101.16 (3g), 101.17, 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.96 (2), 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.17, 145.175, 145.18, or 167.10 (6m) or under rules promulgated under ch. 101 or 145.

(d) The department of safety and professional services shall revoke a license if the department of revenue certifies under s. 73.0301 that the licensee is liable for delinquent taxes or if the department of workforce development certifies under s. 108.227 that the licensee is liable for delinquent unemployment insurance contributions.

(e) 1. If an applicant who is an individual does not have a social security number, the applicant, as a condition of applying for or applying to renew a license shall submit a statement made or subscribed under oath or affirmation to the department of safety and professional services that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families.

2. Any license issued or renewed in reliance upon a false statement submitted by an applicant under subd. 1. is invalid.

(a) In this subsection, "insulating concrete form" means a hollow expandable polystyrene form that is filled with concrete.

(b) Except as provided in par. (c), no later than April 1, 2007, the department shall provide a designation on every standard building permit form prescribed by the department under this chapter to indicate whether insulating concrete forms are being used in the construction of the building for which the permit is issued.

(c) No later than June 1, 2006, the department shall provide the designation described under par. (b) on all electronic versions of every standard building permit form prescribed by the department under this chapter.

The department shall include the following language on every standard building permit form prescribed by the department under this chapter: "YOU ARE RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT THE DEPARTMENT OF NATURAL RESOURCES."
RESOURCES WETLANDS IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF NATURAL RESOURCES SERVICE CENTER.”

(24) In this subsection:
1. “Instruction” means any education, training, instruction or other experience related to an occupation or profession.
2. “License” means a license, permit, or certificate of certification or registration issued by the department for an occupation or profession under s. 101.122 (2) (c), 101.15 (2) (e), 101.16 (3g), 101.17, 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.654, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.985 (1) to (3), 103.02 (4), 103.035, 103.045, 103.15, 103.16, 145.18, or 167.10 (6m) or under rules promulgated under ch. 101 or 145.

(b) The department shall count any relevant instruction that an applicant for a license has obtained in connection with any military service, as defined in s. 111.32 (12g), toward satisfying the requirements for instruction for that license if the applicant demonstrates to the satisfaction of the department that the instruction obtained by the applicant is substantially equivalent to the instruction required for the license.


101.027 Energy conservation code for public buildings and places of employment. (1) In this section, “energy conservation code” means the energy conservation code promulgated by the department that sets design requirements for construction and equipment for the purpose of energy conservation in public buildings and places of employment.

(2) The department shall review the energy conservation code and shall promulgate rules that change the requirements of the energy conservation code to improve energy conservation. No rule may be promulgated that has not taken into account the cost of the energy conservation code requirement, as changed by the rule, in relationship to the benefits derived from that requirement, including the reasonably foreseeable economic and environmental benefits to the state from any reduction in the use of imported fossil fuel. The proposed rules changing the energy conservation code shall be submitted to the legislature in the manner provided under s. 227.19. In conducting a review under this subsection, the department shall consider incorporating, into the energy conservation code, design requirements from the most current national energy efficiency design standards, including the International Energy Conservation Code or an energy efficiency code other than the International Energy Conservation Code if that energy efficiency code is used to prescribe design requirements.
for the purpose of conserving energy in buildings and is generally accepted and used by engineers and the construction industry.

(3) (a) The department shall begin a review under sub. (2) whenever one of the following occurs:


2. Three years have passed from the date on which the department last submitted to the legislature proposed rules changing the energy conservation code.

(b) The department shall complete a review under sub. (2) as follows:

1. If the department begins a review under sub. (2) because a revision of the International Energy Conservation Code is published, the department shall complete its review of the energy conservation code, as defined in sub. (1), and submit to the legislature proposed rules changing the energy conservation code, as defined in sub. (1), no later than 18 months after the date on which the revision of the International Energy Conservation Code is published.

2. If the department begins a review under sub. (2) because 3 years have passed from the date on which the department last submitted to the legislature proposed rules changing the energy conservation code, the department shall complete its review of the energy conservation code and submit to the legislature proposed rules changing the energy conservation code no later than 9 months after the last day of the 3-year period.


Cross-reference: See also ch. SPS 363, Wis. adm. code.

101.03 Testimonial powers of secretary and deputy. The secretary or any deputy secretary may certify to official acts, and take testimony.

History: 1971 c. 228 s. 21; Stats. 1971 s. 101.03; 1977 c. 29; 1995 a. 27.

101.05 Exempt buildings and projects. (1) No building code adopted by the department under this chapter shall affect buildings located on research or laboratory farms of public universities or other state institutions and used primarily for housing livestock or other agricultural purposes.

(2) A bed and breakfast establishment, as defined under s. 97.01 (1g), is not subject to building codes adopted by the department under this subchapter.

(3) No standard, rule, code or regulation of the department under this subchapter applies to construction undertaken by the state for the purpose of renovation of the state capitol building.

(4) No standard, rule, order, code or regulation adopted, promulgated, enforced or administered by the department under this chapter applies to a rural school building if all of the following are satisfied:

(a) The school building consists of one classroom.

(b) The school building is used as a school that is operated by and for members of a bona fide religious denomination in accordance with the teachings and beliefs of the denomination.

(c) The teachings and beliefs of the bona fide religious denomination that operates the school prohibit the use of certain products, devices or designs that are necessary to comply with a standard, rule, order, code or regulation adopted, promulgated, enforced or administered by the department under this chapter.

(5) No standard, rule, order, code, or regulation adopted, promulgated, enforced, or administered by the department under s. 101.025, 101.027, 101.12, 101.121, or 101.125 to 101.135 applies to a building used for farming, as defined by the department by rule.


Cross-reference: See also ch. SPS 361, Wis. adm. code.

101.055 Public employee safety and health. (1) INTENT. It is the intent of this section to give employees of the state, of any agency and of any political subdivision of this state rights and protections relating to occupational safety and health equivalent to those granted to employees in the private sector under the occupational safety and health act of 1970 (5 USC 5108, 5314, 5315 and 7902; 15 USC 633 and 636; 18 USC 1114; 29 USC 553 and 651 to 678; 42 USC 3142–1 and 49 USC 1421).

(2) DEFINITIONS. In this section, unless the context requires otherwise:

(a) “Agency” means an office, department, independent agency, authority, institution, association, society, or other body in state government created or authorized to be created by the constitution or any law, and includes the legislature and the courts.

(b) “Public employee” or “employee” means any employee of the state, of any agency or of any political subdivision of the state.

(c) “Public employee representative” or “employee representative” means an authorized collective bargaining agent, an employee who is a member of a workplace safety committee or any person chosen by one or more public employees to represent those employees.

(d) “Public employer” or “employer” means the state, any agency or any political subdivision of the state.

(3) STANDARDS. (a) The department shall adopt, by administrative rule, standards to protect the safety and health of public employees. The standards shall provide protection at least equal to that provided to private sector employees under standards promulgated by the federal occupational safety and health administration, but no rule may be adopted by the department which defines a substance as a “toxic substance” solely because it is listed in the latest printed edition of the national institute for occupational safety and health registry of toxic effects of chemical substances. The department shall revise the safety and health standards adopted for public employees as necessary to provide protection at least equal to that provided to private sector employees under federal occupational safety and health administration standards, except as otherwise provided in this paragraph. Notwithstanding ss. 35.93 and 227.21, if the standards adopted by the department are identical to regulations adopted by a federal agency, the standards need not be published in full in the Wisconsin administrative code and register as provided in ss. 35.93 and 227.21 if the identical federal regulations are made available to the public at a reasonable cost and promulgated in accordance with ch. 227, except s. 227.21. The department may provide to the legislative reference bureau one or more Web addresses to provide electronic access to any standards adopted under this paragraph for publication in conjunction with the publication of the Wisconsin administrative code and register under s. 35.93.

(b) Standards adopted by the department shall contain appropriate provisions for informing employees about hazards in the workplace, precautions to be taken and emergency treatment practices to be used in the event of an accident or overexposure to a toxic substance. Standards shall include provisions for providing information to employees through posting, labeling or other suitable means. Where appropriate, standards adopted by the department shall contain provisions for the use of protective equipment and technological procedures to control hazards.

(c) Standards adopted by the department relating to toxic substances or harmful physical agents, such as noise, temperature extremes and radiation, shall assure to the extent feasible that no employee will suffer material impairment of health or functional capacity through regular exposure. Where appropriate, standards adopted by the department relating to toxic substances and physical agents shall require the monitoring and measuring of employees’ exposure to the substance or agent.

(d) No standards adopted under this subsection may require a member of a volunteer or paid fire department maintained by a political subdivision of this state to complete more than 60 hours of training prior to participating in structural fire fighting.

(4) VARIANCES. (a) Procedure. A public employer may apply to the department for a temporary variance under par. (b), an experimental variance under par. (c) or a permanent variance under par. (d) to any standard adopted under sub. (3) by filing a
petition with the department specifying the standard for which the public employer seeks a variance and the reasons for which the variance is sought. In addition, the public employer seeking the variance shall provide a copy of the application to the appropriate public employee representatives and post a statement at the place where notices to employees are normally posted. The posted statement shall summarize the application, specify a place where employees may examine the application and inform employees of their right to request a hearing. Upon receipt of a written request by the employer, an affected employee or a public employee representative, the department shall hold a hearing on the application for a variance and may make further investigations. If a hearing has been requested, the department may not issue a variance until a hearing has been held. A variance issued under par. (b), (c) or (d) shall prescribe the methods and conditions which the employer must adopt and maintain while the variance is in effect.

(b) Temporary variance. The department may grant a temporary variance before a standard goes into effect if the public employer complies with par. (a) and establishes that it is unable to comply with a standard by the standard’s effective date because of necessary materials or equipment or because necessary construction or alteration of facilities cannot be completed by the effective date. The employer shall also show that it is taking all available steps to safeguard employees against the hazard covered by the standard from which the variance is sought and shall possess and describe a program for coming into compliance with the standard as quickly as possible. If a hearing is requested, the department may state in writing that noncompliance with the standard is permitted for 180 days or until a decision is made after the hearing, whichever is earlier. A temporary variance shall be in effect for the period of time needed by the employer to achieve compliance with the standard or for one year, whichever is shorter. A temporary variance may be renewed no more than twice, and only if the public employer files an application for renewal at least 90 days before expiration of the temporary variance and complies with this paragraph and par. (a).

(c) Experimental variance. The department may grant an experimental variance if the public employer complies with par. (a) and the department determines that the variance is necessary to permit the employer to participate in an experiment approved by the department to demonstrate or validate new or improved techniques to safeguard the health or safety of employees.

(d) Permanent variance. The department may grant a permanent variance if the public employer complies with par. (a) and the department finds the employer has demonstrated by a preponderance of the evidence that the conditions and methods the employer uses or proposes to use provide employment or a place of employment which is as safe and healthful as that provided under the standard from which the employer seeks a permanent variance. A permanent variance may be modified or revoked upon application by the employer, an affected employee, a public employee representative or the department and after opportunity for a hearing, but not sooner than 6 months after issuance of the permanent variance.

(5) Inspections. (a) A public employee or public employee representative who believes that a safety or health standard or variance is being violated, or that a situation exists which poses a recognized hazard likely to cause death or serious physical harm, may request the department to conduct an inspection. The department shall provide forms which may be used to make a request for an inspection. If the employee or public employee representative requesting the inspection designates that person’s name shall not be disclosed to the employer or any other person, including any agency except the department. If the department decides not to make an inspection, it shall notify in writing any employee or public employee representative making a written request. A decision by the department not to make an inspection in response to a request under this subsection is reviewable by the department under sub. (b) (a) 3. and is subject to judicial review under sub. (b) (a) 4.

(b) An authorized representative of the department may enter the place of employment of a public employer at reasonable times, within reasonable limits and in a reasonable manner to determine whether that employer is complying with safety and health standards and variances adopted under subs. (3) and (4) or to investigate any situation which poses a recognized hazard likely to cause death or serious physical harm to a public employee regardless of whether a standard is being violated. No public employer may refuse to allow a representative of the department to inspect a place of employment. If an employer attempts to prevent a representative of the department from conducting an inspection, the department may obtain an inspection warrant under s. 66.0119. No notice may be given before conducting an inspection under this paragraph unless that notice is expressly authorized by the secretary or is necessary to enhance the effectiveness of the inspection.

(c) A representative of the employer and a public employee representative shall be permitted to accompany a representative of the department on an inspection made under this subsection to aid in the inspection and to notify the inspector of any possible violation of a safety or health standard or a condition which poses a recognized hazard likely to cause death or serious physical harm to a public employee. The public employee representative accompanying the representative of the department on an inspection shall, with respect to payment received or withheld for time spent accompanying the department representative, receive treatment equal to that afforded to any representative of the employer who is present during an inspection, except that a public employer may choose to allow only one public employee representative at a time to accompany the department representative on an inspection without a reduction in pay. If a representative of the employer does not accompany the representative of the department on an inspection, at least one public employee representative shall be allowed to accompany the representative of the department on the inspection without a loss of pay. Where no public employee representative accompanies the representative of the department on an inspection, the representative of the department shall consult with a reasonable number of employees concerning matters of employee safety and health. The department shall keep a written record of the name of any person accompanying the department representative during the inspection, the name of any employee consulted and the name of any authorized collective bargaining agent notified of the inspection by the public employer under sub. (7) (e).

(d) When making an inspection, a representative of the department may question privately any public employer or employee. No public employee shall suffer a loss in wages for time spent responding to any questions under this paragraph.

(e) A representative of the department shall have access to the records required under sub. (7) (a) and (b) and to any other records maintained by a public employer which are related to the purpose of the inspection.

(6) Enforcement. (a) Orders. 1. ‘Inspection.’ If, as a result of inspection, the department finds a violation of a safety and health standard or variance or a condition which poses a recognized hazard likely to cause death or serious physical harm to a public employee, the department shall issue an order to the employer. A public employer who is in compliance with any standards or variances is deemed to be in compliance to the extent of the condition, practice, means, method, operation or process covered by that standard. The order shall describe the nature of the violation and the period of time within which the employer shall correct the violation. The department shall send a copy of the order to the top elected official of the political subdivision of which the public employer is a part and to the appropriate collective bargaining agent for the employees affected by the violation cited in the order, if a collective bargaining agent exists. If the order is issued as a result of an inspection requested by an employee or public employee representative, the department shall also send a copy of the order to that employee or public employee.
representative. Upon receipt of an order, the employer shall post the order at or near the site of violation for 3 days, or until the violation is abated, whichever is longer. The order shall be posted regardless of whether there has been a petition for a variance under sub. (4) or for a hearing under subd. 3. The employer shall ensure that the order is not altered, defaced or covered by other materials.

2. ‘Decision not to issue.’ If the department decides not to issue an order in response to a request for inspection filed under sub. (5) (a), it shall mail written notice of that decision to the public employee or public employee representative who requested the investigation. A decision under this subdivision is reviewable by the department under subd. 3.

3. ‘Review by department.’ A public employer or employee affected by an order or decision issued by the department under sub. 1. or 2. or sub. (5) (a) may obtain review of the order or decision by filing with the department a petition requesting a hearing and specifying the modification or change desired in the order or decision. A petition for a hearing must be filed with the department not later than 30 days after the order is issued or the written notification is mailed. If the department denies the request for a hearing, the denial shall be in writing and shall state the reasons for denial. If the department holds a hearing, it shall issue an order affirming, vacating or modifying the order or decision under subd. 1. or 2. or sub. (5) (a), within 30 days after the close of the hearing.

4. ‘Judicial review.’ Orders and denials of requests for hearings under subd. 3. are subject to judicial review under ch. 227.

(b) *Injunction.* Whenever a hazard exists in a public employer’s place of employment which could reasonably be expected to cause death or serious physical harm before other procedures under this section can be carried out, the department may seek relief through an injunction or an action for mandamus as provided in chs. 783 and 813. If the department seeks an injunction or an action for mandamus, it shall notify the affected public employer and public employees of the hazard for which relief is being sought.

7. **EMPLOYER OBLIGATIONS FOR RECORD KEEPING AND NOTIFICATION.** (a) A public employer shall maintain records of work-related injuries and illnesses and shall make reports of these injuries and illnesses to the department at time intervals specified by rule of the department. These records shall be available to the department, the employer’s employees and the employees’ representatives. This paragraph does not authorize disclosure of patient health care records except as provided in ss. 146.82 and 146.83.

(b) A public employer shall maintain records of employee exposures to toxic materials and harmful physical agents which are required by safety and health standards adopted under sub. (3) to be monitored or measured. A representative of the department and any affected public employee and his or her public employee representative shall be permitted to observe the monitoring and measuring and shall have access to the employer’s records of the monitoring and measuring. This paragraph does not authorize disclosure of patient health care records except as provided in ss. 146.82 and 146.83.

(c) A public employer shall promptly notify a public employee who has been or is being exposed to any toxic material or harmful physical agent at a level which exceeds that prescribed by the safety and health standards of the department and shall inform that public employee of any corrective action being taken.

(d) A public employer shall notify its employees of their protections and rights under this section by posting a summary of these protections and rights in the place of employment where notices to employees are usually posted.

(e) When a representative of the department enters a public employer’s place of employment to make an inspection, the employer shall notify an appropriate representative of any collective bargaining unit which represents the employer’s employees. The employer shall give the name of the collective bargaining unit representatives notified of the inspection to the department representative making the inspection.

8. **PROTECTION OF PUBLIC EMPLOYEES EXERCISING THEIR RIGHTS.** (ag) In this subsection, “division of equal rights” means the division of equal rights in the department of workforce development acting under the authority provided in s. 106.54 (4).

(ar) No public employer may discharge or otherwise discriminate against any public employee it employs because the public employee filed a request with the department, instituted or caused to be instituted any action or proceeding relating to occupational safety and health matters under this section, testified or will testify in such a proceeding, reasonably refused to perform a task which represents a danger of serious injury or death or exercised any other right related to occupational safety and health which is afforded by this section.

(b) A public employee who believes that he or she has been discharged or otherwise discriminated against by a public employer in violation of par. (ar) may file a complaint with the division of equal rights alleging discrimination or discharge, within 30 days after the employee received knowledge of the discrimination or discharge.

(c) Upon receipt of a complaint, the division of equal rights shall, except as provided in s. 230.45 (1m), investigate the complaint and determine whether there is probable cause to believe that a violation of par. (ar) has occurred. If the division of equal rights finds probable cause it shall attempt to resolve the complaint by conference, conciliation or persuasion. If the complaint is not resolved, the division of equal rights shall hold a hearing on the complaint within 60 days after receipt of the complaint unless both parties to the proceeding agree otherwise. Within 30 days after the close of the hearing, the division of equal rights shall issue its decision. If the division of equal rights determines that a violation of par. (ar) has occurred, it shall order appropriate relief for the employee, including restoration of the employee to his or her former position with back pay, and shall order any action necessary to ensure that no further discrimination occurs. If the division of equal rights determines that there has been no violation of par. (ar), it shall issue an order dismissing the complaint.

(d) Orders of the division of equal rights under this subsection are subject to judicial review under ch. 227.

Cross-reference: See also ch. DWD 223, Wis. adm. code.

9. **COORDINATION OF STATE SAFETY AND HEALTH PROGRAMS.** The department shall coordinate state safety and health programs and shall plan and conduct comprehensive safety and health loss prevention programs for state employees and facilities.

10. **EXCEPTION FOR CERTAIN POLITICAL SUBDIVISIONS.** The department is not required to expend any resources to enforce this section in political subdivisions having 10 or less employees unless it has received a complaint.


Cross-reference: See also chs. SPS 303, 330, and 332, Wis. adm. code.

This section extends the coverage of OSHA to government employees. OSHA was meant to address tangible, measurable workplace hazards. The threat of on-the-job violence to a campus police officer is too abstract to be within the coverage afforded. The denial of a request for a hearing on a complaint seeking to require the provision of firearms to officers was proper. West v. Department of Commerce, 230 Wis. 2d 71, 601 N.W.2d 307 (Ct. App. 1999), 98–1693.

101.10 **Storage and handling of anhydrous ammonia; theft of anhydrous ammonia and anhydrous ammonia equipment.** (1) **DEFINITIONS.** In this section:

(a) “Agricultural activity” means planting, cultivating, propagating, fertilizing, nurturing, producing, harvesting, or manufacturing agricultural, horticultural, viticultural, or dairy products; forest products; livestock; wildlife; poultry; bees; fish; shellfish; or any products of livestock, wildlife, poultry, bees, fish, or shellfish.

(b) “Anhydrous ammonia equipment” means any equipment that is used in the application of anhydrous ammonia for an agri-
cultural purpose or that is used to store, hold, transport, or transfer anhydrous ammonia.

(c) “Transfer” means to remove from a container.

(2) RULES. The department shall promulgate rules that prescribe reasonable standards relating to the safe storage and handling of anhydrous ammonia.

(3) PROHIBITIONS. No person may do any of the following:

(a) Store, hold, or transport anhydrous ammonia in a container that does not meet all applicable requirements established by rules of the department promulgated under sub. (2).

(b) Transfer or attempt to transfer anhydrous ammonia into a container that does not meet all applicable requirements established by rules of the department promulgated under sub. (2).

(c) Transfer or attempt to transfer anhydrous ammonia without the consent of the owner of the anhydrous ammonia.

(d) Intentionally cause damage to anhydrous ammonia equipment without the consent of the owner of the anhydrous ammonia equipment.

(e) Intentionally take, carry away, use, conceal, or retain possession of anhydrous ammonia belonging to another or anhydrous ammonia equipment belonging to another, without the other’s consent and with intent to deprive the owner permanently of possession of the anhydrous ammonia or anhydrous ammonia equipment.

(f) Intentionally release or allow the escape of anhydrous ammonia belonging to another into the atmosphere. This paragraph does not apply if the owner has authorized the actor to exercise control over the anhydrous ammonia or has consented to its release.

(4) PENALTIES. (a) Any person who violates a rule of the department promulgated under sub. (2) may be required to forfeit not less than $10 nor more than $100 for each violation.

(b) Except as provided in par. (c), any person who violates sub. (3) is guilty of a Class I felony. Notwithstanding s. 101.02 (12), each act in violation of sub. (3) constitutes a separate offense.

(c) Any person who violates sub. (3) (a) or (b) while performing an agricultural activity or while performing an activity related to the construction, repair, alteration, location, installation, inspection, or operation of anhydrous ammonia equipment with the consent of the owner of the anhydrous ammonia equipment may be required to forfeit not less than $10 nor more than $100 for each violation.


Cross-reference: See also ch. SPS 343, Wis. adm. code.

101.11 Employer’s duty to furnish safe employment and place. (1) Every employer shall furnish employment which shall be safe for the employees therein and shall furnish a place of employment which shall be safe for employees thereof and for frequenter thereof and shall furnish and use safety devices and safeguards, and shall adopt and use methods and processes reasonably adequate to render such employment and places of employment safe, and shall do every other thing reasonably necessary to protect the life, health, safety, and welfare of such employees and frequenters. Every employer and every owner of a place of employment or a public building now or hereafter constructed shall so construct, repair or maintain such place of employment or public building as to render the same safe.

(2) No employer shall require, permit or suffer any employee to go or be in any employment or place of employment which is not safe, and no such employer shall fail to furnish, provide and use safety devices and safeguards, or fail to adopt and use methods and processes reasonably adequate to render such employment and place of employment safe, and no such employer shall fail or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employees and frequenters; and no employer or owner, or other person shall hereafter construct or occupy or maintain any place of employment, or public building, that is not safe, nor prepare plans which shall fail to provide for making the same safe.

(b) No employee shall remove, disable, damage, destroy or carry off any safety device or safeguard furnished and provided for use in any employment or place of employment, nor interfere in any way with the use thereof by any other person, nor shall any such employee interfere with the use of any method or process adopted for the protection of any employee in such employment or place of employment or frequenter of such place of employment, nor fail or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employees or frequenters.

(3) This section applies to community-based residential facilities as defined in s. 50.01 (1g).

History: 1971 c. 185; Stats. 1971 s. 101.11; 1975 c. 413; 1987 a. 161 s. 13m.

Cross-reference: See also chs. SPS 361, 362, 363, 364, and 365, Wis. adm. code.

Ordinary negligence can be compared with negligence founded upon the safe place statute. In making the comparison, a violation of the statute is not to be considered necessarily as contributing more than the common-law contributory negligence. Losee v. Allied Development Corp. 45 Wis. 2d 340, 173 N.W.2d 196 (1970).

When an apartment complex was managed for a fee by a management company, the company was carrying on a business there. Reduction of rent to one of the tenants for caretaking services constituted employment on the premises. A tenant who fell in the parking lot after the caretaker knew of the condition should only prove negligence in maintaining the premises. Witkia v. Hartnell, 46 Wis. 2d 374, 175 N.W.2d 248 (1970).

A public sidewalk is not made a place of employment merely because an employer control it and kept it free of ice and snow. Petrocki v. Eaton Yale & Towne, Inc. 47 Wis. 2d 617, 178 N.W.2d 53 (1973).

The fact that a violation of the safe place statute is found puts the burden on the owners to rebut the presumption of causation but does not establish as a matter of law that the defendant’s negligence was greater than the plaintiff’s. Frederick v. Hotel Investments, Inc. 48 Wis. 2d 429, 180 N.W.2d 362 (1970).

A store must be held to have had constructive notice of a dangerous condition when it displayed shaving cream in spray cans on a counter and a 70-year old woman fell in cream sprayed on the white floor. Steinhorst v. H. C. Prange Co. 48 Wis. 2d 679, 180 N.W.2d 525 (1970).

The mere existence of a step up to a hospital lavatory was not an unsafe condition. Low v. Siewert, 54 Wis. 2d 251, 195 N.W.2d 451 (1972).

A parking lot owned by a city that is a continuation of a store parking lot used by the public for attending the city zoo and the store, even though maintained by the private property owner, is not a place of employment. Gordon v. Schultz Savo Stores, Inc. 54 Wis. 2d 692, 196 N.W.2d 633 (1972).

Detailed construction specifications and the presence of engineers to insure compliance does not manifest control over the project so as to make the commission liable. Berger v. Metropolitan Sewerage Commission of Milwaukee, 56 Wis. 2d 741, 208 N.W.2d 87 (1973).

In a safe place action the employee’s contributory negligence is less when his or her act or omission has been committed in the performance of job duties. McGrossen v. Neekoza–Edwards Paper Co. 59 Wis. 2d 245, 208 N.W.2d 146 (1973).

A fire at a beach open to the public for a fee constitutes a place of employment. Any distinction between licensees and invitees is irrelevant, and the statute imposes a higher duty as to safety than the common law. Gould v. Allstar Insurance Co. 59 Wis. 2d 366, 208 N.W.2d 388 (1973).

A private road on the ground of a private racetrack that connected the track and a parking lot was subject to this section as to frequenters. Gross v. Denow, 61 Wis. 2d 401, 212 N.W.2d 2 (1973).

A one-eighth-inch variance in elevation between the sides of a ramp joint was too slight, as a matter of law, to constitute a violation of the safe place statute. Balas v. St. Sebastian’s Congregation, 66 Wis. 2d 421, 225 N.W.2d 428 (1975).

An employer may be held liable under the safe place statute only for failing to construct or maintain safety structures such as fences, but also for knowingly permitting employees or frequenters to venture into a dangerous area. Kaiser v. Cook, 67 Wis. 2d 260, 227 N.W.2d 50 (1975).

The safe place statute applies only to unsafe physical conditions, not to activities conducted on a premises. Korenak v. Curative Workshop Adult Rehabilitation Center, 71 Wis. 2d 77, 237 N.W.2d 45 (1976).

The duty to furnish a safe place of employment to employees does not impose a duty on a contractor for subcontractor’s employees. A contractor can owe a duty to a frequenter, but only when a hazardous condition is under the supervision or control of the contractor. Barth v. Downey Co., Inc. 71 Wis. 2d 775, 239 N.W.2d 92 (1977).

Retention of control and supervision is required for recovery against a general contractor by a subcontractor’s employee. Lemacher v. Circle Construction Co., Inc. 72 Wis. 2d 845, 240 N.W.2d 179 (1976).

The length of time a safe place defect must exist, in order to impose constructive notice of it on an owner, varies according to the nature of the business, the nature of the defect, and the public policy involved. May v. Skelley Oil Co. 227 N.W.2d 50 (1975).

In safe place cases, comparative negligence instructions need not direct the jury to consider the defendant’s higher duty of care. Brons v. Bishoff, 89 Wis. 2d 80, 277 N.W.2d 854 (1979).

Indemnity in a safe place action creates an effect identical to that of contribution. Barrows v. J. H. Findorff & Sons, Inc. 89 Wis. 2d 444, 278 N.W.2d 827 (1979).

Wisconsin Statutes Archive.
A "structural defect" for which an owner sustains safe place liability for the defect regardless of knowledge of the defect arises from design or construction flaws when a building element is put in place, whether as an original part of a structure or as a replacement. This contrasts with features of a structure that were installed safely and then developed into a hazard. Wagner v. Cincinnati Casualty Co. 2011 WI App 85, 334 Wis. 2d 516, 800 N.W.2d 27, 10–1195.


Under the safe place statute, an owner is only absolved of its statutory duty if it relinquishes complete control of the premises to a contractor, and the premises are in a safe condition at that time. The owner must have control over the place such that it can carry out its duty to furnish a safe place of employment and custody and cus- tody of the premises need not be exclusive, nor is it necessary to have control for all purposes. Anderson v. P&G Paper Products Co. 924 F. Supp. 2d 996 (2013).

101.111 Excavations; protection of adjoining property and buildings. (1) DEFINITION. In this section "excavator" means any owner of an interest in land making or causing to be made an excavation.

(2) CAVE-IN PREVENTION. Any excavator shall protect the excavation site in such a manner as to prevent the soil of adjoining property from caving in or settling.

(3) LIABILITY FOR UNDERPINNING AND FOUNDATION EXTENSIONS. (a) If the excavation is made to a depth of 12 feet or less below grade, the excavator may not be held liable for the expense of any necessary underpinning or extension of the foundations of buildings.

(b) If the excavation is made to a depth in excess of 12 feet below grade, the excavator shall be liable for the expense of any necessary underpinning or extension of the foundations of any adjoining buildings below the depth of 12 feet below grade. The owners of adjoining buildings shall be liable for the expense of any necessary underpinning or extension of the foundations of their buildings to the depth of 12 feet below grade.

(4) NOTICE. Unless waived by adjoining owners, at least 30 days prior to commencing the excavation the excavator shall notify, in writing, all owners of adjoining buildings of his or her intention to excavate. The notice shall state that adjoining build- ings may require permanent protection. The owners of adjoining property shall have access to the excavation site for the purpose of protecting their buildings.

(5) EMPLOYEES NOT LIABLE. No worker who is an employee of an excavator may be held liable for his or her employer’s failure to comply with this section.

(6) FAILURE TO COMPLY, INJUNCTION. If any excavator fails to comply with this section, any aggrieved person may obtain an action to obtain an order under ch. 813 directing such excavator to comply with this section and restraining the excavator from further violation thereof. If the aggrieved person prevails in the action, he or she shall be reimbursed for all his or her costs and disbursements together with such actual attorney fees as may be approved by the court.

(7) APPLICATION OF THIS SECTION. (a) Subject to par. (b), this section applies to any excavation made or contract awarded on or before January 1, 1978.

(b) This section does not apply to any excavation made under a contract awarded on or before January 1, 1978.
(c) Elevators, escalators, lifts, as defined in s. 167.33 (1) (f), and power dumbbell elevators.

(d) Stadiums, grandstands and bleachers.

(e) Amusement and thrill rides equipment.

(2) Plans of said buildings, structures and components shall be examined for compliance with the rules of the department and a statement of the examination returned to the designer and owner before construction is started. Nothing in this section shall relieve the designer of the responsibility for designing a safe building, structure or component.

(3) The department shall:

(a) Accept the examination of essential drawings, calculations and specifications in accordance with sub. (1) performed by cities of the 1st class provided the same are examined in a manner approved by the department.

(b) Accept the examination of essential drawings, calculations and specifications in accordance with sub. (1) for buildings containing less than 50,000 cubic feet of volume and alterations to buildings containing less than 100,000 cubic feet of volume performed by cities, villages, towns or counties, provided the same are examined in a manner approved by the department. The department shall determine and certify the competency of all such examiners.

(bm) Accept the review and determination performed by 1st class cities on variances for buildings if the variances are reviewed and decided on in a manner approved by the department.

(bq) Accept the review and determination performed by 2nd class cities that are certified pursuant to sub. (3m) on variances for buildings if the variances are reviewed and decided on in a manner approved by the department.

(br) Accept the review and determination on variances for buildings containing less than 50,000 cubic feet of volume and alterations to buildings containing less than 100,000 cubic feet of volume performed by certified municipalities if the department has certified the competency of a municipality to issue variances and if the variances are reviewed in a manner approved by the department. Owners may submit variances to the municipality or the department.

(c) Determine and certify the competency of inspectors of boilers, unfired pressure vessels, refrigeration plants, elevators, escalators and power dumbbell elevators.

(d) Accept inspections at no cost performed by inspectors for whom evidence of competency has been furnished to the department.

(e) Approve inspection service maintained or employed by owners or operators of boilers and unfired pressure vessels.

(f) Accept inspections at no cost performed by approved owner or operator inspection service and provide shop inspection service when deemed necessary.

(g) Accept inspection at no cost when performed by qualified and authorized inspectors for a city, village, town or county for the inspection of buildings and equipment located within the city, village, town or county. The department shall determine and certify the competency of all such inspectors.

(h) Require all local officers not authorized by the department to grant approvals as provided in pars. (a) and (b) to deny permits or licenses for construction or use of public buildings, public structures and places of employment until the required drawings and calculations have been examined by the department.

(3m) (a) The department shall promulgate rules for the administration of a program to certify 2nd class cities to perform the examination of essential drawings, calculations and specifications in accordance with sub. (1).

(b) A 2nd class city may apply for certification by the department under this subsection if that city employs at least one architect or one professional engineer who has been granted a certificate of registration under s. 443.10. The department shall certify a 2nd class city when the department determines and certifies the competency of all examiners employed by the city. The department shall review the competency of the examiners of a city that is certified under this subsection on a regular basis and may revoke the certification of a city if the examiners do not meet standards specified by the department.

(c) Owners within the 2nd class city may obtain examinations from the city or the department.

(d) The department shall certify 2nd class cities to perform reviews and determinations of variances under sub. (3) (b) if the 2nd class city has been certified for purposes of sub. (3) (b).

(e) The department shall by rule set fees, to be collected by the 2nd class city and remitted to the department, to meet the department’s costs in enforcing and administering its duties under sub. (3) (am) and this subsection.

(3r) An owner of a building may request, and the department may grant, a variance from standards contained in a rule relating to constructing, altering, and adding to public buildings and buildings that are places of employment if the department finds that the requested variance will impose an equivalent standard that meets the intent of the rule.

(4) (a) Except as provided in par. (b), any inspection performed to determine compliance with the rules promulgated by the department that relate to constructing, altering, or adding to public buildings and buildings that are places of employment may be performed only by a person who is certified under rules promulgated by the department to make such inspections.

(b) The certification requirement under par. (a) does not apply to any of the following:

1. An inspection performed under s. 101.14 (2) (b) or (c) by an inspector who is designated under s. 101.14 (2) (d) to make such inspections.

2. An inspection performed by an inspector who has received certification under s. 101.14 (4r).

(5) (a) In this subsection:

1. “Plans” means construction plans, designs, specifications and related materials filed with the department, city, village, town or county concerning a structure.

2. “Secure structure” means a building or other structure of a type which the department, city, village, town or county determines to have extraordinary security requirements, including but not limited to structures used:

   a. For the safekeeping of large sums of money, negotiable instruments, securities or other valuables;

   b. As a jail, correctional facility or other secure facility for persons in detention;

   c. For the safekeeping or evaluation of evidence in criminal proceedings or investigations;

   d. For the safekeeping of weapons, ordinance or explosives;

   e. In the generation, transmission or distribution of electric power, fuels or communications.

(b) A person requesting to inspect or copy plans shall submit a written application identifying the structure or proposed structure whose plans are sought to be inspected or copied, providing the full name and address of the requester and stating that any information obtained from the inspection or copying will not be used for any unlawful or unfair competitive purpose and that the information set forth in the application is true and correct. The department, city, village, town or county shall promptly transmit a copy of the application to the owner of the structure or proposed structure and the submitter of the plans being inspected or copied.

(c) If an application submitted under par. (b) requests inspection or copying of plans for a secure structure or proposed secure structure that is or is anticipated to be owned by or leased to the state, the plans are not subject to the right of inspection or copying.
except as the department of administration otherwise provides by rule. If an application submitted under par. (b) requests inspection or copying of plans for any other secure structure or proposed secure structure, the department, city, village, town or county shall consider the information supplied in the application and weigh the possible harm to the public interest which may result from permitting inspection and copying of the plans against the benefits of allowing such inspection or copying. If the department, city, village, town or county determines that the possible harm to the public interest outweighs the benefit to the requestor and to the public interest of allowing such inspection or copying, it may deny the application or grant it upon such conditions as it determines are necessary to protect the public interest. This paragraph does not apply to an application submitted by a law enforcement agency or person authorized to have access to the plans by lawful subpoena.

(d) The department, city, village, town or county may charge a reasonable amount to defray its costs in providing copies of the plans.

(6) (a) By January 1, 1990, the department shall inspect all public schools constructed prior to January 1, 1950, to determine whether the schools comply with this subchapter and subch. IV, ch. 145, and safety standards established under par. (b) and to review the maintenance schedules established by school boards under s. 120.12 (5).

(b) The department shall promulgate rules relating to the enforcement of this subchapter and subch. IV, ch. 145 for public schools constructed before 1930 and establishing life-safety plans for all public schools.

History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 s. 101.12; 1973 c. 326; 1979 c. 64; 1983 a. 27; 1989 a. 31, 347; 1991 a. 39; 1993 a. 16. 1995 a. 27 ss. 3660, 3660m, 9126 (19); 2007 a. 20 s. 9121 (6) (a); 2011 a. 199; 2013 a. 270; 2015 a. 55.

101.1206 Erosion control; construction of public buildings and buildings that are places of employment.

(1) The department shall establish statewide standards for erosion control at building sites that have a land disturbance that is less than one acre in area and that are for the construction of public buildings and buildings that are places of employment.

(2) The department shall promulgate rules relating to the construction of buildings or structures at construction sites described in sub. (1) to the department or to a county, city, village, or town to which the department has delegated authority under sub. (4) and shall require approval of those plans by the department or the county, city, village, or town.

(3) The department shall require inspection of erosion control activities and structures at construction sites described in sub. (1) by the department or a county, city, village, or town to which the department has delegated authority under sub. (4).

(4) The department may delegate authority under this section to a county, city, village, or town.

(5) Except as provided in sub. (5m), the authority of a county, city, village, or town with respect to erosion control at sites described in s. (1) is limited to that authority delegated under sub. (4) and any other authority provided in rules promulgated under this section.

(5m) Notwithstanding subs. (1) and (5), a county, city, village, or town that has in effect on January 1, 1994, an ordinance that establishes standards for erosion control at building sites for the construction of public buildings and buildings that are places of employment may continue to administer and enforce that ordinance if the standards in the ordinance are more stringent than the standards established under sub. (1).

(6) The department, or a county, city, village, or town to which the department delegates the authority to act under this subsection, may issue a special order directing the immediate cessation of work on a construction site described in sub. (1) until any required plan approval is obtained or until the site complies with standards established by rules promulgated under this section.

(7) The department shall promulgate rules for the administration of this section.

History: 2011 a. 32 ss. 2331, 2989f to 2989s; Stats. 2011 s. 101.1206; 2013 a. 20.

101.1211 State historic building code. (1) PURPOSE. It is the purpose of this section to provide alternative standards, when necessary, for the preservation or restoration of buildings or structures designated as historic buildings. The development and application of these alternative standards is a matter of statewide concern. These alternative standards are intended to facilitate the restoration of historic buildings so as to preserve their original or restored architectural elements and features, to encourage energy conservation, to permit a cost-effective approach to preservation and restoration and to provide for the health, safety and welfare of occupants and visitors in historic buildings.

(2) DEFINITIONS. In this section:

(a) “Certified local register of historic property” means a register of historic property which is part of a historic preservation ordinance promulgated by a city, village, town or county if the ordinance is certified by the state historical society under s. 44.44.

(b) “Historic building” means any building or structure that is significant in the history, architecture or culture of this state, its rural or urban communities or the nation.

(c) “National register of historic places in Wisconsin” means the places in Wisconsin that are listed on the national register of historic places maintained by the U.S. department of the interior.

(d) “State register of historic places” means the places in Wisconsin or the state register of historic places.

(3) RULES. (a) For any rule under this chapter or ch. 145 which applies to buildings, the department may provide an alternative rule which accomplishes the same general purpose and applies only to qualified historic buildings. These alternative rules shall permit, to the maximum extent possible, the use of original or duplicates of original materials, the maintenance of the original appearance of all components of a historic building and the use of original construction techniques. The department shall consult with the historic building code council regarding the development of alternative rules. All alternative rules taken together constitute the historic building code.

(b) In order to permit the proper preservation or restoration of a qualified historic building, the department may grant a variance to any rule or alternative rule under this chapter or ch. 145 if the owner demonstrates that an alternative proposed by the owner accomplishes the same purpose as the rule or alternative rule. With respect to any variances requested under this chapter or ch. 145, the department shall give priority to processing variance
requests by owners of qualified historic buildings. The department shall maintain a list of variances granted under this paragraph to owners of qualified historic buildings.

(4) **ELECTION.** (a) Except as provided in par. (b), the owner of any qualified historic building may elect to be subject to the historic building code promulgated under sub. (3). Except as provided in s. 101.127, no owner who elects to be subject to the historic building code may be required to comply with any provision of any other building code, including but not limited to any county or municipal building code, or of any other local ordinance or regulation, if that provision concerns a matter dealt with in the historic building code.

(b) Paragraph (a) does not apply to any owner of a nursing home as defined in s. 50.01 (3), a hospital as defined in s. 50.33 (2) (a) and (c) or an approved public or private treatment facility for alcoholics as defined in s. 51.45 (2) (b) and (c).


**Cross-reference:** See also ch. SPS 366, 375, 376, 377, 378, and 379, Wis. adm. code.

### 101.1215 Abrasive cleaning of historic buildings.

(1) In this section:

(a) “Abrasive cleaning method” means any cleaning procedure that uses any of the following materials or tools:

1. Abrasive materials, including sand, glass beads, ground slag, volcanic ash, crushed nutsHELLS, rice husks, ground corncocks or crushed eggshells, carried in high-pressure or low-pressure air or water.

2. High-pressure water.

(b) “Qualified historic building” has the meaning given in s. 101.121 (2) (c).

(2) No person may use an abrasive cleaning method on the exterior of qualified historic buildings, except as authorized by department rule.

(3) The department, in consultation with the state historical society and the department of administration, shall promulgate rules on the use of abrasive cleaning methods on the exterior of qualified historic buildings. The department may permit the use of any specific abrasive cleaning method on any specific building material only if it determines that the abrasive cleaning method will not cause irreparable damage to the building material to which it is applied.

(4) (a) Any person who uses an abrasive cleaning method in violation of this section may be required to forfeit not less than $100 nor more than $1,000 for each offense. Each day of continued violation constitutes a separate offense.

(b) Any owner of a qualified historic building who causes or permits the use of an abrasive cleaning method in violation of this section may be required to forfeit not less than $100 nor more than $1,000 for each offense. Each day of continued violation constitutes a separate offense.

**History:** 1993 a. 471.

**Cross-reference:** See also ch. SPS 372, Wis. adm. code.

### 101.122 Rental unit energy efficiency. (1) DEFINITIONS.

In this section:

(a) “Dwelling unit” means a building or that part of a building which is used as a home or residence.

(b) “Energy conservation measure” means any measure which increases the energy efficiency of a rental unit, including, but not limited to, the installation of caulking, weatherstripping, insulation and storm windows.

(c) “Inspector” means a person certified under sub. (2) (c).

(d) “Owner” means any person having a legal or equitable interest in a rental unit.

(e) “Rental unit” means any rented dwelling units. “Rental unit” does not include:

1. Any building containing up to 4 dwelling units, one of which is owner-occupied.

2. Any building constructed after December 1, 1978, which contains up to 2 dwelling units.

3. Any building constructed after April 15, 1976, which contains more than 2 dwelling units.

4. Any dwelling unit not rented at any time from November 1 to March 31.

5. A building that is subject to a condominium declaration under ch. 703 and that contains 3 or more units, as defined in s. 703.02 (15).

(f) “Transfer” means a conveyance of an ownership interest in a rental unit by deed, land contract or judgment or conveyance of an interest in a lease in excess of one year. “Transfer” does not include a conveyance under chs. 851 to 879.

(2) **DEPARTMENTAL DUTIES.** The department shall:

(a) 1. Promulgate rules which establish a code of minimum energy efficiency standards for the attics, sill boxes, heat and plumbing supply systems in unheated crawl spaces, shower heads, furnaces, boilers, air conditioners, appliances, lighting systems and storm windows and doors of rental units. The rules shall include a standard that establishes a maximum air infiltration rate of the thermal envelope, as defined by the department by rule. At the request of the owner of a rental unit, the department shall apply this air infiltration standard in lieu of the standard for storm windows and doors. The rules shall require installation of specified energy conservation measures. The present value benefits of each energy measure, in terms of saved energy over a 5-year period after installation, shall be more than the total present value cost of installing the measures.

2. In the rules adopted under this paragraph, the department may include a separate standard based on thermal performance.

(b) Adopt rules setting standards for inspections and certifications under sub. (4), including but not limited to prescription of a standard certificate form.

(c) Adopt rules for the certification, including provisions for suspension and revocation thereof, of inspectors for the purpose of inspecting rental units subject to any rule under this section. The rules shall include a maximum fee schedule for inspection and certification of rental units under sub. (4) by inspectors not employed by the department.

(d) Provide training, assistance and information services to any inspector or person seeking to be certified as an inspector under par. (c).

(e) Review the rules adopted under this section at least once every 5 years and may determine whether new energy conservation technologies meet the standards under sub. (3) (a) and whether the rules promulgated under par. (a) should require the use of those technologies.

(f) Issue special orders which it deems necessary to secure compliance with this section and enforce the same by appropriate administrative and judicial proceedings.

(g) Hear petitions regarding the enforcement of rules and special orders under this section according to the procedure established under s. 101.02 (6) (e) to (i) and (8).

(3) **DEPARTMENTAL POWERS.** The department may:

(a) In rules adopted under sub. (2) (a), incorporate nationally recognized energy efficiency standards and vary standards according to:

1. Classes of energy use systems, including, but not limited to, building envelopes; heating, ventilating and air conditioning systems; lighting systems; appliances; and other fixtures which consume energy resources.

2. Climatic regions.

(b) Hold hearings on any matter relating to this section and issue subpoenas to compel the attendance of witnesses and the production of evidence at the hearings.
(c) Enforce stipulations entered into under sub. (4) (c) by use of the citation procedure under s. 778.25.

(4) Certification. (a) Except as provided under pars. (b) and (c), no owner may transfer a rental unit unless an inspector has inspected the unit and has issued a certificate stating that the unit satisfies applicable standards under sub. (2) (a) 1. or 2.

(b) The department or an inspector employed by the city, village or town within which a rental unit scheduled for demolition within 2 years is located may issue a written waiver of the requirements of the code under sub. (4) (b) to remove the unit from demolition if the unit satisfies applicable standards under sub. (2) (a).

(5) Inspection. Any owner of a rental unit may request that an inspector inspect the owner’s rental unit for the purpose of determining whether to issue a certificate under sub. (4). If an owner, after reasonable effort, is unable to procure an inspection, the department, within 14 days after receipt of a request by the owner shall perform the inspection and determine whether to issue a certificate. The department may establish a special fee under s. 778.25 for an inspection under which it performs this subsection.

(6) Proof of Certification or Exclusion Required for Recordation. A register of deeds may not accept for recording any deed or other document of transfer of real estate which includes a rental unit unless the deed or document is accompanied by the certificate required under sub. (4) (a), a waiver under sub. (4) (b) or a stipulation under sub. (4) (c). The department shall prescribe for use under s. 77.22 (2) a form setting forth the reasons why transferred real estate is not subject to certification under sub. (4) (a), waiver under sub. (4) (b) or stipulation under sub. (4) (c). A register of deeds shall record the certificate, waiver or stipulation.

(6m) Report to Legislature. Annually, before March 1, the department shall submit a written report to the chief clerk of each house of the legislature, for distribution to the legislature, under s. 13.172 (2), on the impact of the requirements of this section.

(6r) Municipal Codes. After the effective date of the rules under sub. (4) (a), no city or village may enforce a code of minimum energy efficiency standards for rental units in the city or village unless the requirements of the code are at least as strict as the requirements of the code under sub. (2) (a).

(6w) Exception. To the extent that the historic building code applies to the subject matter of this section, this section does not apply to a qualified historic building, as defined under s. 101.121 (2) (c), if the owner elects to be subject to s. 101.121.

(7) Penalty. (a) Inspectors. Any inspector falsifying a certificate issued under sub. (4) shall have his or her certification revoked and may be required to forfeit not more than $500 per dwelling unit in the rental unit for which the certificate is issued.

(b) New owners. Any person who offers documents evidencing transfer of ownership for recordation and who, with intent to evade the requirements of this section, falsely states on the form under s. 77.22 (1) that the real property involved does not include a rental unit may be required to forfeit not more than $500 per dwelling unit in the rental unit being transferred.

(c) Waiver. Any person who fails to comply with the requirements of a waiver issued under sub. (4) (b) may be required to forfeit not more than $500 per dwelling unit for which the waiver is issued.

(d) Stipulation. Any person who fails to comply with the requirements of a stipulation under sub. (4) (c) may be required to forfeit not more than $500 per dwelling unit.

(e) Citation. If a person fails to comply with the requirements of a stipulation under sub. (4) (c) by the date specified in the stipulation, the department or the city, village or town that entered into the stipulation with the person may, anytime after the first day of the first month beginning after the date specified in the stipulation, proceed under s. 778.25 to recover a forfeiture under par. (d).

(f) Violations. If any inspector determines not to issue a certificate, the inspector shall specify in writing the violations which make the rental unit noncompliant with applicable standards under sub. (2) (a).

(g) Waiver. Any person who offers documents evidencing transfer of ownership for recordation and who, with intent to evade the requirements of this section, falsely states on the form under s. 77.22 (1) that the real property involved does not include a rental unit may be required to forfeit not more than $500 per dwelling unit in the rental unit being transferred.

(h) Certificate. Any person who offers documents evidencing transfer of ownership for recordation and who, with intent to evade the requirements of this section, falsely states on the form under s. 77.22 (1) that the real property involved does not include a rental unit may be required to forfeit not more than $500 per dwelling unit in the rental unit being transferred.

(101.123) Smoking prohibited. (1) Definitions. In this section:

(ab) “Assisted living facility” means a community-based residential facility, as defined in s. 50.01 (1g), a residential care apartment complex, as defined in s. 50.01 (6d), or an adult family home, as defined in s. 50.01 (1) (b).

(1b) “Child care center” has the meaning given in s. 49.136 (1) (ad).

(ac) “Correctional facility” means any of the following:

1. A state prison, as defined in s. 302.01, except a correctional institution under s. 301.046 (1) or s. 301.048 (4) (b) if the institution is the prisoner’s place of residence and no one is employed there to ensure the prisoner’s incarceration.

2. A juvenile detention facility, as defined in s. 938.02 (10r), or a juvenile correctional facility, as defined in s. 938.02 (10p), except a juvenile correctional facility authorized under s. 938.533 (3) (b), 938.538 (4) (b), or 938.539 (3) if the facility is a private residence in which the juvenile is placed and no one is employed there to ensure that the juvenile remains in custody.

3. A jail, as defined in s. 165.85 (2) (bg), a Huber facility under s. 303.09, a work camp under s. 303.10, a reforestation camp under s. 303.07, or a lockup facility under s. 302.30.

(aj) Notwithstanding s. 101.01 (5), “employment” means any trade, occupation, or process of manufacture or any method of carrying on such trade, occupation, or process of manufacture in which any person may be engaged.

(ak) “Enclosed place” means a structure or area that has all of the following:

1. A roof.

2. More than 2 substantial walls.

(ar) “Immediate vicinity of the state capitol” means the area directly adjacent to the state capitol building, as determined by rule of the department of administration. “Immediate vicinity of
the state capitol” does not include any location that is more than six feet from the state capitol building.

(b) “Inpatient health care facility” means a hospital, as defined in s. 50.33 (2), a county home established under s. 49.70, a county infirmary established under s. 49.72, a nursing home, as defined in s. 50.01 (3), a hospice, as defined in s. 50.90 (1), a Wisconsin veterans home under s. 45.50, or a treatment facility.

(bn) “Lodging establishment” means any of the following:
1. A bed and breakfast establishment, as defined in s. 97.01 (1g).
2. A hotel, as defined in s. 97.01 (7).
3. A tourist rooming house, as defined in s. 97.01 (15k).

(d) “Person in charge” means the person, or his or her agent, who ultimately controls, governs or directs the activities aboard a public conveyance or at a location where smoking is prohibited or regulated under this section.

(dn) “Private club” means a facility used by an organization that limits its membership and is organized for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose.

(e) “Public conveyance” means a mass transit vehicle as defined in s. 340.01 (28m), a school bus as defined in s. 340.01 (56), or any other device by which persons are transported, for hire, on a highway or by rail, water, air, or guidewhite within this state, but does not include such a device while providing transportation in interstate commerce.

(eg) “Public place” means any enclosed place that is open to the public, regardless of whether a fee is charged or a place to which the public has legal access may be invited.

(f) “Restaurant” has the meaning given in s. 97.01 (14g).

(g) “Retail establishment” means any store or shop in which retail sales is the principal business conducted.

(gh) “Retail tobacco store” means a retail establishment that does not have a “Class B” intoxicating liquor license or a Class “B” fermented malt beverages license and that generates 75 percent or more of its gross annual income from the sale of tobacco products and accessories.

(h) “Smoking” means burning or holding, or inhaling or exhaling smoke from, any of the following items containing tobacco:
1. A lighted cigar.
2. A lighted cigarette.
3. A lighted pipe.
4. Any other lighted smoking equipment.

(hm) “Sports arena” means any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held.

(id) “Substantial wall” means a wall with no opening or with an opening that either does not allow air in from the outside or is less than 25 percent of the wall’s surface area.

(idn) “Tavern” means an establishment, other than a restaurant, that holds a “Class B” intoxicating liquor license or Class “B” fermented malt beverages license.

(in) “Tobacco bar” means a tavern that generates 15 percent or more of its annual gross income from the sale on the tavern premises, other than from a vending machine, of cigars and tobacco for pipes.

(io) “Tobacco product” means any form of tobacco prepared in a manner suitable for smoking but not including a cigarette.

(ip) “Tobacco facility” means a publicly or privately operated inpatient facility that provides treatment of alcoholic, drug dependent, mentally ill, or developmentally disabled persons.

(j) “Type 1 juvenile correctional facility” has the meaning given in s. 938.02 (19).

(2) PROHIBITION AGAINST SMOKING. (a) Except as provided in sub. (3), no person may smoke in any of the following enclosed places:
1g. The state capitol.
1m. Residence halls or dormitories owned or operated by a college or university.
1r.Child care centers.
2. Educational facilities.
3. Inpatient health care facilities.
4. Theaters.
5m. Correctional facilities.
5t. State institutions.
7. Restaurants.
7m. Taverns.
7r. Private clubs.
8. Retail establishments.
8d. Common areas of multiple−unit residential properties.
8g. Lodging establishments.
8r. State, county, city, village, or town buildings.
9. All enclosed places, other than those listed in subs. 1g. to 8r., that are places of employment or that are public places.
(d) No person may smoke at any of the following outdoor locations:
1. In the immediate vicinity of the state capitol.
2. Anywhere on the premises of a child care center when children who are receiving child care services are present.
3. Anywhere on the grounds of a Type 1 juvenile correctional facility.
4. A location that is 25 feet or less from a residence hall or dormitory that is owned or operated by the Board of Regents of the University of Wisconsin System.
(e) No person may smoke in any of the following:
1. A sports arena.
2. A bus shelter.
3. A public conveyance.

(2m) RESPONSIBILITY OF PERSONS IN CHARGE. (a) No person in charge may allow any person to smoke in violation of sub. (2) at a location that is under the control or direction of the person in charge.

(b) A person in charge may not provide matches, ashtrays, or other equipment for smoking at the location where smoking is prohibited.

(c) A person in charge shall make reasonable efforts to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following:
1. Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.
2. Refusing to serve a person, if the person is smoking in a restaurant, tavern, or private club.
3. Asking a person who is smoking to refrain from smoking and, if the person refuses to do so, asking the person to leave the location.

(d) If a person refuses to leave a location after being requested to do so as provided in par. (c) 3., the person in charge shall immediately notify an appropriate law enforcement agency of the violation.

(e) A person in charge may take measures in addition to those listed in pars. (b) and (c) to prevent persons from being exposed
to others who are smoking or to further ensure compliance with this section.

(3) EXCEPTIONS. The prohibition against smoking in sub. (2) (a) does not apply to the following:

(h) A private residence.

(i) A room used by only one person in an assisted living facility as his or her residence.

(j) A room in an assisted living facility in which 2 or more persons reside if every person who lives in that room smokes and each of those persons has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed.

(L) A retail tobacco store that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.

(4m) LOCAL AUTHORITY. This section does not limit the authority of any county, city, village or town to enact ordinances or of any school district to adopt policies that, complying with the purpose of this section, protect the health and comfort of the public. If a county, city, village, or town enacts an ordinance, or if a school district adopts a policy, regulating or prohibiting outside smoking in certain areas as authorized under this subsection, the ordinance may apply only to public property under the jurisdiction of the county, city, village, town, or school district. Such ordi

nance shall provide that the person in charge of a restaurant, tavern, private club, or retail establishment located in an area subject to the ordinance may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke. Such ordinance may not define the term “reasonable distance” or set any specified measured distance as being a “reasonable distance.”

(6) UNIFORM SIGNS. The department shall, by rule, specify uniform dimensions and other characteristics of the signs required under sub. (2m).

These rules may not require the use of signs that are more expensive than is necessary to accomplish their purpose.

(7) SIGNS FOR STATE AGENCIES. The department shall arrange with the department of administration to have signs prepared and made available to state agencies for use in state facilities that set forth the prohibition against smoking.

(8) PENALTIES. (a) Any person who violates sub. (2) shall be subject to a forfeiture of not less than $100 nor more than $250 for each violation.

(d) Except as provided in par. (dm) or (em), any person in charge who violates sub. (2m) (b) (d) shall be subject to a forfeiture of $100 for each violation.

(dm) For violations subject to the forfeiture under par. (d), if the person in charge has not previously received a warning notice for a violation of sub. (2m) (b) to (d), the law enforcement officer shall issue the person in charge a warning notice and may not issue a citation.

(em) No person in charge may be required under par. (d) to forfeit more than $100 in total for all violations of sub. (2m) (b) to (d) occurring in a single day.

(9) INJUNCTION. Notwithstanding s. 165.60, state or local officials or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of this section.


101.125 Safety glazing in hazardous locations.

(1) DEFINITIONS. In this section:

(a) “Building” means a place of employment or a public building and includes, without limitation because of enumeration, wholesale and retail stores, storerooms, office buildings, facto

ries, warehouses, governmental buildings, hotels, hospitals, motels, dormitories, sanatoriums, nursing homes, retirement homes, theaters, stadiums, gymnasiu

ms, amusement park buildings, schools and other buildings used for educational purposes, places of worship and other places of public assembly and all residences including mobile homes, manufactured homes, industrialized housing, lodging homes, and any other building used as a dwelling for one or more persons.

(b) “Entrance and exit door” means a hinged, pivoting, revolving or sliding door which is used alone or in combination with other such doors on interior or exterior walls of a residential, commercial or public building for passage, ingress or egress.

(c) “Fixed or operating, flat panels immediately adjacent to an entrance or exit door” means the first fixed or operating, flat panel on either or both sides of an interior or exterior door if:

1. The nearest vertical edge of such panel is located within 2 feet of the nearest vertical edge of the door; and

2. The lower horizontal edge of such panel is less than 2 feet from the floor.

(d) “Hazardous location” means the location of a structural element in a building which is used as an entrance and exit door to a compartment, room or building; the fixed or operating, flat panels immediately adjacent to an entrance or exit door; a sliding glass door unit; a storm or combination door; a shower and bathtub enclosure; and the adjacent sidelites of a door.

(e) “Safety glazing material” means any transparent or translucent material, including tempered glass, laminated glass, wire glass and rigid plastic, which is constructed, treated or combined with other materials to minimize the likelihood of cutting or piercing injuries to humans, and which is approved by rule of the department as meeting departmental standards for the location in which it is to be applied.

(f) “Sliding glass door unit” means a panel or an assembly of panels contained in a frame designed so that at least one panel is movable in a horizontal direction.

(g) “Storm or combination door” means a door which protects an entrance or exit door against weather elements and affects indoor temperature control.

(2) LABELING REQUIRED. (a) Except as provided in par. (b), each tile of safety glazing material manufactured, distributed, imported, sold or installed for use in a hazardous location shall be permanently labeled with a label which:

1. States the nominal thickness and the type of safety glazing material;

2. Identifies the labeling seller, manufacturer, fabricator or installer;

3. Is legible and so positioned as to be legible after installation;

4. Is distinctive in design and is not used on materials other than safety glazing materials.

(b) The department may by rule provide that in new construction or remodeling, the installation of safety glazing material may be recorded with the department or other appropriate agency designated by it, by the filing of an affidavit certifying the installation, in lieu of the labeling requirement of par. (a), if it finds that enforcement of this section will not be hindered by such substitute procedure.

(3) SAFETY GLAZING MATERIALS REQUIRED. No material supplier, builder, contractor or subcontractor may knowingly install, cause to be installed, consent to the installation, or sell for installation in any hazardous location, transparent or translucent materials other than safety glazing materials, except that:

(a) In buildings constructed for or existing on or before November 30, 1976, the department may by rule require the installation of a vertical or horizontal bar, rail, grill or screen as a protective device in lieu of safety glazing material in hazardous locations.
fairfound residential facilities as defined in s.
previously constructed buildings converted to use as community−
safety services, shall develop a building code for pre−
1. Any lite which is 8 inches or less in the least dimension, or
2. Leaded stained glass which is used in an application which the department finds is not hazardous.
(c) Any mirror, framed glazed picture or similar decorative object which is attached to a door or wall in a hazardous location and which does not in whole or in part conceal any opening in such door or wall is exempt from the requirements of this section.
(4) LIABILITY OF EMPLOYERS AND SELLERS. (a) No employee of a person responsible for compliance with this section is liable for the employer’s failure to comply.
(b) No seller of glazing materials is subject to the penalty under sub. (5) or is liable for injuries occurring to any person if the seller has exercised reasonable care to see that the glazing materials sold by him or her are properly used.
(4m) EXCEPTION. To the extent that the historic building code applies to the subject matter of this section, this section does not apply to a qualified historic building, as defined under s. 101.121 (2) (c), if the owner elects to be subject to s. 101.121.
(5) PENALTY. Whoever violates this section may be required to forfeit not less than $100 nor more than $500.

101.126 Recycling space. (1) The department shall establish, by rule, requirements for a person engaging in any of the following to provide adequate space in or adjacent to the building for the separation, temporary storage and collection of the materials listed in s. 287.07 (3) or (4), likely to be generated by the occupants of the building:
(a) The construction of a public building.
(b) An increase in the size of a public building by 50 percent or more.
(c) An alteration of 50 percent or more of the existing area of a public building that is 10,000 square feet or more in area.

101.127 Building requirements for certain residential facilities. The department, after consultation with the department of health services, shall develop a building code for previously constructed buildings converted to use as community−
based residential facilities as defined in s. 50.01 (1g) which serve between 9 and 20 residents who are not related to the operator or administrator. In setting standards, the department shall consider the criteria enumerated in ss. 46.03 (25) and 50.02 (3) (b), and in addition shall consider the relationship of the development and enforcement of the code to any relevant codes of the department of public instruction. The objectives of the code shall be to guarantee health and safety and to maintain insofar as possible a home like environment. Notwithstanding s. 101.121, a historic building as defined in s. 101.121 (2) (am) which is converted to use as a community−based residential facility serving between 9 and 20 residents who are not related to the operator or administrator is governed only by the building code promulgated under this section.

101.128 Restroom equity. (1) DEFINITIONS. In this section:
(a) “Amusement facility” means any zoo, state or local park, amusement or theme park, state fair park, county or other local

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5. If the facility is an existing facility with no permanent structure to serve the public, other than structures to house restrooms or other minor structures, the addition of land to the facility that has an acreage equal to or larger than 51 percent of the existing facility’s acreage.

(b) Renovations or additions. In any existing facility where the public congregates to which this section applies under par. (a) 3. to 5., the requirements of this section apply only to the renovated portion of the facility or to the structural or land addition of the facility.


101.13 Physically disabled persons; place of employment and public building requirements. (1) In this section, “access” means the physical characteristics of a place which allow persons with functional limitations caused by impairments of sight, hearing, coordination or perception or persons with semi-ambulatory or nonambulatory disabilities to enter, circulate within and leave a place of employment or public building and to use the public toilet facilities and passenger elevators in the place of employment or public building without assistance.

(2) (a) Any place of employment or public building, the initial construction of which is commenced after July 1, 1970, but prior to May 27, 1976, shall be so designed and constructed as to provide reasonable means of ingress and egress by the physically disabled with the exception of:

1. Apartment houses with less than 20 units, row houses and rooming houses;
2. Convents and monasteries;
3. Jails or other places of detention;
4. Garages, hangars and boathouses;
5. All buildings classified as hazardous occupancies;
6. Warehouses;
7. State buildings specifically built for field service purposes such as but not limited to conservation fire towers, fish hatcheries, tree nursery buildings; and
8. University residence halls at universities which have at least 3 residence halls for men and 3 residence halls for women so constructed as to allow physically disabled persons reasonable means of ingress and egress by the physically disabled with the exception of:

(b) The requirements of par. (a) may be accomplished by at least one ground or street level entrance and exit without steps, by ramps with slopes not more than one foot of rise in 12 feet, coated with a nonskid surface, or by elevator or such other arrangement as may be reasonably appropriate under the circumstances and which meets with the approval of the department or in lieu thereof with the approval of the municipality wherein the building is located. The doors of such entrance and exit must have a clear opening of at least 40 inches in width and shall otherwise conform to the department building code.

(c) If any ground or street level entrance or exit is so designed or constructed a sign shall be placed at such entrance or exit indicating the location of the entrance or exit available for wheelchair service.

(d) Any place of employment or public building, unless exempted by rule of the department, the initial construction of which is commenced on or after May 27, 1976, shall be designed and constructed so as to provide reasonable means of access.

Buildings, as defined in s. 703.02 (5), 1975 stats., of 2 stories or less in height shall be exempt from requirements relating to parking space, ramps and grade-level entrances.

(e) The department shall by rule provide minimum regulations to ensure the access to and use of buildings prescribed in pars. (a) to (d).

(f) Except as provided in subd. 2., no governmental unit may issue any authorization to occupy any place of employment or public building prescribed in pars. (a) to (d) unless the owner thereof files with that governmental unit a true certification of compliance with the rules under par. (e) applicable to that place of employment or public building relating to the reservation and marking of parking spaces for use by a motor vehicle used by a physically disabled person. The department may not promulgate a rule requiring that any place of employment or public building subject to sub. (2) be so designed and constructed to allow physically disabled persons reasonable means of access from a parking lot, if any, ancillary to such buildings.

(3) Any place of employment or public building subject to sub. (2) shall be so designed and constructed to allow physically disabled persons reasonable means of access from a parking lot, if any, ancillary to such buildings.

(4) The owner of any building who fails to meet the requirements of this section may be required to reconstruct the same by mandatory injunction in a circuit court suit brought by any interested person. Such person shall be reimbursed, if successful, for all costs and disbursements plus such actual attorney fees as may be allowed by the court.

(5) (a) Every place of employment and public building, except those described in subd. 2, (a) 1. to 8., the construction of which is begun after May 24, 1974 but prior to May 27, 1976, on each floor that is accessible to disabled persons, including persons in wheelchairs, shall have:

1. All public toilet rooms and at least one toilet compartment therein so designed and constructed that they will be suitable for entry and use by handicapped persons, including persons in wheelchairs;
2. The toilet compartment specified under par. (a) so designed and constructed to allow sufficient space between the front entrance of the compartment and adjacent furniture, fixtures or walls to permit the compartment door to open at least 95° and to allow a person in a wheelchair ample room to readily maneuver himself or herself or the wheelchair into the compartment; and
3. At least one lavatory, sink, mirror and towel dispenser or hand drier in each public toilet room accessible to a disabled person, including a person in a wheelchair, if such item is provided.

(b) Within 90 days after May 24, 1974, the department shall adopt, by rule, specifications to effect the requirements of par. (a). The department, in so adopting rules, shall consider the specifications established in the most current revision of “American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped”, published by the American standards association of New York.

(6) (g) The owner of any public building who fails to comply with this subsection may be compelled to meet its requirements in a circuit court suit by any interested person. Such person shall be reimbursed, if successful, for all costs and disbursements plus such actual attorney fees as may be allowed by the court.

(h) Each toilet room accommodation provided for disabled persons as required under this section shall be identified on its entrance as a disabled accommodation, and directions to such accommodations shall appear at the building’s primary entrance.

(7) The international symbol of accessibility as adopted by the rehabilitation international in 1969 is established as the official state symbol designating buildings and facilities constructed and
designed to be accessible. The symbol may be used only in build-
ings or other facilities, or parts thereof, which meet the standards for access established by rule of the department. If anyone uses or causes the use of the symbol in violation of department stand-
ards, the department shall order the discontinuance of such use un
til such standards are met. Whoever fails to comply with a department order under this subsection shall be fined $50.

(8) Every passenger elevator installed in a place of employ-
ment or public building after October 1, 1978 shall be equipped with raised letters and numerals on the operating panel and the external door frame on each floor, and the letters and numerals shall be designed and placed to maximize the ability of persons with functional limitations to use the passenger elevator without assistance.

(9) To the extent that the historic building code applies to the subject matter of this section, this section does not apply to a quali-

fied historic building, as defined under s. 101.121 (2) (c), if the
owner elects to be subject to s. 101.121.


Cross-reference: See also ch. SPS 318, Wis. adm. code.

While neither the U.S. nor Wisconsin constitutions compel states to require that public buildings and seats of government be constructed and maintained to be acces-
sible to the physically handicapped, the legislature has an affirmative duty to address this problem and assure equal access to all constitutional classes of citizens, including the physically handicapped. 63 Aty. Gen. 87.

101.132 Physically disabled persons; housing requirements. (1) Definitions. In this section:

(a) “Accessible” means able to be approached, entered and used by persons with disabilities.

(b) “Accessible route” means a continuous, unobstructed path connecting accessible elements and spaces in a building, within a site or from a site to a vehicular route, that can be negotiated by all persons with a disability.

(c) “ANSI A117.1” means the 1986 edition of the American national standards institute’s code for buildings and facilities pro-

viding accessibility and usability for people with physical disabili-
ties.

(d) “Covered multifamily housing” means any of the follow-
ing:

1. Housing that is first ready for occupancy on or after Octo-
ber 1, 1993, consisting of 3 or more dwelling units if the housing has one or more elevators.

2. Grade-level dwelling units, in housing without elevators, that are first ready for occupancy on or after October 1, 1993, con-
sisting of 3 or more dwelling units.

(e) “Disability” has the meaning given in s. 106.50 (1m) (g).

(f) “Dwelling unit” has the meaning given in s. 106.50 (1m) (i).

(g) “Housing” has the meaning given in s. 106.50 (1m) (L).

(h) “Remodel” means to substantially improve, alter, extend or otherwise change the structure of a building or change the loca-
tion of exits, but does not include maintenance, redecoration, reroofing or alteration of mechanical or electrical systems.

(i) “Vehicular route” means a route intended for vehicular traf-

fic including, but not limited to, a street, driveway or parking lot.

(2) Discrimination against persons with physical disabili-
ties prohibited. (a) Design and construction of covered multi-
family housing. In addition to discrimination prohibited under s. 106.50 (2), (2m) and (2r) (b) and (bm), no person may design or construct covered multifamily housing unless it meets all of the following standards:

1. There is at least one accessible entrance for each building and that entrance is on an accessible route. All other entrances that are at grade level shall be accessible to the greatest extent feasible. The department shall promulgate rules that define “to the greatest extent feasible” to ensure maximum accessibility in a way that is not disproportionate to the entire project’s cost and scope. If the covered multifamily housing units are at grade level and are served by separate entrances, each unit shall be on an accessible route. If the units have a minimum number of required exits, as determined by rules that shall be promulgated by the department, all required grade-level exits shall be accessible.

2. Public and common use areas are accessible to persons with disabilities.

3. Interior and exterior doors, and interior passages, are suffi-
ciently wide to allow passage by persons with disabilities who use wheelchairs.

4. Light switches, electrical outlets, circuit controls, thermo-
stats and other environmental controls are all located in accessible locations; reinforcements in bathroom walls are installed to allow later installation of grab bars around the toilet, tub, shower stall and shower seat, when such facilities are provided; kitchens and bath-
rooms allow an individual in a wheelchair to maneuver about the space; and, upon the request of a renter and without cost to a renter, lever door handles are on all doors and single lever con-


b) Remodeling. 1. If more than 50 percent of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, the entire housing shall conform to the standards in par. (a), regardless of when the housing was first intended for occupancy.

2. If 25 percent to 50 percent of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, the remodeling is not subject to the standards in par. (a) unless the alteration involves work on doors, entrances, exits or toilet rooms, in which case the doors, entrances, exits or toilet rooms shall con-

form to the standards in par. (a) regardless of when the housing was first intended for occupancy.

3. If less than 25 percent of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, the remodeling is not subject to the standards in par. (a) unless the alteration involves work on doors, entrances, exits or toilet rooms, in which case the doors, entrances, exits or toilet rooms shall con-

form to the standards in par. (a) regardless of when the housing was first intended for occupancy.

4. The department may grant a variance or waiver from the requirements under this paragraph relating to exterior accessibility using the standards and procedures under par. (c).

(c) Permit and variance procedures. 1. Plans and specifica-
tions for all covered multifamily housing subject to par. (a) and proposed remodeling subject to par. (b) shall be submitted to the department or its authorized representative for examination and approval before commencing work. The department shall pro-
mulgate rules that specify the materials to be included in the sub-
mittal, the procedures to be followed upon receipt of a submittal, reasonable time limitations for reviewing submittals and issuing or denying permits and qualifications for authorized representa-
tives.

2. The department may grant a variance from the require-
ments relating to exterior accessibility under par. (a) 1. or (b), or from administrative rules promulgated under par. (c) 2., if the person designing, constructing or remodeling the housing shows that meeting those requirements is impractical because of the terrain or unusual characteristics of the site. The department shall use a slope analysis of the undisturbed site for covered multifamily housing under par. (a) or the existing site for remodeling under par. (b) to determine the minimum number of accessible entrances at each site, with a minimum goal of exterior accessibility of 50 per-
cent of the dwelling units of covered multifamily housing at one site. The department may impose specific conditions in granting a variance to promote exterior accessibility of the housing to per-
sons with disabilities. If the department finds that exterior acces-
sibility is impractical as to all dwelling units at a site, it may grant a waiver from the requirements under par. (a) 1. or (b).

(d) Safe harbor. 1. Except as provided in subd. 2., covered multifamily housing and remodeled housing are accessible for

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purposes of this subsection if they comply with one of the following:

a. The applicable requirements of ANSI A117.1.

b. Final guidelines issued by the federal department of housing and urban development, published in the federal register on March 6, 1991.

c. Another standard that affords persons with disabilities access that is essentially equivalent to or greater than that required by ANSI A117.1.

2. Subdivision 1. does not apply to remodeled or covered multifamily housing for which a building permit is issued on or after January 1, 1995.

(e) General powers and duties of department. 1. The requirements under this subsection are in addition to, and do not supplant, the requirements under s. 101.13 relating to the use of public buildings by persons with disabilities. Any conflict between this subsection and s. 101.13 or the rules promulgated under s. 101.13 shall be resolved in favor of the provision providing the greatest degree of access by persons with disabilities, as determined by the department.

2. The department shall promulgate rules establishing minimum accessibility requirements for the design and construction of covered multifamily housing and the remodeling of housing that are consistent with this subsection, that incorporate the applicable standards under ANSI A117.1 and that set forth permit and variance procedures for purposes of par. (c).

History: 1997 a. 237 ss. 330, 335 to 351; 1999 a. 32, 82; s. 35.17 correction in (2) (a) (title).

101.135 Uniform firewall identification. (1) The department shall promulgate rules that specify uniform dimensions, design and other characteristics for signs used to identify firewalls. The rules may not specify firewall signs that are more expensive than necessary to accomplish their purpose.

(2) Whenever a city, village or town provides by ordinance for the identification of firewalls, the provisions of the ordinance shall conform to the rules promulgated under sub. (1).

History: 1991 a. 269.

101.137 Fire suppression; ozone-depleting substances. (1) Definition. In this section, “class I substance” has the meaning given in 42 USC 7671 (3).

(2) Servicing portable fire extinguishers. Beginning on August 1, 1994, no person may perform portable fire extinguisher servicing that releases or may release a class I substance unless the person uses equipment approved by the department or an independent testing organization approved by the department to capture the class I substance for recycling or reclaiming.

(3) Fire fighting training. Beginning on August 1, 1994, no person may conduct fire fighting training using a portable fire extinguisher that contains a class I substance.

(4) Testing fire suppression systems. Beginning on August 1, 1994, no person may test a fire suppression system that contains a class I substance by releasing the class I substance into the air from the system. This subsection does not apply to the testing of a fire suppression system on a ship that was constructed or is being constructed for an agency of the federal government.

(4m) Servicing fire suppression systems. Beginning on August 1, 1994, no person may perform servicing on a fire suppression system that releases or may release a class I substance unless the person uses equipment approved by the department or an independent testing organization approved by the department to capture the class I substance for recycling or reclaiming.

(5) Penalty. Any person who violates this section shall be required to forfeit not less than $250 nor more than $1,000. Each act of servicing in violation of sub. (2) constitutes a separate offense.


101.14 Fire inspections, prevention, detection and suppression. (1) (a) The department may make reasonable orders for the repair or removal of any building or other structure which for want of repair or by reason of age or dilapidated condition or for any other cause is especially liable to fire, and which is so situated as to endanger other buildings or property and for the repair or removal of any combustible or explosive material or inflammable conditions, dangerous to the safety of any building or premises or the occupants thereof or endangering or hindering fire fighters in case of fire.

(b) The department shall promulgate rules establishing minimum accessibility requirements for the design and construction of covered multifamily housing and the remodeling of housing that are consistent with this subsection, that incorporate the applicable standards under ANSI A117.1 and that set forth permit and variance procedures for purposes of par. (c).

History: 1997 a. 237 ss. 330, 335 to 351; 1999 a. 32, 82; s. 35.17 correction in (2) (a) (title).

(bm) The department shall provide that the inspections required under par. (c) shall be conducted at least once annually.

History: 1993 a. 269.

(cm) In addition to the requirements of pars. (b) and (c), a fire department shall provide fire education services.

(d) The chief of every fire department, or, in 1st class cities, the building inspector appointed by the department under par. (a), shall designate a sufficient number of inspectors to make the inspections required under pars. (b) and (c).

(e) Written reports of inspection shall be made and kept on file by the authority having jurisdiction to conduct inspections, or its designee, in the manner and form required by the department.

(f) Every inspection required under pars. (b) and (c) is subject to the supervision and direction of the department, which shall, after audit, certify to the commissioner of insurance after the expiration of each calendar year each city, village or town where the inspections for the year have been made, and where records have been made and kept on file as required under par. (e).

(3) The department shall annually conduct training sessions and provide manuals and other materials and services to assist deputies and inspectors in the fulfillment of their duties under sub. (2).

(4) (a) The department shall make rules, pursuant to ch. 227, requiring owners of places of employment and public buildings to install such fire detection, prevention or suppression devices as will protect the health, welfare and safety of all employers, employees and frequenters of places of employment and public buildings.

(b) 1m. In this paragraph, “private student residential building” means a privately owned and operated residential building that has a capacity of at least 100 occupants, that is occupied by persons at least 80 percent of whom are enrolled in an institution of higher education, and that has attributes usually associated with a student residence hall or dormitory such as a food service plan or occupancy by a resident advisor.

(c) Except as provided in subds. 2. and 3., the rules of the department shall require all such places and buildings over 60 feet in height, the construction of which is begun after July 3, 1974, to contain an automatic fire sprinkler system on each floor.

2. a. Subdivision 1r. does not apply to any open parking structure, as defined by the department.

b. If the department determines that water would cause irreparable damage and undue economic loss if discharged in such places or buildings, it shall require a suppression device which has a substance other than water.

c. Except as provided in subd. 3., subd. 1r. does not apply to any building over 60 feet in height the construction of which is completed or is begun prior to July 3, 1974.

3. The rules of the department shall require all of the following:

a. Every residence hall and dormitory over 60 feet in height, the initial construction of which was begun before April 26, 2000, that is owned or operated by the board of regents of the University of Wisconsin System to contain an automatic fire sprinkler system on each floor by January 1, 2006.

b. Every residence hall and dormitory, the initial construction of which is begun on or after April 26, 2000, that is owned or operated by the board of regents of the University of Wisconsin System to have an automatic fire sprinkler system installed on each floor at the time the residence hall or dormitory is constructed.

c. Every residence hall and dormitory over 60 feet in height, the initial construction of which was begun before January 7, 2006, that is owned or operated by an institution of higher education, other than a residence hall or dormitory that is owned or operated by the Board of Regents of the University of Wisconsin System, to have an automatic fire sprinkler system installed on each floor at the time the residence hall or dormitory is constructed.

d. Every residence hall and dormitory, the initial construction of which is begun on or after January 7, 2006, that is owned or operated by an institution of higher education, other than a residence hall or dormitory that is owned or operated by the Board of Regents of the University of Wisconsin System, to have an automatic fire sprinkler system installed on each floor at the time the residence hall or dormitory is constructed.

e. Every student residential facility operated by a fraternity, sorority, or other organization authorized or sponsored by an institution of higher education, the initial construction of which was begun before January 7, 2006, and every private student residential building over 60 feet in height, the initial construction of which was begun before January 7, 2006, to contain an automatic fire sprinkler system on each floor by January 1, 2014.

f. Every student residential facility operated by a fraternity, sorority, or other organization authorized or sponsored by an institution of higher education, the initial construction of which is begun on or after January 7, 2006, and every private student residential building, the initial construction of which is begun on or after January 7, 2006, to have an automatic fire sprinkler system installed on each floor at the time the facility is constructed.

(c) The rules of the department governing such places and buildings under 60 feet in height shall be based upon but may vary from those provisions in the International Code Council, Inc., building code which relate to fire detection, prevention and suppression in public buildings and places of employment.

(d) To the extent that the historic building code applies to the subject matter of this subsection, each qualified historic building, as defined under s. 101.121 (2) (c), is exempt from this subsection if the owner elects to be subject to s. 101.121.

(de) 1. Notwithstanding par. (a) and sub. (1) (a) and s. 101.02 (15) (j), the department may not require, and notwithstanding s. 101.02 (7) (a) and (7r), no city, village, or town may enact or enforce an ordinance that requires, a county or organized agricultural association, or board to install or maintain an automatic fire suppression system in, or as part of, a building on fairgrounds if all of the following are satisfied:

The building is open to the public only for seasonal or temporary event use for 180 cumulative days or fewer per year.

b. Public access to the building is provided by garage style doors that remain open when the building is open to the public.

2. Notwithstanding s. 101.02 (7) (a) and (7r), if a city, village, or town has in effect on March 3, 2016, an ordinance with a requirement that is inconsistent with subd. 1., the requirement does not apply and may not be enforced.

(dm) Each building required by rule under this subsection to contain fire detection, prevention and suppression devices shall have the necessary devices installed at the time of its construction.

e. Whoever violates this subsection may be fined not less than $100 but not more than $500 for each day of violation.

(f) The department may inspect all buildings covered by this subsection and may issue such orders as may be necessary to assure compliance with it.

(g) As used in this subsection:

1. “Automatic fire sprinkler system” has the meaning provided in s. 145.01 (2).

2. “Fire detection, prevention and suppression devices” include but are not limited to manual fire alarm systems, smoke and heat detection devices, fire extinguishers, standpipes, automatic fire suppression systems and automatic fire sprinkler systems.

(4m) (a) In this subsection:

1. “Automatic fire sprinkler system” has the meaning given in s. 145.01 (2).

2. “Dwelling unit” has the meaning given in s. 101.61 (1).

3. “Multifamily dwelling” has the meaning given in s. 101.971 (2).

4. “Nondwelling unit portions” means the common use areas of a multifamily dwelling, including corridors, stairways, basements, cellars, vestibules, atriums, community rooms, laundry rooms or swimming pool rooms.
5. “Political subdivision” means a county, city, village or town.

5m. “Two–hour fire resistance” means 2–hour fire separations for all walls that separate dwelling units, exit corridors and for all floors and ceilings, so that the specified walls, floors and ceilings are capable of resisting fire for a period not shorter than 2 hours.

(a) A political subdivision may enact ordinances, as provided in this paragraph, that require an automatic fire sprinkler system or 2–hour fire resistance in every multifamily dwelling. Any ordinance enacted under this paragraph shall meet the standards established under pars. (b) and (c) or under pars. (d) and (e).

(b) The department shall require an automatic fire sprinkler system or 2–hour fire resistance in every multifamily dwelling that contains any of the following:

1. Total floor area, for all individual dwelling units, exceeding 16,000 square feet.
2. More than 20 dwelling units.
3. Total floor area of its nondwelling unit portions exceeding the limits established in par. (e).
4. An automatic fire sprinkler system or 2–hour fire resistance is required under par. (b) in a multifamily dwelling constructed by any of the following types of construction if the total floor area of the nondwelling unit portions in the multifamily dwelling exceeds the following:
   1. Type 1 fire resistive construction, 16,000 square feet.
   2. Type 2 fire resistive construction, 12,000 square feet.
   3. Type 3 metal frame protected construction, 8,000 square feet.
   4. Type 4 heavy timber construction, 5,600 square feet.
   5. Type 5A exterior masonry protected, 5,600 square feet.
   6. Type 5B exterior masonry unprotected, 5,600 square feet.
   7. Type 6 metal frame unprotected, 5,600 square feet.
   8. Type 7 wood frame protected construction, 5,600 square feet.
   9. Type 8 wood frame unprotected construction, 4,800 square feet.

(d) A political subdivision’s ordinances, enacted to meet the requirements of this paragraph and par. (e), shall require an automatic fire sprinkler system or 2–hour fire resistance in every multifamily dwelling that contains any of the following:

1. Total floor area, for all individual dwelling units, exceeding 8,000 square feet.
2. More than 8 dwelling units.
3. Total floor area of its nondwelling unit portions exceeding the limits established in par. (e).

(e) A political subdivision’s ordinances, enacted to meet the standards established in par. (d) and this paragraph, shall require an automatic fire sprinkler system or 2–hour fire resistance in every multifamily dwelling that is constructed by any of the following types of construction if the total floor area of the nondwelling unit portions in the multifamily dwelling exceeds the following:

1. Type 1 fire resistive construction, 12,000 square feet.
2. Type 2 fire resistive construction, 10,000 square feet.
3. Type 3 metal frame protected construction, 8,000 square feet.
4. Type 4 heavy timber construction, 5,600 square feet.
5. Type 5A exterior masonry protected, 5,600 square feet.
6. Type 5B exterior masonry unprotected, 5,600 square feet.
7. Type 6 metal frame unprotected, 5,600 square feet.
8. Type 7 wood frame protected construction, 5,600 square feet.
9. Type 8 wood frame unprotected construction, 4,800 square feet.

(f) The department shall promulgate rules establishing procedures and requirements for issuing certifications for purposes of par. (b). The department shall include in the rules a requirement that the person hold a valid certification from the national fire protection association qualifying him or her as a certified fire inspector I or that he or she hold a valid equivalent certification.

2. The department shall determine which certifications issued by other entities will qualify as valid equivalent certifications. Notwithstanding s. 227.10 (1), determinations under this subdivision shall not be promulgated as rules.

(d) The department shall provide assistance to any nationwide or statewide organization that represents fire chiefs and that is engaged in providing training and certification opportunities for persons seeking to receive certification by the department under this subsection.

The department shall file a report for each fire that determined by the fire department.

A political subdivision’s ordinances, enacted to meet the requirements of this paragraph and par. (e), shall require an automatic fire sprinkler system or 2–hour fire resistance in every multifamily dwelling.
The department may review, correct, and update any report filed by a fire department under this section.

**101.145 Smoke detectors. (1) Definitions.** As used in this section:

(a) “Residential building” means any public building which is used for sleeping or lodging purposes and includes any apartment house, rooming house, hotel, children’s home, community-based residential facility or dormitory but does not include a hospital or nursing home.

(b) “Sleeping area” means the area of the unit in which the bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate sleeping areas but bedrooms or sleeping rooms separated by a bathroom are not separate sleeping areas.

(c) “Smoke detector” means a device which detects particles or products of combustion other than heat.

(d) “Unit” means a residential building or that part of a residential building which is intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(2) **Approval.** A smoke detector required under this section shall bear an Underwriters Laboratories, Inc., listing mark or similar mark from an independent product safety certification organization.

(3) **Installation and Maintenance.** (a) The owner of a residential building shall install any smoke detector required under this section according to the directions and specifications of the manufacturer of the smoke detector.

(b) The owner of a residential building shall maintain any such smoke detector that is located in a common area of that residential building.

(c) The occupant of a unit in a residential building shall maintain any smoke detector in that unit, except that if an occupant who is not an owner, or a state, county, city, village or town officer, agent or employee charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, gives written notice to the owner that a smoke detector in the unit is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional.

(4) **Requirement.** The owner of a residential building the initial construction of which is commenced before, on or after May 23, 1978, shall install and maintain a functional smoke detector in the basement and at the head of any stairway on each floor level of the building and shall install a functional smoke detector either in each sleeping area of each unit or elsewhere in the unit within 6 feet of each sleeping area and not in a kitchen.

(5) **Penalty.** Whoever violates this section shall forfeit to the state not more than $50 for each day of violation.

(6) **Department inspection and orders.** The department may inspect all residential buildings, except the interior of private dwellings, as may be necessary to ensure compliance with this section. The department may inspect the interior of private dwellings at the request of the owner or renter as may be necessary to ensure compliance with this section. The department may issue orders as may be necessary to ensure compliance with this section.

**101.1472 Contractor regulation. (1) Definitions.** In this section:

(a) “Construction work” means construction, renovation, improvements, remodeling, installations, alterations, repairs, or demolition activities.

(b) “License” means a license, a permit, or a certificate of certification or registration.

(2) The department may not promulgate or enforce any rule that requires that a person who is engaged, or who offers to be engaged, in a business to do construction work hold a license issued under this chapter or ch. 145 unless the rule relates to a license specifically required by this chapter or ch. 145.

**101.148 Contractor notices. (1) Definitions.** In this section:

(a) “Consumer” means a person who enters into a written or oral contract with a contractor to construct or remodel a dwelling.

(b) “Contractor” means a person who enters into a written or oral contract with a consumer to construct or remodel a dwelling.

(c) “Deliver” means any of the following:

1. Depositing the document or written notice in the U.S. mail or with a commercial delivery service, addressed to the applicable person.

2. Giving the document or written notice personally to the applicable person.

(d) “Dwelling” means any premises or portion of a premises that is used as a home or a place of residence and that part of the lot or site on which the dwelling is situated that is devoted to residential use. “Dwelling” includes other existing structures on the immediate residential premises such as driveways, sidewalks, swimming pools, terraces, patios, fences, porches, garages, and basements.

(e) “Remodel” means to alter or reconstruct a dwelling. “Remodel” does not include maintenance or repair work.

(2) **Notice required at time of contracting.** (a) Before entering into a written contract to construct or remodel a dwelling, or, if the parties enter into an oral contract, as soon as reasonably possible, but before commencing any work to construct or remodel a dwelling, the contractor shall deliver to the consumer a copy of the brochure prepared under s. 895.07 (13) and a notice worded substantially as follows:

**NOTICE CONCERNING CONSTRUCTION DEFECTS**

Wisconsin law contains important requirements you must follow before you may file a lawsuit for defective construction against the contractor who constructed your dwelling or completed your remodeling project or against a window or door supplier or manufacturer. Section 895.07 (2) (a) of the Wisconsin statutes requires you to deliver to the contractor a written notice of any construction conditions you allege are defective before you file your lawsuit, and you must provide your contractor or window or door supplier the opportunity to make an offer to repair or remedy the alleged construction defects. You are not obligated to accept any offer made by the contractor or window or door supplier. All parties are bound by applicable warranty provisions.

(b) The notice required under par. (a) shall be conspicuous and in writing and may be included within the contract between the contractor and the consumer.

**101.149 Carbon monoxide detectors. (1) Definitions.** In this section:

(a) “Bed and breakfast establishment” has the meaning given in s. 97.01 (1g).

(b) “Carbon monoxide detector” means an electronic or battery-operated device that sounds an alarm when an unsafe level of carbon monoxide is in the air.

(c) “Residential building” means a tourist rooming house, a bed and breakfast establishment, or any public building that is used for sleeping or lodging purposes. “Residential building” does not include a hospital or nursing home.

(c) “Sleeping area” has the meaning given in s. 101.145 (1) (b).

(cm) “Tourist rooming house” has the meaning given in s. 97.01 (15k).

(d) “Unit” means a part of a residential building that is occupied by one or more persons as a home, residence, or sleeping place.
(2) INSTALLATION REQUIREMENTS. (a) Except as provided in par. (b), the owner of a residential building shall install a carbon monoxide detector in all of the following places not later than the date specified under par. (c):

1. In the basement of the building if the basement has a fuel−burning appliance.
2. Within 15 feet of each sleeping area of a unit that has a fuel−burning appliance.
3. Within 15 feet of each sleeping area of a unit that is immediately adjacent to a unit that has a fuel−burning appliance.
4. In each room that has a fuel−burning appliance and that is not used as a sleeping area. A carbon monoxide detector shall be installed under this subdivision not more than 75 feet from the fuel−burning appliance.
5. In each hallway leading from a unit that has a fuel−burning appliance, in a location that is within 75 feet from the unit, except that, if there is no electrical outlet within this distance, the owner shall place the carbon monoxide detector at the closest available electrical outlet in the hallway.

(b) If a unit is not part of a multiunit building, the owner of the residential building need not install more than one carbon monoxide detector in the unit.

(c) 1. Except as provided under subd. 2., the owner of a residential building shall comply with the requirements of this subsection before the building is occupied.
2. The owner of a residential building shall comply with the requirements of this subsection not later than April 1, 2010, if construction of the building was initiated before October 1, 2008, or if the department approved the plans for the construction of the building under s. 101.12 before October 1, 2008.
3. All of the fuel−burning appliances in the residential building shall comply with the requirements of this section.
4. The owner of a residential building may give the owner of the building written notice that a carbon monoxide detector in the residential building is not functional or has been removed by a person other than the occupant. The owner of the residential building shall repair or replace the nonfunctional or missing carbon monoxide detector within 5 days after receipt of the notice.
5. The owner of a residential building is not liable for damages resulting from any of the following:

1. A false alarm from a carbon monoxide detector if the carbon monoxide detector was reasonably maintained by the owner of the residential building.
2. The failure of a carbon monoxide detector to operate properly if that failure was the result of tampering with, or removal or destruction of, the carbon monoxide detector by a person other than the owner or the result of a faulty detector that was reasonably maintained by the owner as required under par. (a).

(4) TAMPERING PROHIBITED. No person may tamper with, remove, destroy, disconnect, or remove batteries from an installed carbon monoxide detector, except in the course of inspection, maintenance, or replacement of the detector.

(5) EXCEPTIONS. Subsections (2) and (3) do not apply to the owner of a residential building if the residential building does not have an attached garage and any of the following applies:

(a) The residential building does not have any fuel−burning appliances.

(b) All of the fuel−burning appliances in the residential building have sealed combustion units that are covered by the manufacturer’s warranty against defects.

(c) All of the fuel−burning appliances in the residential building have sealed combustion units that are inspected as provided in the rules promulgated by the department under sub. (6) (b) or in the rules promulgated by the department under s. 97.625 (1) (am).

(6) RULES. (a) The department shall promulgate rules establishing a procedure under which the owner of a residential building may apply to the department for a waiver of the requirements under sub. (2).

(b) The department shall promulgate rules, in consultation with the department of health services, under which the department of safety and professional services shall authorize certified heating, ventilating, and air conditioning inspectors to conduct regular inspections of sealed combustion units, as required under sub. (5) (c), for carbon monoxide emissions in residential buildings other than hotels, tourist rooming houses, and bed and breakfast establishments. The rules shall specify conditions under which it may issue orders as specified under sub. (8) (a). The rules may not require the department of safety and professional services to authorize inspection of sealed combustion units during the period in which the sealed combustion units are covered by a manufacturer’s warranty against defects.

(7) INSPECTION. To ensure compliance with subs. (2) and (3), the department, or a building inspector certified by the department, shall inspect the common area of residential buildings other than hotels, tourist rooming houses, and bed and breakfast establishments and may inspect a unit within such buildings at the request of the owner or occupant of the unit to be inspected.

(8) PENALTIES. (a) If the department of safety and professional services or the department of agriculture, trade and consumer protection determines after an inspection of a building under this section or s. 97.625 (1g) that the owner of the building has violated sub. (2) or (3), the respective department shall issue an order requiring the person to correct the violation within 5 days or within such shorter period as the respective department determines is necessary to protect public health and safety. If the person does not correct the violation within the time required, he or she shall forfeit $50 for each day of violation occurring after the date on which the respective department finds that the violation was not corrected.

(b) If a person is charged with more than one violation of sub. (2) or (3) arising out of an inspection of a building owned by that person, those violations shall be counted as a single violation for the purpose of determining the amount of a forfeiture under par. (a).

(c) Whoever violates sub. (4) is subject to the following penalties:

1. For a first offense, the person may be fined not more than $10,000 or imprisoned for not more than 9 months, or both.
2. For a 2nd or subsequent offense, the person is guilty of a Class I felony.

History: 2007 a. 20 s. 9121 (6) (a); 2007 a. 205; 2011 a. 32; 2013 a. 166 s. 77; 2015 a. 55.

Cross-reference: See also ss. SPS 321.095, 362.1200, and 366.0911 (2), Wis. adm. code.
1. “Excavation” or “workings” means any or all parts of a mine excavated or being excavated, including shafts, tunnels, drifts, cross cuts, raises, winzes, stopes and all other working places in a mine.

2. “Mineral” means a product recognized by standard authorities as mineral, whether metallic or nonmetallic.

3. “Shaft” means an opening made for mining minerals, for hoisting and lowering persons or material, or for ventilating underground workings.

(b) No excavation of a shaft may be commenced unless a permit is first issued therefor by the department. Permits for such excavation shall be issued upon fee payment and application filed with the department, if the department is satisfied that the shaft or the excavation and workings will be in compliance with the safety orders adopted by the department and applicable thereto. Application shall be made upon forms prescribed by the department and shall be furnished upon request.

(c) Paragraph (b) does not apply to shafts which will be less than 50 feet in depth wherein persons are not employed, or which are not equipped with power driven hoists used for hoisting persons in and out of the shafts, or which are not covered with a flammable building.

(d) The department may:

1. Employ additional mining inspectors, who shall have had at least 10 years experience in underground mining or be a graduate of a recognized college with a degree of mining engineering.

2. Cause the inspection of all underground mines, quarries, pits, zinc works or other excavations.

(e) The department shall promulgate rules to effect the safety of mines, explosives, quarries and related activities. Such rules shall provide for the establishment of uniform limits on permissible levels of blasting resultants to reasonably assure that blasting resultants do not cause injury, damage or unreasonable annoyance to any person or property outside any controlled blasting site area.

(f) 1. The department shall cause the inspections of underground mines and similar establishments at least once every 2 months and shall cause the inspections of surface mines and similar establishments at least once each year. In the making of the inspections the owner and the labor union identified as the bargaining representative of the employees of the mine or establishment shall be permitted to accompany the inspector engaged in the tour of inspection. The department shall cause a report of any inspection so made, to be submitted to representatives of the operator and of the employees.

2. The department may apply to a court of record for the closing of any underground mine, quarry, pit, zinc works or other excavation where the same is being operated in violation of any of its rules or orders, and the owners or operators have failed within a reasonable time to correct any unsafe methods of operation. The failure of any owner or operator to comply with the order or judgment of the court subjects the party or parties to contempt proceedings.

History: 1971 c. 185; 1971 c. 228 s. 44; Stats. 1971 s. 101.15; 1975 c. 94 s. 91 (9); 1977 c. 29; 1979 c. 257; 1983 a. 189; 1985 a. 29; 1993 a. 16.

Cross-reference: See also chs. SPB 307 and 308, Wis. adm. code.

When the department determines that there is a violation of safety orders and a condition of extreme and imminent danger to a worker’s life exists, the inspector may seek the assistance of a local law enforcement officer. The local law enforcement officer has a duty to render assistance unless in the officer’s opinion other priority assignments take precedence. 59 Atty. Gen. 12.

101.16 Liquefied petroleum gas. (1) DEFINITIONS. In this section:

(a) “Department of transportation cylinder” means a container that holds liquefied petroleum gas and that meets the specifications established by the federal department of transportation.

(b) “Liquefied petroleum gas” means any material which is composed of butane, or any mixtures of, any of the following hydrocarbons including their isomers:

1. Propane.

2. Propylene.


(c) “Propane gas system” means an assembly consisting of one or more containers that has a total water capacity of at least 100 gallons and a means of conveying propane gas from the container to containers to a point of connection with devices used to consume the propane gas. A “propane gas system” includes all piping and other components associated with the assembly that are used to control the quantity, flow, pressure, and physical state of the propane gas.

(d) “Retailer” means a person engaged in the business of filling containers that have a water capacity of at least 4 pounds with liquefied petroleum gas that is intended to be used directly from the container as fuel. “Retailer” does not include a person who fills such containers with liquefied petroleum gas for the person’s own use.

(2) RULES. The department shall promulgate rules to ascertain, fix, and order such reasonable standards, rules, or regulations for the design, construction, location, installation, operation, repair, and maintenance of equipment for storage, handling, use, and transportation by tank truck or tank trailer, of liquefied petroleum gases for fuel purposes, and for the odorization of said gases used therewith, as shall render such equipment safe.

(3) FILLING, EVACUATING, AND USE OF CONTAINERS. (a) Except as provided in par. (b), no person, other than the owner of a liquefied petroleum gas container or a person authorized by the owner, may fill, refill, evacuate, or use in any other manner the container for any purpose.

(b) A retailer may evacuate a liquefied petroleum gas container not under the retailer’s ownership in order to transfer the remaining liquefied petroleum gas that is in the container into a container that is under the retailer’s ownership.

(3g) LICENSE REQUIRED. (a) No retailer may distribute liquefied petroleum gas without holding a license issued by the department.

(3r) COMMERCIAL GENERAL LIABILITY INSURANCE. (a) Except as provided in par. (b), a retailer shall maintain commercial general liability insurance in the amount of $1,000,000 per occurrence with an annual aggregate of $2,000,000 for compensating 3rd parties for bodily injury and property damages for incidents associated with the release of liquefied petroleum gas.

(b) A retailer who only fills department of transportation cylinders or who only fills containers for engine and recreational vehicle fueling systems shall maintain commercial general liability insurance in the amount of $500,000 per occurrence with an annual aggregate of $1,000,000 for compensating 3rd parties for bodily injury and property damages for incidents associated with the release of liquefied petroleum gas.

(c) A retailer may meet the insurance requirement under par. (a) or (b) by obtaining commercial general liability insurance as an endorsement to an existing policy or as a separate policy from an insurer, or a risk retention group, that is licensed to transact the business of insurance in this state or that is eligible to provide insurance as a surplus lines insurer in one or more states.

(d) A retailer who fails to maintain commercial general liability insurance as required under par. (a) or (b) may not distribute liquefied petroleum gas at retail until the insurance is obtained.

(e) Each retailer shall file with the department proof of commercial general liability insurance coverage as required under this subsection. The department shall maintain a list on the depart-
ment’s Internet site that contains the names of each retailer licensed under this section and the status of the retailer’s commercial general liability insurance coverage.

(f) A 3rd party that issues commercial general liability insurance to a retailer for purposes of this subsection shall provide written notice to the retailer and to the department at least 60 days before canceling, revoking, suspending, or failing to renew the insurance.

(g) A retailer who cancels or fails to renew commercial general liability insurance shall notify the department at least 60 days before cancelling or failing to renew the insurance. Upon receipt of the notice, the department shall revoke the retailer’s license issued under sub. (3g).

(4) REQUIREMENTS TO PROVIDE INFORMATION. (a) The person actually performing the work of installing equipment utilizing liquefied petroleum gas for fuel purposes shall furnish the user of the equipment a statement, the form of which shall be prescribed by the department, showing that the design, construction, location, and installation of the equipment conforms with the rules promulgated by the department under this section.

(b) 1. A person who owns, leases, or uses a propane gas system and who is a customer of a retailer shall notify the retailer of the propane gas system for the propane gas system of any interruption in the operation of the propane gas system due to the replacement, modification, repair, or servicing of the propane gas system by any person other than the retailer. The customer shall provide the notice at least 7 days in advance of the interruption in the operation of the propane gas system, except as provided in subd. 2.

2. The retailer, or the person replacing, modifying, repairing, or servicing the propane gas system, shall perform a check for leaks or other defects in the propane gas system before placing the propane gas system back into operation in the manner required by rule.

(c) Each retailer filling a container that is part of a propane gas system shall provide written notice to each customer subject to par. (b) of the customer’s duty under par. (b) before the retailer’s first delivery of propane gas to that customer and shall provide subsequent notices on an annual basis. The notice shall include all of the following information concerning the duty to notify:

1. The name, address, and telephone number of the retailer.
2. The purpose of giving the notification to the retailer.
3. A description of the type of propane gas system that is subject to the notification requirement.
4. A description of the types of activities that constitute a replacement, modification, repair, or servicing of a propane gas system.
5. A copy of the provisions under s. 101.16 (4) (b).

(5) PENALTIES. (ac) Except as provided in par. (am), any person who violates sub. (3) or (4) or any rule promulgated under sub. (2) shall forfeit not less than $10 nor more than $1,000.

(am) Any person who intentionally violates sub. (3) or (4) or any rule promulgated under sub. (2) shall be fined not less than $25 nor more than $2,000, or be imprisoned not less than 30 days nor more than 6 months.

(b) Except as provided in par. (c), any retailer who violates sub. (3g) or (3r) shall forfeit not less than $500 and not more than $1,000 for the first offense and not less than $2,000 and not more than $5,000 for each subsequent offense.

(c) Any retailer who violates sub. (3g) or (3r) shall forfeit not less than $200 and not more than $400 for the first offense and not less than $800 and not more than $2,000 for each subsequent offense if the retailer is one of the following:

1. A retailer who only fills department of transportation cylinders.
2. A retailer who only fills containers for engine and recreational vehicle fueling systems.
3. A retailer who only fills department of transportation cylinders or containers for engine and recreational vehicles and who intentionally violates sub. (3g) or (3r) shall be imprisoned not less than 30 days and no more than 6 months or be fined not less than $500 and not more than $1,000 for the first offense and not less than $2,000 and not more than $5,000 for each subsequent offense.

(cn) Any retailer who only fills department of transportation cylinders or containers for engine and recreational vehicles and who intentionally violates sub. (3g) or (3r) shall be imprisoned not less than 30 days and no more than 6 months or be fined not less than $200 and not more than $400 for the first offense and not less than $800 and not more than $2,000 for each subsequent offense.

(d) If a retailer is found in violation of sub. (3g) or (3r), the court shall require that the retailer cease distributing liquefied petroleum gas at retail until the retailer is issued the license required under sub. (3g).

(5m) CIVIL LIABILITY. (a) Any retailer who is licensed under sub. (3g) and who suffers damages caused by the filling of a container from a retailer who is not a department of transportation cylinder by another retailer who is not so licensed may bring an action against the unlicensed retailer to do any of the following:

1. Enjoin the unlicensed retailer from distributing liquefied petroleum gas at retail until the retailer receives the required license.
2. Receive monetary damages equal to 3 times the amount of any monetary loss sustained or $2,000, whichever is greater, multiplied by each day that the unlicensed retailer is not licensed under sub. (3g).

(b) Notwithstanding s. 814.04 (1), a retailer who prevails in an action under par. (a) shall be awarded reasonable attorney fees.

(c) An action under this subsection shall be commenced within 180 days after the cause of action accrues or be barred.

(6) EXEMPTION. This section does not apply to railroads engaged in interstate commerce or to equipment used by them.

101.17 MACHINES AND BOILERS, SAFETY REQUIREMENTS. No machine, mechanical device, or steam boiler shall be installed or used in this state which does not fully comply with the requirements of the laws of this state enacted for the safety of employees and frequenters in places of employment and public buildings and with the orders of the department adopted and published in conformity with this subchapter. Any person violating this section shall be subject to the forfeitures provided in s. 101.02 (12) and (13).
101.175 Local energy resource systems. (1) In this section:
(a) “Local energy resource system” means a solar energy system, a wind energy system or a wood energy system.
(b) “Solar energy system” means equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy.
(c) “Wind energy system” means equipment which converts and then transfers or stores energy from the wind into usable forms of energy.
(d) “Wood energy system” means a woodburning stove or furnace.

(1m) The purpose of this section is to establish statewide local energy resource system standards to promote accurate consumer evaluation of local energy resource systems and components thereof.

(2) Any manufacturer or retailer prior to the sale in this state of any local energy resource system or components thereof may request the department to issue a seal of quality for each system or component which meets or exceeds the quality standards established by the department under sub. (4).

(3) The department, in consultation with the department of agriculture, trade and consumer protection, shall establish by rule quality standards for local energy resource systems which do not impede development of innovative systems but which do:
(a) Promote accurate consumer evaluation of local energy resource systems and components thereof.
(b) Conform, where feasible, with national performance standards promulgated or recognized by the federal government for local energy resource systems.
(c) Promote the production, marketing and installation of local energy resource systems.

(4) The quality standards under sub. (3) shall include but are not limited to:
(a) The requirement of a warranty and minimum requirements for the contents thereof.
(b) The requirement of an operation and maintenance manual and minimum requirements for the contents thereof.
(c) Minimum specifications for materials, workmanship, durability and efficiency.

(5) Upon request by any manufacturer or retailer of any local energy resource system or components thereof which meet or exceed the quality standards established under sub. (4), the department shall issue an appropriate seal of quality. The department may charge a fee to cover the cost of the seal and to cover the cost of examining the system or its components.

(6) Misrepresentation, misuse or duplication of the department seal of quality issued under sub. (5) shall be deemed deceptive advertising under s. 100.18 (9m).

(7) At the request of any buyer of a local energy resource system the department may inspect any local energy resource system necessary to ascertain compliance with this section.

History: 1979 c. 350; 1983 a. 27 s. 2202 (25); 1985 a. 120; s. 35.17 correction in (1)(d).
Cross-reference: See also ch. SPS 371, Wis. adm. code.

101.178 Installation and servicing of heating, ventilating and air conditioning equipment. (1) In this section, “political subdivision” means a city, village, town or county.

(2) No person may engage in the business of installing or servicing heating, ventilating or air conditioning equipment unless the person registers with the department.

(3) (a) The department shall promulgate rules for a voluntary program under which a person who engages in the business of installing or servicing heating, ventilating or air conditioning equipment may obtain certification by passing an examination developed or selected by the department.

(b) A political subdivision may not require a person to obtain certification under par. (a) in order to engage in the business of installing or servicing heating, ventilating or air conditioning equipment in that political subdivision unless all of the following apply:
1. On April 23, 1994, the political subdivision requires certification, licensure or other approval by the political subdivision in order to engage in that business in the political subdivision.
2. The political subdivision allows a person who has the approval under subd. 1. on April 23, 1994, to continue to engage in that business in the political subdivision without obtaining certification under par. (a).
(c) A political subdivision may not require a person who is certified under par. (a) to obtain certification, licensure or other approval by the political subdivision in order to engage in the business of installing or servicing heating, ventilating or air conditioning equipment in that political subdivision.
(d) A political subdivision may not require a person to obtain certification, licensure or other approval by the political subdivision in order to engage in the business of installing or servicing heating, ventilating or air conditioning equipment in the political subdivision unless the political subdivision requires that approval before November 1, 1993.

(4) The department may establish fees to cover the costs of administering this section.

(5) Any person who violates sub. (2) shall be required to forfeit not less than $50 nor more than $1,000. Each installation or servicing in violation of sub. (2) constitutes a separate violation.

History: 1971 c. 185 s. 1; 1971 c. 228; Stats. 1971 s. 101.18.

101.19 Fees and records. (1b) In this section:
(a) “Amusement attraction” means any game of skill, show, or exhibition that does not constitute an amusement or thrill ride entertainment device.
(b) “Amusement or thrill ride” means any device that carries frequenter in an unusual, entertaining or thrilling mode of motion or any vehicle providing entertainment or transportation to, from or within an amusement area.

(1g) The department, by rule promulgated under ch. 227, shall fix and collect fees which shall, as closely as possible, equal the cost of providing the following services:
(a) The examination of plans for public buildings, public structures, places of employment and the components thereof.
(b) The required inspection of boilers, pressure vessels, refrigeration plants, liquefied petroleum gas vessels, anhydrous ammonia tanks and containers, escalators, dumbwaiters, and amusement or thrill rides but not of amusement attractions.

(bm) The inspection by the department of lifts, as defined in s. 167.33 (1) (f).
(c) Determining and certifying the competency of inspectors, blasters and welders.
(d) Each inspection of a facility conducted to ensure that the construction is in accordance with the plans approved by the department.

(f) Administration of the manufactured dwelling program, the one- and two-family dwelling programs, the manufactured home and mobile home program, and the multifamily dwelling program.

(g) The inspection and investigation of accidents.
(h) Inspecting of mines, tunnels, quarries, pits and explosives.

(i) Inspecting and certifying rental units under s. 101.122 (4) and certifying and training inspectors under s. 101.122 (2) (c) and (d).

(j) The licensing and inspection of fireworks manufacturers under s. 167.10 (6m).

(k) Administering subch. VII, except that the department may not charge a fee for an emergency elevator mechanic's license under s. 101.985 (2) (c).

(L) Issuing licenses to retailers, as defined in s. 101.16 (1) (d), of liquefied petroleum gas under s. 101.16 (3g), except as provided in sub. (1m).

(1m) The department shall collect an annual fee of $20 for issuing a license under s. 101.16 (3g) to a retailer who only sells department of transportation cylinders.

(1r) Notwithstanding subs. (1g) and (1m), the department shall waive any fee imposed on an individual who is eligible for the veterans fee waiver program under s. 45.44 for a license, permit, or certificate of certification or registration issued by the department under s. 101.122 (2) (c), 101.152 (2) (e), 101.16 (3g), 101.17, 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.951, 101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.07 (12), 145.15, 145.16, 145.165, 145.17, 145.175, 145.18, or 167.10 (6m).

(2) The department shall issue and record required certificates of inspection or of registration for equipment listed in sub. (1g) (b).
(2) If a city or village contracts to provide fire protection and the services of its fire department outside of its boundaries, it is subject to the same liability for property damage and personal injury when responding to calls and providing services outside of its boundaries as when providing the same services within its boundaries.

(3) No city, village or town is entitled to receive dues under this section unless the city, village or town complies with pars. (a) and (b).

(a) No city, village or town may receive fire department dues under this section unless it has a fire department which satisfies all of the following requirements:

1. Is organized to provide continuous fire protection in that city, village or town and has a designated chief.

2. Singly, or in combination with another fire department under a mutual aid agreement, can ensure the response of at least 4 fire fighters, none of whom is the chief, to a first alarm for a building.

3. Provides a training program prescribed by the department by rule.

4. Provides facilities capable, without delay, of receiving an alarm and dispatching fire fighters and apparatus.

(b) Each city, village or town eligible for dues under this section shall maintain either a voluntary fire department that holds a meeting at least once each month, or a paid or partly paid fire department with sufficient personnel ready for service at all times.

(4) (a) The department may not pay any fire department dues for any year to a city, village or fire department unless all of the following conditions are satisfied:

1. The department determines that the city, village, town or fire department is in substantial compliance with sub. (6) and ss. 101.14 (2) and 101.141 (1) and (2). The department shall establish by rule the meaning of “substantial compliance” for purposes of this subdivision.

2. The city, village or town has submitted a form which is signed by the clerk of the city, village or town and by the chief of the fire department providing fire protection to that city, village or town, which is provided by the department by rule and which certifies that the fire department is in substantial compliance with this section or the department has audited the city, village or fire department and determined that it is in substantial compliance with sub. (6) and ss. 101.14 (2) and 101.141 (1) and (2). The department shall establish by rule the meaning of “substantial compliance” for purposes of this subdivision.

(b) If dues which would have been paid into any fire fighter’s pension fund or other special funds for the benefit of disabled or superannuated fire fighters are withheld under this subsection, an amount equal to the fire department dues withheld shall be paid to the fire department providing the fire protection service. That fire department shall use those dues for any of the purposes specified in par. (a).

History: 1971 c. 185 s. 7; 1975 c. 94 ss. 91 (9); 1975 c. 372 s. 15; Stats. 1975 s. 601.95; 1977 c. 29; 1979 c. 34, 221; 1981 c. 20 ss. 1754 to 1758, 2202 (26) (b); Stats. 1981 c. 101.59; 1981 c. 364 s. 3; Stats. 1981 s. 101.575; 1987 a. 399; 1989 a. 31; 1991 a. 187; 1993 a. 213; 1997 a. 27, 2003 a. 219; 2013 a. 20.

101.578 Protection of medical waste incinerator employees. (1) In this section, “medical waste incinerator” has the meaning given in s. 287.07 (7) (c) 1. cr.

(2) The department shall promulgate rules establishing requirements that protect persons who work at medical waste incinerators from exposure to blood and other potentially infectious materials. The rules shall be at least as strict as any federal requirements.


101.58 Employees’ right to know. (1) SHORT TITLE. Sections 101.58 to 101.599 shall be known as the “Employees’ Right to Know Law”.

(2) DEFINITIONS. In ss. 101.58 to 101.599:

(a) “Agricultural employer” means any person, including the state and its political subdivisions, who engages the services of any employee to perform agricultural labor. If any employee is present at the workplace of an agricultural employer under an agreement between that agricultural employer and another agricultural employer or employer, “agricultural employer” means the agricultural employer with control or custody of a pesticide. An agricultural employer who engages some employees to perform agricultural labor and other employees for other purposes is only an agricultural employer with respect to the employees engaged to perform agricultural labor.

(b) “Agricultural labor” has the meaning provided in s. 108.02 (2).

(c) “Employee” means any person whose services are currently or were formerly engaged by an employer or an agricultural employer, or any applicant at the time an employer or agricultural employer offers to engage his or her services.

(d) “Employee representative” means an individual or organization to whom an employee gives written authorization to exercise his or her rights to request information under s. 101.583, 101.585 or 101.586, a parent of a minor employee or a recognized or certified collective bargaining agent.

(e) “Employer” means any person, except an agricultural employer, with control or custody of any employment or workplace who engages the services of any employee. “Employer” includes the state and its political subdivisions. If any employee is present at the workplace of an employer under an agreement between that employer and another employer or agricultural employer, “employer” means the employer with control or custody of a toxic substance or infectious agent. An employer who engages some employees to perform agricultural labor and other employees for other purposes is only considered an employer with respect to the employees engaged for other purposes.

(f) “Infectious agent” means a bacterial, mycoplasmal, fungal, parasitic or viral agent identified by the department by rule as causing illness in humans or human fetuses or both, which is introduced by an employer to be used, studied or produced in the workplace. “Infectious agent” does not include such an agent in or on the body of a person who is present in the workplace for diagnosis or treatment.

(g) “Legal holiday” has the meaning provided in s. 995.20.

(h) “Overexposure” means any chronic or acute exposure to a toxic substance or infectious agent which results in illness or injury.

(i) “Pesticide” means any substance or mixture of substances which is registered with the federal environmental protection...
agency under 7 USC 136 to 136y or the department of agriculture, trade and consumer protection under ch. 94, and which is labeled, designed or intended to prevent, destroy, repel or mitigate any pest or as a plant regulator, defoliant or desiccant.

(j) 1. “Toxic substance” means any substance or mixture containing a substance regulated by the federal occupational safety and health administration under title 29 of the code of federal regulations part 1910, subparagraph z, which is introduced by an employer to be used, studied or produced in the workplace.

2. “Toxic substance” does not include:

a. Any article, including but not limited to an item of equipment or hardware, which contains a substance regulated by the federal occupational safety and health administration under title 29 of the code of federal regulations part 1910, subparagraph z, if the substance is present in a solid form which does not cause any acute or chronic health hazard as a result of being handled by an employee.

b. Any mixture containing a substance regulated under title 29 of the code of federal regulations part 1910, subparagraph z, if the substance is less than one percent, or, if the substance is an impurity, less than 2 percent, of the product.

c. Any consumer product packaged for distribution to and used by the general public, for which the employer’s exposure during use is not significantly greater than the consumer’s exposure occurring during the principal use of the product.

d. Any substance received by an employer in a sealed package and subsequently sold or transferred in that package, if the seal remains intact while the substance is in the employer’s workplace.

e. Any waste material regulated under the federal resource conservation and recovery act, P.L. 94–580.

f. Lutefisk.

(k) “Workplace” means any location where an employee performs a work-related duty in the course of his or her employment, except a personal residence.

(3) RELATIONSHIP TO FEDERAL REGULATIONS. (a) If the federal occupational safety and health administration promulgates a hazards communication regulation which, with respect to toxic substances, has requirements comparable to those in s. 101.583, 101.59 or 101.597 (1), and has time periods no less stringent than s. 101.589 and confidentiality requirements no less stringent than s. 101.592, an employer, manufacturer or supplier may apply to the department for an exemption from s. 101.583, 101.59 or 101.597 (1).

(b) An employer applying to the department for an exemption under par. (a) shall provide a copy of the application to appropriate certified collective bargaining agents and shall post a statement at the place where notices to employees are normally posted. The posted statement shall summarize the application, specify a place where employees may examine it and inform employees of their right to request a hearing on it.

(c) Upon receipt of a written request from an affected employer, manufacturer, supplier, employee or employee representative, the department shall hold a hearing on the application. If a hearing has been requested, the department is prohibited from approving the application until a hearing has been held. In no case shall the department approve the application within less than 60 days after receiving it.


Cross-reference: See also ch. SPS 335, Wis. adm. code.

101.581 Notice requirements. (1) EMPLOYER. An employer who uses, studies or produces a toxic substance, infectious agent or pesticide shall post in every workplace at the location where notices to employees are usually posted a sign which informs employees that the employer is required, upon request, to provide an employee or employee representative with all of the following:

(a) The identity of any toxic substance or infectious agent which an employee works with or is likely to be exposed to.

(b) A description of any hazardous effect of the toxic substance or infectious agent.

(c) Information regarding precautions to be taken when handling the toxic substance or infectious agent.

(d) Information regarding procedures for emergency treatment in the event of overexposure to the toxic substance or infectious agent.

(e) Access to the information contained on the label of any pesticide with which the employee works or to which the employee is likely to be exposed.

(2) AGRICULTURAL EMPLOYER. An agricultural employer who uses pesticides shall post in a prominent place in the workplace a sign which informs employees that the agricultural employer is required, upon request, to provide an employee or employee representative with access to the information contained on the label of any pesticide with which the employees works or to which the employee is likely to be exposed.

(3) MINOR EMPLOYEE. If an employee is a minor, an employer or agricultural employer shall send to the employee’s parent or guardian, at the address provided by the employee, notice of the employee’s rights under sub. (1) or (2).


Cross-reference: See also ch. SPS 335, Wis. adm. code.

“Produces” under sub. (1) means to create, bring forth, or cause hazardous substances to exist in the workplace. Door County Highway Department v. DILHR, 137 Wis. 2d 280, 404 N.W.2d 548 (Cl. App. 1987).

101.583 Toxic substance information requirements; employer to employee. (1) RETENTION OF INFORMATION; LISTS. Except as provided by department rule under s. 101.598, an employer shall:

(a) Retain any material safety data sheet relating to a toxic substance and containing the information required to be provided to employees under sub. (2) for 30 years after the date upon which the employer last received the toxic substance in the workplace; or

(b) 1. Maintain a written list identifying any toxic substance present in a workplace on or after May 10, 1984, except as provided in subd. 2., and the dates that the toxic substance is present in the workplace. If a list is maintained, each toxic substance required to be on the list shall be included on the list until 30 years after the last date on which the substance is received in the workplace. Within 30 days after a written request by an employee or employee representative, exclusive of weekends and legal holidays, the employer shall provide to the employee or employee representative a copy of any list maintained for the employee’s workplace or the workplace of the employees represented by the employee representative.

2. a. A toxic substance need not be included on a list if in the area in which any employee usually works the toxic substance is received in packages of one kilogram or less and if no more than 10 kilograms of the toxic substance are used in or purchased for that area per year.

b. A toxic substance need not be included on a list if it is a mixture containing one or more mineral dusts listed in 29 CFR 1910.1000, table z–3.

(1m) Any employer with less than 10 employees and less than $750,000 in gross sales in the most recent calendar or fiscal year, whichever the employer uses for income or franchise tax purposes, is not subject to the requirements of sub. (1).

(2) INFORMATION. (a) Except as provided in s. 101.589, within 15 days after a written request by an employee or employee representative, exclusive of weekends and legal holidays, an employer shall provide to the employee or employee representative in writing the following information regarding any toxic substance with which the employee works or worked or to which the employee is likely to be or has been exposed:

1. The trade name of the toxic substance.
2. The chemical name and any commonly used synonym for the toxic substance and the chemical name and any commonly used synonym for its major components.

3. The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids and appearance and odor of the toxic substance.

4. The flash point and flammable limits of the toxic substance.

5. Any permissible exposure level, threshold limit value or other established limit value for exposure to the toxic substance.

6. The stability of the toxic substance.

7. Recommended fire extinguishing media, special fire fighting procedures and any unusual fire and explosion hazard information for the toxic substance.

8. Any effect of overexposure to the toxic substance, emergency and first aid procedures and a telephone number to be called in an emergency.

9. Any condition or material which is incompatible with the toxic substance and must be avoided.

10. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the toxic substance.

11. Procedures for the handling, cleanup and disposal of toxic substances leaked or spilled.

(b) An employer is not required to provide information regarding a toxic substance under par. (a) if the employee or employee representative making the request has requested information about the toxic substance under par. (a) within the preceding 12 months, unless the employee’s job assignment has changed or there is new information available concerning any of the subjects about which information is required to be provided.

Cross-reference: See also ch. SPS 335, Wis. adm. code.

101.585 Infectious agent information requirements; employer to employee. (1) Except as provided in s. 101.589 (1) and (3), within 72 hours after a written request by an employee or employee representative, exclusive of weekends and legal holidays, an employer shall provide in writing to the employee or employee representative the following information regarding any infectious agent which the employee works with or is likely to be exposed to if the infectious agent is present in the workplace when the request is made or at any time during the 30 days immediately preceding the request:

(a) The name and any commonly used synonym of the infectious agent.

(b) Any method or route of transmission of the infectious agent.

(c) Any symptom or effect of infection, emergency and first aid procedures and a telephone number to be called in an emergency.

(d) Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the infectious agent.

(e) Procedures for handling, cleanup and disposal of infectious agents leaked or spilled.

(2) An employer is not required to provide information regarding an infectious agent under sub. (1) if the employee or employee representative making the request has requested information about the infectious agent under sub. (1) within the preceding 12 months, unless the employee’s job assignment has changed or there is new information available concerning any of the subjects about which information is required to be provided.

History: 1981 c. 364.
Cross-reference: See also ch. SPS 335, Wis. adm. code.

101.586 Pesticide information requirements; employer or agricultural employer to employee. Within 72 hours of a request from an employee or employee representative, exclusive of weekends and legal holidays, an employer or agricultural employer shall provide the requesting employee or employee representative with access to the container label or the information required by the federal environmental protection agency or the department of agriculture, trade and consumer protection to be on the container label, for any pesticide with which the employee works or to which the employee is likely to be exposed.

Cross-reference: See also ch. SPS 335, Wis. adm. code.

101.587 Information requirements; employer or agricultural employer to department. The department or the department of health services may request the information required to be provided to employees under ss. 101.583, 101.585 and 101.586. The employer or agricultural employer shall provide the information within the time periods provided in ss. 101.583, 101.585, 101.586 and 101.589.

History: 1981 c. 364; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6). (a)
Cross-reference: See also ch. SPS 335, Wis. adm. code.

101.588 Information collection and maintenance; department. If an employer ceases business operations in this state, the employer shall provide the department with the information required under s. 101.583 or 101.585 relating to that employer. The department shall maintain that information and provide it to any employee upon request.

History: 1981 c. 392.
Cross-reference: See also ch. SPS 335, Wis. adm. code.

101.589 Extended time periods; exceptions. (1) If an employer has not obtained the information required to be provided under ss. 101.583 (2) (a) and 101.585 (1) at the time of a request made under s. 101.583 (2) (a) or 101.585 (1), the employer shall provide the information within 30 days after the request, exclusive of weekends and legal holidays.

(2) If a toxic substance was present in the workplace at any time on or after December 1, 1982, but is not present in the workplace when a request is made under s. 101.583 (2) (a), the employer shall provide the information within 30 days after the request, exclusive of weekends and legal holidays.

(3) An employer who has requested from the manufacturer or supplier of a toxic substance or from the supplier of an infectious agent any information required to be provided under s. 101.583 (2) (a) or 101.585 (1), but who has not received and does not already have that information, is not required to provide the information but shall notify any requesting employee or employee representative that the employer has requested, has not received and does not otherwise have the information.

Cross-reference: See also ch. SPS 335, Wis. adm. code.

101.59 Manufacturer, supplier; requirements. Within 15 days, exclusive of weekends and legal holidays, after receipt of a request from an employer, any manufacturer or supplier of a toxic substance transported or sold for use in this state, or any supplier of an infectious agent transported or sold for use in this state, shall provide to that employer the information the employer is required to provide employees under s. 101.583 (2) (a) or 101.585 (1).

History: 1981 c. 364.
Cross-reference: See also ch. SPS 335, Wis. adm. code.

101.592 Confidential information. (1) A manufacturer or supplier of a toxic substance, a supplier of an infectious agent or an employer may declare that information required to be provided under s. 101.583, 101.585, 101.59 or 101.597, except information described in ss. 101.583 (2) (a) 7. to 11., 101.585 (1) (b) to (e) and 101.597 (5) (a) 2. to 7. and (b) 2. and 3., relates to a process or production technique which is unique to, or is information the disclosure of which would adversely affect the competitive position of, the manufacturer, supplier or employer. If an employer, employee or employee representative requests the information under s. 101.583, 101.585 or 101.59 that is confidential, the manufacturer, supplier or employer shall inform the requester that part of the
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requested information is confidential, but shall provide any part of the requested information that is not confidential or that, under this subsection, may not be declared confidential. When a manufacturer, supplier or employer declares information confidential, it shall notify the department and shall state the general use of the toxic substance or infectious agent and the items of information which it did and did not provide to the requester.

(2) Notwithstanding sub. (1), a manufacturer, supplier or employer shall provide the information specified in s. 101.583 (2) (a) 1. and 2. or 101.585 (1) (a) upon a request from an employee’s authorized physician stating that the information is necessary for medical treatment of the employee. No physician receiving information under this subsection may disclose it to any person without the written consent of the patient and of the manufacturer, supplier or employer.


Cross-reference: See also ch. SPS 335, Wis. adm. code.

101.595 Employee rights. (1) NOT TO WORK WITH TOXIC SUBSTANCE, INFECTIOUS AGENT OR PESTICIDE. Except as provided in ss. 101.589 (3) and 101.592, if an employee has requested information about a toxic substance, infectious agent or pesticide under s. 101.583, 101.585 or 101.586 and has not received the information required to be provided under s. 101.583, 101.585, 101.586 or 101.589 (1) or (2), the employee may refuse to work with or be exposed to the toxic substance, infectious agent or pesticide until such time as the employer or agricultural employer supplies the information under s. 101.583, 101.585 or 101.586 to the employee who has made the request.

(2) RETALIATION PROHIBITED. (a) No employer or agricultural employer may discharge or otherwise discipline or discriminate against any employee because the employee has exercised any rights under ss. 101.58 to 101.599.

(b) Section 111.322 (2m) applies to discharge and other discriminatory acts arising in connection with any proceeding under ss. 101.58 to 101.599.

(3) WAIVER PROHIBITED. No person may request or require any employee to waive any rights under ss. 101.58 to 101.599.


Cross-reference: See also ch. SPS 335, Wis. adm. code.

101.596 Building inspector review board. (1) DEFINITIONS. In this section:

(a) “Board” means the building inspector review board.

(b) “Building inspector” means any of the following:

1. A person who is certified under rules promulgated by the department to make inspections of public buildings and places of employment.

2. A person who is certified under rules promulgated by the department to make inspections under subch. II.

(c) “Permittee” means a person who is issued a building permit for a public building or a place of employment or a person who is issued a building permit under subch. II.

(2) RESPONSIBILITIES. (a) The review board shall review complaints received from permittees concerning possible incompetent, negligent, or unethical conduct by building inspectors.

(b) After reviewing a complaint received under par. (a), the review board may revoke the certification of a building inspector if the board determines that the building inspector has engaged in incompetent, negligent, or unethical conduct.

(c) The review board may modify or reverse decisions made by building inspectors if the board finds that the decision by the building inspector was made in error.

(3) PROCEDURES; CONFIDENTIALITY. (a) If a permittee makes a complaint to the review board concerning a building inspector, the permittee may do one of the following:

1. Request that the complaint remain anonymous, subject to par. (b).

2. Allow the complaint to be presented to the building inspector and not remain anonymous.

(b) If the permittee chooses to request that the permittee’s complaint remain anonymous, the board may not review the complaint or modify or revoke the permit unless the board receives 2 additional anonymous complaints regarding the inspector. If 2 or more additional complaints are made, the review board shall proceed with its review, and none of the complaints may continue to be anonymous.

(c) If the permittee allows his complaint to be presented to the inspector without requesting anonymity, the review board shall proceed with the review.

History: 2005 a. 457.

101.597 Education and training programs. (1) BY EMPLOYER. TOXIC SUBSTANCE, INFECTIOUS AGENT OR PESTICIDE. Except as provided in sub. (5) (b), prior to an employee’s initial assignment to a workplace where the employee may be routinely exposed to any toxic substance, infectious agent or pesticide, an employer shall provide the employee with an education or training program under sub. (5) (a) or (c). The employer shall provide additional instruction whenever the employee may be routinely exposed to any additional toxic substance or infectious agent.

(2) By agricultural employer. Pesticide. Prior to an agricultural employee’s initial assignment to a workplace where the employee may be routinely exposed to a pesticide, an agricultural employer shall provide the employee with an education or training program under sub. (5) (c). The agricultural employer shall provide additional instruction whenever the employee may be routinely exposed to any additional pesticide.

(3) BY DEPARTMENT. The department shall inform manufacturers, suppliers, employers, agricultural employers and employees of their duties and rights under ss. 101.58 to 101.599. As part of this program, the department shall cooperate with the department of revenue to notify any employer commencing operations on or after May 8, 1982, of that employer’s duties and rights.

(4) DEFINITION. In this section, “routinely exposed to any toxic substance” means exposure of at least 30 days per year at exposure levels exceeding 50 percent of the permissible exposure level established by the federal occupational safety and health administration, or any exposure exceeding 100 percent of the permissible exposure level, regardless of the exposure period.

(5) PROGRAM CONTENTS. (a) Toxic substances and infectious agents. For each toxic substance or infectious agent to which the employee may be routinely exposed, the education or training program shall include:

1. a. For a toxic substance, the trade name, generic or chemical name and any commonly used synonym for the toxic substance and the trade name, generic or chemical name and any commonly used synonym for its major components.

b. For an infectious agent, its name and any commonly used synonym.

2. The location of the toxic substance or infectious agent.

3. Any symptom of acute or chronic effect of overexposure to the toxic substance or infectious agent.

4. For a toxic substance, the potential for flammability, explosion and reactivity.

5. Proper conditions for safe use of and exposure to the toxic substance or infectious agent.

6. Special precautions to be taken and personal protective equipment to be worn or used, if any, when handling or coming into contact with the toxic substance or infectious agent.

7. Procedures for handling, cleanup and disposal of toxic substances or infectious agents leaked or spilled.

(b) Toxic substances and infectious agents; exception. In an area where employees usually work with a large number of toxic substances or infectious agents which are received in packages of one kilogram or less and no more than 10 kilograms of which are
used or purchased per year, the employer may provide a general education or training program in lieu of the education or training program described in par. (a). The general training program shall be provided prior to an employee’s initial assignment to the area and shall include:

1. The information specified in par. (a) 1. and 2.
2. The nature of the hazards posed by the toxic substances or infectious agents or both.
3. General precautions to be taken when handling or coming into contact with the pesticide or infectious agents.

(c) Pesticides. For each pesticide to which the employee may be routinely exposed the education or training program shall include:

1. The trade name, generic or chemical name and any commonly used synonym for the pesticide and the trade name, generic or chemical name and any commonly used synonym for its major ingredients.
2. The location of the pesticide and the location where it is used.
3. Any symptom of acute or chronic effect of overexposure to the pesticide.
4. Proper conditions for safe use of and exposure to the pesticide.
5. Special precautions to be taken and personal protective equipment to be worn or used, if any, when handling or coming into contact with the pesticide.
6. Procedures for handling, cleanup and disposal of leaks or spills of the pesticide.


Cross-reference: See also ch. SPS 335, Wis. adm. code.

101.598 Rules. (1) The department shall, by rule, identify as an infectious agent any bacterial, mycoplasmal, fungal, parasitic or viral agent which causes illness in humans or human fetuses or both. The department shall consult with the department of health services in promulgating these rules.

(2) The department may, by rule, exempt employers from retaining a data sheet or maintaining a list, under s. 101.583 (1), regarding any mixture containing a toxic substance if the nature of the toxic substance or the quantity of toxic substance present in the mixture is such that the mixture is highly unlikely to pose an unreasonable acute or chronic health hazard to an employee who works with or is likely to be exposed to the mixture.


Cross-reference: See also ch. SPS 335, Wis. adm. code.

101.599 Remedies; civil forfeitures. (1) COMPLAINT. An employee or employee representative who has not been afforded his or her rights by an employer or agricultural employer in violation of s. 101.583, 101.585, 101.586, 101.595 (1), (2) (a) or (3) or 101.597 (1) or (2) may, within 30 days after the violation occurs or the employee or employee representative first obtains knowledge of the violation, whichever is later, file a complaint with the department alleging the violation. The department shall investigate the complaint and shall attempt to resolve the complaint by conference, conciliation or persuasion. If the complaint is not resolved and the department finds probable cause to believe a violation has occurred, the department shall proceed with notice and a hearing on the complaint as provided in ch. 227. The hearing shall be held within 60 days after receipt by the department of the complaint.

(2) REMEDIES. The department shall issue its decision and order within 30 days after the hearing. If the department finds that an employer or agricultural employer has violated s. 101.583, 101.585, 101.586, 101.595 (1), (2) (a) or (3) or 101.597 (1) or (2), it may order the employer or agricultural employer to take such action as will remedy the effects of the violation, including instituting an education or training program, providing the requested information, reinstating an employee or providing back pay to an employee.

(3) CIVIL FORFEITURE. (a) Except as provided in par. (b), any person who violates ss. 101.58 to 101.599 or an order of the department issued under ss. 101.58 to 101.599 shall forfeit not more than $1,000 for each violation.

(b) Any person who willfully violates or exhibits a pattern of violation of ss. 101.58 to 101.599 or an order of the department issued under ss. 101.58 to 101.599 shall forfeit not more than $10,000 for each violation.


Cross-reference: See also ch. SPS 335, Wis. adm. code.

SUBCHAPTER II

ONE-FAMILY AND TWO-FAMILY DWELLING CODE

101.60 Purpose. The purpose of this subchapter is to establish statewide construction standards and inspection procedures for one- and two-family dwellings and to promote interstate uniformity in construction standards by authorizing the department to enter into reciprocal agreements with other states which have equivalent standards.

History: 1975 c. 404; 1977 c. 369, 447.

Cross-reference: See also chs. SPS 320, 321, 322, 323, 324, and 325, Wis. adm. code.

101.61 Definitions. In this subchapter:

(1) “Dwelling” means any building that contains one or two dwelling units. “Dwelling unit” means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(2) “Owner” means any person having a legal or equitable interest in the dwelling. “Owner” does not include any person whose legal or equitable interest in the dwelling is a security interest derived solely from the extension of credit to permit construction or remodeling of the dwelling or purchase of the dwelling by a third party.


The dwelling code applies to additions to buildings initially constructed after the effective date of the one- and two-family dwelling code act. 67 Atty. Gen. 191.

101.615 Application. This subchapter applies to a dwelling the initial construction of which was commenced on or after December 1, 1978, except as follows:

(1) Section 101.645 applies to a dwelling the initial construction of which was commenced before, on or after May 23, 1978.

(1m) Section 101.647 applies to a dwelling the initial construction of which was commenced before, on or after February 1, 2011.

(2) Section 101.653 applies to a dwelling the initial construction of which was commenced on or after May 16, 1992.

(3) Sections 101.65 (1m) and (1r) and 101.654 apply to an application for a building permit filed on or after April 1, 1995, to perform work on a dwelling the initial construction of which was commenced before, on or after December 1, 1978.


Cross-reference: See also chs. SPS 320, 321, 322, 323, 324, and 325, Wis. adm. code.

101.62 Uniform dwelling code council; power. (1) The uniform dwelling code council shall create the standards and rules for one- and two-family dwelling construction and recommend a uniform dwelling code for adoption by the department which shall include rules providing for the conservation of energy in the construction and maintenance of dwellings and for costs of specific code provisions to home buyers to be related to the benefits derived from such provisions.

(2) The uniform dwelling code council shall study the need for and availability of one- and two-family dwellings that are accessi-
ble to persons with disabilities, as defined in s. 106.50 (1m) (g), and shall make recommendations to the department for any changes to the uniform dwelling code that may be needed to ensure an adequate supply of one- and 2- family dwellings.

(3) The uniform dwelling code council shall consider and make recommendations to the department pertaining to rules and any other matters related to this subchapter. The uniform dwelling code council shall recommend variances for different climate and soil conditions throughout the state.

(4) The uniform dwelling code council shall prepare a report that consists of the review required under sub. (1) and the recommendations required under sub. (3) once every 6 years. The council shall complete the first report no later than July 7, 2014.


101.625 Contractor certification council; duties. The contractor certification council shall do all of the following:

(1) Recommend for promulgation by the department rules for certifying the financial responsibility of contractors under s. 101.654. These rules shall include rules providing for the assessment of fees upon applicants for certification of financial responsibility under s. 101.654 and for the suspension and revocation of that certification. The amount of the fees recommended under this subsection may not exceed an amount that is sufficient to defray the costs incurred in certifying the financial responsibility of applicants under s. 101.654.

(2) Recommend to the department for approval under s. 101.654 (1m) (b) 1. courses that meet continuing education requirements.

(3) Advise the department on the development of course examinations for those persons who are required to pass an examination under s. 101.654 (1m) (b).


101.63 Departmental duties. The department shall:

(1) Adopt rules which establish standards for the construction and inspection of one- and 2-family dwellings and components thereof. The rules shall include separate standards, established in consultation with the [uniform] dwelling code council, that apply only to the construction and inspection of camping units that are set in a fixed location in a campground for which a permit is issued under s. 254.47 [s. 97.67], that contain a sleeping place, and that are used for seasonal overnight camping. Where feasible, the standards used shall be those nationally recognized and shall apply to the dwelling and to its electrical, heating, ventilating, air conditioning and other systems, including plumbing, as defined in s. 145.01 (10). No set of rules may be adopted which has not taken into account the conservation of energy in construction and maintenance of dwellings and the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions. Rules promulgated under this subsection do not apply to a bed and breakfast establishment, as defined under s. 97.01 (1g), except that the rules apply to all of the following:

Note: Sub. (1) (intro.) is shown as affected by 2015 Wis. Acts 49 and 55 and as merged by the legislative reference bureau under s. 13.92 (2) (i). The “dwell-
ing code council” is renamed the “uniform dwelling code council” by 2015 Wis. Act 29. The correct cross-reference is shown in brackets. Corrective legis-
lation is pending.

(a) The 3rd floor level of a bed and breakfast establishment that uses that level other than as storage.

(b) A structural addition that is made to a bed and breakfast establishment that alters the dimensions of the structure.

(2) Adopt rules for the certification, including provisions for suspension and revocation thereof, of inspectors for the purpose of inspecting building construction, electrical wiring, heating, ventilating, air conditioning and other systems, including plumbing, as defined in s. 145.01 (10), of one- and 2-family dwellings under sub. (1). The rules shall specify that the department may suspend or revoke the certification of an inspector under this subsection for knowingly authorizing the issuance of a building permit to a contractor who is not in compliance with s. 101.654. Per-
sons certified as inspectors may be employees of the department, a city, village, town, county or an independent inspection agency. The department may not adopt any rule which prohibits any city, village, town or county from licensing persons for performing work on a dwelling in which the licensed person has no legal or equitable interest.

(2m) Promulgate rules for certifying the financial responsibility of contractors under s. 101.654. These rules shall include rules providing for the assessment of fees upon applicants for certification of financial responsibility under s. 101.654 and for the suspension and revocation of that certification. The amount of the fees assessed under this subsection may not exceed an amount that is sufficient to defray the costs incurred in certifying the financial responsibility of applicants under s. 101.654.

(3) Contract to provide inspection services, at municipal expense, to any municipality which requires such service under s. 101.65.

(5) Review the rules adopted under this subchapter once every 3 years.

(6) Issue special orders which it deems necessary to secure compliance with this subchapter and enforce the same by all appropriate administrative and judicial proceedings.

(7) Advise the department on the development of course curricula for the certification of financial responsibility of contractors under s. 101.654.

History: 2015 Wis. Acts 49.

101.64 Departmental powers. The department may:

(1) Hold hearings on any matter relating to this subchapter and issue subpoenas to compel the attendance of witnesses and the production of evidence at such hearings.

(2) At the request of the owner or renter enter, inspect and examine dwellings, dwelling units or premises necessary to ascer-
tain compliance with the rules and special orders under this sub-
chapter.

(3) Revise the rules under this subchapter after consultation
with the uniform dwelling code council or with the contractor cer-
tification council, as appropriate.

(4) Provide for or engage in the testing, approval and certifica-
tion of materials, devices and methods of construction.

(5) Collect and publish data secured from the building per-
mits.

(6) Adopt rules prescribing procedures for approving new
building materials, methods and equipment.

(7) Enter into reciprocal agreements with other states regard-
ing the approval of building materials and methods where the
standards of the other state meet the intent of the dwelling code
and the rules promulgated under this subchapter.

(8) Study the operation of the dwelling construction code and
other laws related to the construction of dwelling units to deter-
mine their impact upon the cost of building construction and their
effectiveness upon the health, safety and welfare of the occupants.


101.642 Certain rules prohibited. (1) The department
may not promulgate or enforce a rule that requires that any one−
family or 2−family dwelling that uses electricity for space heating
be superinsulated.

(2) The department may not promulgate or enforce a rule that
requires that any one− or 2−family dwelling contain an automatic
fire sprinkler system, as defined in s. 145.01 (2).

History: 2007 a. 67; 2015 a. 55.

101.645 Smoke detectors. (1) DEFINITION. The definition of
“smoke detector” under s. 101.145 (1) (c) also applies to this
section.

(2) APPROVAL AND INSTALLATION. A smoke detector required
under this section shall be approved and installed as required
under s. 101.145 (2) and (3) (a).

(3) REQUIREMENT. The owner of a dwelling shall install a
functional smoke detector in the basement of the dwelling and on
every floor level except the attic or storage area of each dwelling
unit. The occupant of such a dwelling unit shall maintain any
smoke detector in that unit, except that if any occupant who is not
the owner, or any state, county, city, village or town officer, agent
or employee charged under statute or municipal ordinance with
powers or duties involving inspection of real or personal property,
gives written notice to the owner that the smoke detector is not
functional, the owner shall provide, within 5 days after receipt of
that notice, any maintenance necessary to make that smoke de-
tector functional.

(4) INSPECTION. The department or a municipal authority may
inspect new dwellings, may inspect the common areas of dwell-
ings and, at the request of the owner or renter, may inspect the in-
terior of a dwelling unit in a dwelling to ensure compliance with
this section.


Cross-reference: See also ch. SPS 328, Wis. adm. code.

This section is a safety statute the violation of which constitutes negligence per se.


101.647 Carbon monoxide detectors. (1) DEFINITIONS.

In this section:

(a) “Carbon monoxide detector” has the meaning given in s.
101.149 (1) (am).

(am) Notwithstanding s. 101.61 (1), “dwelling” does not
include a tourist rooming house, as defined in s. 97.01 (15k).

(b) “Fuel−burning appliance” means a device that is installed
in a dwelling, that burns fossil fuel or carbon−based fuel, and that
produces carbon monoxide as a combustion by−product.

(2) INSTALLATION AND SAFETY CERTIFICATION. The owner of a
dwelling shall install any carbon monoxide detector required
under this section according to the directions and specifications of
the manufacturer of the carbon monoxide detector. A carbon
monoxide detector required under this section shall bear an
Underwriters Laboratories, Inc., listing mark and may be a device
that is combined with a smoke detector.

(3) REQUIREMENTS. (a) The owner of a dwelling shall install
a functional carbon monoxide detector in the basement of the
dwelling and on each floor level except the attic, garage, or storage
area of each dwelling unit. A carbon monoxide detector wired to
the dwelling’s electrical wiring system shall have a backup battery
power supply. Except as provided under par. (b), the occupant of
the dwelling unit shall maintain any carbon monoxide detector in
that unit. This paragraph does not apply to the owner of a dwelling
that has no attached garage, no fireplace, and no fuel−burning
appliances.

(3)(am) 1. If the building permit for the initial construction of a
dwelling was issued on or after February 1, 2011, and the electrical
service for the dwelling is provided by a public utility, as
defined in s. 196.01 (5), the owner of the dwelling shall install
each carbon monoxide detector required under par. (a) so that it
is powered by the dwelling’s electrical wiring system, except as
provided under subd. 2.

2. The requirement that each carbon monoxide detector be
installed in the manner provided under subd. 1. does not apply to
a dwelling if the dwelling, when initially constructed, had no
attached garage, no fireplace, and no fuel−burning appliance.

(b) If any occupant who is not the owner of a dwelling, or any
person authorized by state law or by city, village, town, or county
ordinance or resolution to exercise powers or duties involving
inspection of real or personal property, gives written notice to the
owner that the carbon monoxide detector is not functional, the
owner shall provide, within 5 days after receipt of that notice, any
maintenance necessary to make that carbon monoxide detector
functional.

(4) INSPECTION. The department or person authorized by state
law or by city, village, town, or county ordinance or resolution to
exercise powers or duties involving inspection of real or personal
property may inspect new dwellings and, at the request of the
owner or renter, may inspect the interior of a dwelling unit in a
dwelling to ensure compliance with this section.

(5) LIABILITY EXEMPTION. The owner of a dwelling is not
liable for damages resulting from any of the following:

(a) A false alarm from a carbon monoxide detector if the car-
bon monoxide detector was reasonably maintained by the owner
of the dwelling.

(b) The failure of a carbon monoxide detector to operate prop-
erly if that failure was the result of tampering with, or removal or
destruction of, the carbon monoxide detector by a person other
than the owner of the dwelling or the result of a faulty detector that
was reasonably maintained by the owner of the dwelling.

(6) TAMPERING ProHibited. No person may tamper with,
remove, destroy, disconnect, or remove batteries from an installed
carbon monoxide detector, except in the course of inspection,
maintenance, or replacement of the detector.

History: 2009 a. 158; 2015 a. 55.

Cross-reference: See also ch. SPS 328, Wis. adm. code.
(2) Except as provided in sub. (9), a person who is issued a waiver from a requirement to comply with a dwelling construction standard under this section is not required to comply with that standard.

(3) (a) Except as provided in par. (b), a person is eligible to obtain a waiver from the requirement to comply with a dwelling construction standard if the person submits a signed application form requesting the waiver to the political subdivision that is responsible for issuing building permits for dwellings. The application shall include an attachment containing the address or other identifying information that describes the location of the dwelling and specifying the dwelling construction standard from which the person seeks a compliance waiver.

(b) If the department issues building permits for dwellings in a political subdivision, a person applying for the waiver shall submit the application to the department.

(4) The department shall prescribe and furnish a waiver application form to each political subdivision that issues building permits for dwellings. The form shall be written in simple and plain language and shall list, in a check−off format, each of the following statements:

(a) The person’s religious beliefs and the established tenets or teachings of the religious sect of which the person is a member conflict with one or more dwelling construction standards.

(b) The dwelling for which the waiver is requested will be used solely as a residence for the person or members of the person’s household.

(c) The waiver is requested based upon the long−established tenets and teachings of the religious sect of which the person is a member and the religious sect did not establish these tenets and teachings solely to avoid compliance with dwelling construction standards.

(d) The person agrees to modify the dwelling for which the waiver is requested to comply with dwelling construction standards if the person ceases to adhere to the tenets or teachings of the religious sect of which the person is a member and upon which the waiver is requested.

(5) A political subdivision that issues building permits and that receives a completed and signed waiver application form shall promptly issue a waiver to the applicant if all of the following apply:

(a) The political subdivision has no reason to believe that the statements provided by the applicant on the waiver application form are untrue.

(b) The political subdivision is satisfied that the waiver will not result in an unreasonable risk of harm to public health or safety.

(c) The waiver specifies those dwelling construction standards with which the applicant is not required to comply.

(6) A political subdivision that finds that an applicant is not entitled to receive a waiver under this section shall promptly notify the department of its finding together with a description of the political subdivision’s basis for its finding. If the department agrees with the political subdivision’s finding, it shall deny the waiver and notify the applicant that the waiver is denied. If the department disagrees with the political subdivision’s finding, it shall issue the waiver to the applicant and notify the political subdivision that the department has issued the waiver. Upon receipt of the notice, the political subdivision shall waive the applicant’s requirement to comply with the dwelling construction standards specified in the waiver.

(7) A person is entitled to obtain a waiver under this section before, during, or after construction of a one− or 2−family dwelling.

(8) Neither a municipality nor the department may charge a person a fee to apply for or to receive a waiver under this section.

(9) A waiver issued under this section is invalid if the political subdivision that issued the waiver or the department find that any of the following applies:

(a) A statement on the waiver form submitted by the person to whom the waiver was issued is untrue.

(b) The basis upon which the waiver was issued no longer applies.

(c) The dwelling is occupied by a person who does not hold the religious beliefs that form the basis for issuing the waiver.

(10) Neither the department nor a political subdivision may take any enforcement action, nor proceed with any enforcement action initiated on or before July 14, 2015, against a person with respect to a dwelling construction standard if the person has a valid waiver issued under this section that waives compliance with the requirement.

History: 2015 a. s. 55.

101.65 Municipal authority. Except as provided by s. 101.651, cities, villages, towns and counties:

(1) May:

(a) Exercise jurisdiction over the construction and inspection of new dwellings by passage of ordinances, provided such ordinances meet the requirements of the one− and 2−family dwelling code adopted in accordance with this subchapter. Except as provided by s. 101.651, a county ordinance shall apply in any city, village or town which has not enacted such ordinance.

(b) Under s. 66.0301, jointly exercise the jurisdiction granted under par. (a).

(c) By ordinance establish and collect fees to defray the cost of jurisdiction exercised under par. (a) or (b).

(d) By ordinance provide remedies and penalties for violation of the jurisdiction exercised under par. (a) or (b).

(1m) May not issue a building permit to a person who is required to be certified under s. 101.654 unless that person, on applying for a building permit, produces a certificate issued by the department or other evidence satisfactory to the department showing that the person is in compliance with s. 101.654.

(1r) Shall require an owner who applies for a building permit to sign a statement advising the owner that if the owner hires a contractor to perform work under the building permit and the contractor is not bonded or insured as required under s. 101.654 (2) (a), the following consequences might occur:

(a) The owner may be held liable for any bodily injury to or death of others or for any damage to the property of others that arises out of the work performed under the building permit or that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit.

(b) The owner may not be able to collect from the contractor damages for any loss sustained by the owner because of a violation by the contractor of the one− and 2−family dwelling code or an ordinance enacted under sub. (1) (a), because of any bodily injury to or death of others or damage to the property of others that arises out of the work performed under the building permit or because of any bodily injury to or death of others or damage to the property of others that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit.

(2) Shall contract with the department for those inspection services which the municipality does not perform or contract for under sub. (1) (a) or (b) and reimburse the department for its reasonable and necessary expenses incurred in the performance of such services pursuant to s. 101.63 (9).

(3) Shall use the standard building permit form prescribed and furnished by the department.

(4) Not later than the 15th day of the first month beginning after issuance of each building permit, electronically file a copy of the permit with the department. If a city, village, town, or county fails to file with the department an electronic copy of an issued permit not later than the last day of the first month beginning after the issuance of the permit, the city, village, town, or county shall refund to the person to whom the building permit was issued an amount equal to the difference between the amount paid
by that person to the respective city, village, town, or county for that permit and the portion of the permit fee remitted by the city, village, town, or county to the department, if any. This subsection first applies to a city, village, town, or county beginning on the date the city, village, town, or county begins implementation of the system required under s. 101.63 (7m).

**History:** 1975 c. 404; 1979 c. 221 s. 2053 (12); 1979 c. 355 s. 238; 1981 c. 20; 1993 a. 126; 1999 a. 150 s. 672; 2005 a. 208; 2009 a. 276; 2015 a. 211.

Cross-reference: See also s. SPS 320.06, Wis. adm. code.

Municipalities may contract with independent contractors to provide inspection services under this section. Giffin v. Portell, 2001 WI App 207, 247 Wis. 2d 906, 634 N.W.2d 901, 00–2633.

### 101.65 Special requirements for smaller municipalities. **(1) Definition.** In this section, “municipality” means a city, village or town with a population of 2,500 or less.

**2m Enforcement options.** A municipality shall exercise jurisdiction over the construction and inspection of new one- and 2–family dwellings by enacting ordinances under s. 101.65 (1) (a) or shall exercise the jurisdiction granted under s. 101.65 (1) (a) jointly under s. 101.65 (1) (b), unless any of the following conditions are met:

(a) The municipality adopts a resolution requesting under sub. (3) (a) that a county enforce this subchapter or an ordinance enacted under s. 101.65 (1) (a) or that a county provide inspection services in the municipality to administer and enforce this subchapter or an ordinance enacted under s. 101.65 (1) (a).

(c) Under sub. (3) (b), the department enforces this subchapter throughout the municipality and provides inspection services in the municipality to administer and enforce this subchapter.

**3 Departmental and county authority in municipalities, generally.** (a) Except as provided in par. (b), the department or a county may not enforce this subchapter or provide inspection services in a municipality unless requested to do so by a person with respect to a particular dwelling or by the municipality. A request by a person or a municipality with respect to a particular dwelling does not give the department or a county authority with respect to any other dwelling. Costs shall be collected under s. 101.65 (1) (c) or ss. 101.63 (9) and 101.65 (2) from a person or municipality making a request under this subsection.

(b) The department shall provide inspection services and shall enforce this subchapter throughout any municipality that does not exercise jurisdiction under sub. (2m) and that has not adopted a resolution under sub. (2m) (a).

**4 Data relating to housing starts in municipalities.** Municipalities shall furnish statistical data relating to housing starts to the department as requested by the department.

**5 Effect of section on certain laws.** This section does not affect the applicability of rules or an ordinance adopted under this subchapter to buildings, designers and owners of dwellings located in a municipality.


### 101.653 Construction site erosion control. **(1) Definition.** In this section, “best management practices” means practices, techniques or measures that the department determines to be effective means of preventing or reducing pollutants of surface water generated from construction sites.

**2 Soil erosion prevention rules.** The department shall promulgate rules that establish standards for practices to prevent soil erosion related to the construction of one– or 2–family dwellings, subject to all of the following requirements:

(a) At a minimum, the rules shall require the use of best management practices.

(b) The rules shall require the use of more restrictive or additional practices on an area with a slope that is greater than 12 percent.

**2m Rules for administration.** The department shall promulgate rules for the administration of construction site erosion control under this subchapter.

### 101.654 Contractor certification; education. **(1) Subject to par. (b), no person may obtain a building permit unless the person annually obtains from the department a certificate of financial responsibility showing that the person is in compliance with sub. (2), completes the continuing education requirements described under sub. (1m), and furnishes to the issuer of the permit proof of completion of those continuing education requirements.**

**Wisconsin Statutes Archive.**
(b) Paragraph (a) does not apply to an owner of a dwelling who resides or will reside in the dwelling and who applies for a building permit to perform work on that dwelling.

(c) 1. In this paragraph, “license” has the meaning given in s. 101.02 (21) (a).

2. The continuing education requirements under par. (a) and the rules promulgated by the department under sub. (1m) do not apply to any person who holds a current license issued by the department at the time that the person obtains a building permit if the work the person does under the permit is work for which the person is licensed.

(1m) (a) The department shall promulgate rules establishing continuing education requirements for persons seeking to obtain a building permit under sub. (1) (a).

(b) The rules promulgated under this subsection shall require all of the following:

1. Completion every 2 years of at least 12 hours of continuing education relevant to the professional area of expertise of the person seeking to obtain a building permit, approved by the department.

2. Attendance at one or more professional meetings or educational seminars designed for both building contractors and building inspectors.

3. For a person who does not hold a certificate of financial responsibility on April 11, 2006, successful completion of an examination developed by the department on the continuing education courses required under this subsection.

(c) The rules promulgated under this subsection may not require a person who holds a certificate of financial responsibility on April 11, 2006, to take an examination on the continuing education courses required under this subsection.

(cm) The rules promulgated under this subsection may not require a person to take continuing education courses, or to take an examination on continuing education courses, that are not relevant to that person’s professional area of expertise.

(d) Subject to the continuing education requirements under pars. (b) and (c), the rules promulgated under par. (a) may specify different continuing education course requirements for persons who hold a certificate of financial responsibility on April 11, 2006, and for persons who do not hold a certificate of financial responsibility on April 11, 2006.

(e) The department may approve continuing education courses that are offered by other states.

(2) An applicant for a certificate of financial responsibility shall provide to the satisfaction of the department proof of all of the following:

(a) That the applicant has in force one of the following:

1. A bond endorsed by a surety company authorized to do business in this state of not less than $5,000, conditioned upon the applicant complying with all applicable provisions of the one- and 2-family dwelling code and any ordinance enacted under s. 101.65 (1) (a).

2. A policy of general liability insurance issued by an insurer authorized to do business in this state insuring the applicant in the amount of at least $250,000 per occurrence because of bodily injury to or death of others or because of damage to the property of others.

(b) If the applicant is required under s. 102.28 (2) (a) to have in force a policy of worker’s compensation insurance or if the applicant is self–insured in accordance with s. 102.28 (2) (b) or (bm), that the applicant has in force a policy of worker’s compensation insurance issued by an insurer authorized to do business in this state or is self–insured in accordance with s. 102.28 (2) (b) or (bm).

(c) If the applicant is required to make state unemployment insurance contributions under ch. 108 or is required to pay federal unemployment compensation taxes under 26 USC 3301 to 3311, that the applicant is making those contributions or paying those taxes as required.

(2m) If an applicant wishes to use a bond under sub. (2) (a) 1. of less than $25,000 to comply with sub. (2) (a), the applicant shall agree not to perform any work on a dwelling for which the estimated cost of completion is greater than the amount of the bond. The department shall indicate any restriction under this subsection on the certificate of financial responsibility issued under sub. (3).

(3) Upon receipt of the proof required under sub. (2) and the fee required by rules promulgated under s. 101.63 (2m), the department shall issue to the applicant a certificate of financial responsibility. A certificate of financial responsibility issued under this subsection is valid for one year after the date of issuance, unless sooner suspended or revoked.

(4) (a) A bond or insurance policy required under sub. (2) may not be canceled by the person insured under the bond or policy or by the surety company or insurer except on 30 days’ prior written notice served on the department in person or by 1st class mail or, if the cancellation is for nonpayment of premiums to the insurer, on 10 days’ prior written notice served on the department in person or by 1st class mail. The person insured under the bond or policy shall file with the department proof to the satisfaction of the department of a replacement bond or replacement insurance within the 30–day notice period or 10–day notice period, whichever is applicable, and before the expiration of the bond or policy. The department shall suspend without prior notice or hearing the certificate of financial responsibility of a person who does not file satisfactory proof of a replacement bond or replacement insurance as required by this subsection.

(b) A bond under sub. (2) (a) 1. shall be executed in the name of the state for the benefit of any person who sustains a loss as a result of the person insured under the bond not complying with an applicable provision of the one– and 2–family dwelling code or any ordinance enacted under s. 101.65 (1) (a), except that the aggregate liability of the surety to all persons may not exceed the amount of the bond.

(5) The department may revoke or suspend a certificate of financial responsibility if any of the following apply:

(a) The holder fails to comply with the continuing education requirements specified under subs. (1) and (1m).

(b) The holder engages in the construction of a dwelling without a permit required under this chapter.

(c) The holder is convicted of a crime related to the construction of a dwelling.

(d) The holder has been adjudged a bankrupt on 2 or more occasions.


Cross-reference: See also ss. SPS 305.31 and 305.315, Wis. adm. code.

A particular municipal licensing requirement may be preempted if that requirement logically conflicts with, defeats the purpose of, or violates the spirit of state contractor financial responsibility and continuing education requirements. Ordinances requiring local license are preempted if they impose on persons seeking a building permit for one– or 2–family dwellings greater financial responsibility, education, or examination requirements than required by state law. OAG 6–10.

101.66 Compliance and penalties. (1) Except as provided in subs. (1m) and (1r), every builder, designer, and owner shall use building materials, methods, and equipment which are in conformance with the one– and 2–family dwelling code.

(1m) (a) No person may use in a one–or 2–family dwelling load–bearing dimension lumber that has not been tested and approved for conformance as required by the department unless the lumber is approved for use under par. (c) and one of the following applies:

1. The lumber has been milled at the request of the person owning the lumber for use in the construction of the dwelling, and the dwelling will be inhabited by the person owning the lumber.

2. The person milling the lumber sells the lumber directly to a person who will inhabit the dwelling or to a person acting on his
or her behalf and for whom a building permit has been issued for the dwelling.

(b) The lumber shall be milled so that it meets or exceeds the requirements of the one- and two-family dwelling code. The person milling the lumber shall provide to the person receiving the lumber a written certification that the lumber meets or exceeds these requirements. The department shall design and provide forms for this purpose.

(bn) A person may not provide a written certification under par. (b) unless the person has been issued a certificate of accomplishment evidencing certification or recertification under the lumber grading training program under s. 36.25 (48) and the person has received the certificate within the 5 years before providing the written certification. The person shall attach to the written certification a copy of his or her certificate of accomplishment.

(c) Upon receipt of a copy of the certification required under par. (b) an inspector who is certified under sub. (2) may either authorize the use of the lumber, reject the use of the lumber, or authorize its use subject to more restrictive construction requirements, including requirements as to size, spacing, length of spans, and design.

(1r) A builder, designer, or owner is not required to comply with those requirements of the one- and two-family dwelling code for which a waiver is issued under s. 101.648.

(2) All inspections shall be by persons certified by the department.

(3) Whoever violates this subchapter shall forfeit to the state not less than $25 nor more than $500 for each violation. Each day that such violation continues constitutes a separate offense.


Cross-reference: See also s. SPS 305.63, Wis. adm. code.

SUBCHAPTER III

MODULAR HOME CODE

101.70 Purpose. The purpose of this subchapter is to establish statewide standards and inspection procedures for the manufacture and installation of modular homes and to promote interstate uniformity in standards for modular homes by authorizing the department to enter into reciprocal agreements with other states that have equivalent standards.

History: 1975 c. 405; 2007 a. 11.

Cross-reference: See also s. SPS 305.327 and chs. SPS 320, 321, 322, 323, 324, and 325, Wis. adm. code.

101.71 Definitions. In this subchapter:

(1) “Closed construction” means any building, building component, assembly or system manufactured in such a manner that it cannot be inspected before installation at the building site without disassembly, damage or destruction.

(2) “Dwelling” means any building that contains one or more dwelling units. “Dwelling unit” means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(3) “Insignia” means a device or seal approved by the department to certify compliance with this subchapter.

(4) “Installation” means the assembly of a modular home on-site and the process of affixing a modular home to land, a foundation, footing, or an existing building.

(5) “Manufacture” means the process of making, fabricating, constructing, forming or assembling a product from raw, unfinished, semifinished or finished materials.

(6) (a) “Modular home” means any structure or component thereof which is intended for use as a dwelling and:

1. Is of closed construction and fabricated or assembled on-site or off-site in manufacturing facilities for installation, connection, or assembly and installation, at the building site; or

2. Is a building of open construction which is made or assembled in manufacturing facilities away from the building site for installation, connection, or assembly and installation, on the building site and for which certification is sought by the manufacturer.

(b) “Modular home” does not mean any manufactured home under s. 101.91 or any building of open construction which is not subject to par. (a) 2.

(7) “Open construction” means any building, building component, assembly or system manufactured in such a manner that it can be readily inspected at the building site without disassembly, damage or destruction.


101.715 Application. This subchapter applies to a dwelling the initial construction of which was commenced on or after December 1, 1978, except that s. 101.745 applies to a modular home the initial manufacture of which was commenced on or after May 23, 1978.


101.72 Uniform dwelling code council. The uniform dwelling code council shall review the standards and rules for modular homes for dwellings and recommend a statewide modular home code for adoption by the department which shall include rules providing for the conservation of energy in the construction and maintenance of dwellings. Such rules shall take into account the costs to home buyers of specific code provisions in relation to the benefits derived therefrom. Upon its own initiative or at the request of the department, the council shall consider and make recommendations to the department pertaining to rules and any other matters related to this subchapter.

History: 1975 c. 405; 2007 a. 11; 2015 a. 29.

101.73 Departmental duties. The department shall:

(1) Adopt rules which establish standards for the use of building materials, methods and equipment in the manufacture and installation of modular homes for use as dwellings or dwelling units. Where feasible, the standards used shall be those nationally recognized and shall apply to the dwelling and to its electrical, heating, ventilating, air conditioning and other systems. Such rules shall take into account the conservation of energy in construction and maintenance of dwellings and the costs to home buyers of specific code provisions in relation to the benefits derived therefrom.

(2) Adopt rules for the examination of plans and specifications and for periodic in-plant and on-site inspections of manufacturing facilities, processes, fabrication, assembly and installation of modular homes to ensure that examinations and inspections are made in compliance with the rules adopted for construction, electrical wiring, heating, ventilating, air conditioning and other systems under ss. 101.70 to 101.77 and with the rules for indoor plumbing adopted by the department under ch. 145.

(3) Provide for examination of plans and specifications and in-plant inspections when contracted for by the manufacturer under s. 101.75 (1) and shall contract to provide on-site inspection services for the installation of modular homes for dwellings, at municipal expense, for any municipality which requires such service under s. 101.76 or 101.761.

(5) Adopt rules for the certification, including provisions for suspension and revocation thereof, of on-site inspectors of the installation of modular homes for dwellings. Persons certified as on-site inspectors may be employees of the department, a city, village, town or county or an independent agency.

(6) Adopt rules for the certification, including provisions for suspension and revocation thereof, of independent inspection agencies to conduct in-plant inspections of manufacturing facilities, processes, fabrication and assembly of modular homes for dwellings and to certify compliance with this subchapter.
(7) Issue or recognize an insignia of compliance for dwellings which conform to the modular home code.

(8) Biennially review the rules promulgated under this subchapter.

(9) Issue special orders which it deems necessary to secure compliance with this subchapter and enforce the same by all appropriate administrative and judicial proceedings.

(10) Prescribe and furnish to municipalities a standard building permit form for all new one− and 2−family dwellings.

(11) Hear petitions regarding the modular home code, rules and special orders in accordance with s. 101.02 (6) (e) to (i) and (8).

(12) Establish by rule a schedule of fees sufficient to defray the costs incurred under this subchapter.


Cross-reference: See also ch. SPS 316, Wis. adm. code.

101.74 Departmental powers. The department may:

(1) Hold hearings on any matter relating to this subchapter.

(2) At the request of the owner or renter enter, inspect and examine dwellings, units and premises necessary to ascertain compliance with the rules and special orders under this subchapter.

(2m) Study the operation of the dwelling construction code and other laws related to the construction of dwelling units to determine their impact upon the cost of building construction and their effectiveness upon the health, safety and welfare of the occupants.

(3) Revise the rules under this subchapter after consultation with the uniform dwelling code council.

(4) Provide for or engage in the testing, approval and certification of materials, devices and methods for the manufacture or installation of modular homes.

(5) Collect and publish data secured from the examinations and inspections under s. 101.73 (2) and (3), and from building permits.

(6) Adopt rules prescribing procedures for approving new building materials, devices and methods for the manufacture or installation of modular homes for dwellings.

(7) Enter into reciprocal agreements with other states regarding the design, construction, inspection and labeling of modular homes where the laws or rules of other states meet the intent of the modular home code and the rules promulgated under this subchapter.

History: 1975 c. 405; 2007 a. 11; 2015 a. 29.

101.743 Certain rules prohibited. The department may not promulgate or enforce a rule that requires any manufactured building that uses electricity for space heating to be superinsulated.

History: 2007 a. 67.

101.745 Smoke detectors. (1) DEFINITION. The definition of smoke detector under s. 101.145 (1) (c) also applies to this section.

(2) APPROVAL. A smoke detector required under this section shall bear an Underwriters Laboratories, Inc., listing mark or similar mark from an independent product safety certification organization.

(3) INSTALLATION. A smoke detector required under this section shall be installed according to the directions and specifications of the manufacturer.

(4) REQUIREMENT. The manufacturer of a modular home shall install a functional smoke detector on each floor level except the attic or storage area of each dwelling unit.


101.75 Inspections, insignia and alterations.

(1) INSPECTIONS AND COMPLIANCE. Manufacturers of modular homes shall contract with a certified independent inspection agency or the department to conduct in−plant inspections and certify compliance with this subchapter. Manufacturers shall reimburse the independent inspection agency in accordance with the terms of the contract or reimburse the department in accordance with fees established under s. 101.73 (12). All inspections shall be performed by persons certified by the department.

(2) DISPLAY OF INSIGNIA REQUIRED. All modular homes manufactured, sold for initial use or installed within this state shall display, in a manner determined by the department, the insignia issued or recognized under ss. 101.73 (7) and 101.74 (7). All modular homes bearing such insignia shall be deemed to comply with the requirements of all building ordinances and regulations of any local government except those related to zoning and siting requisites including but not limited to building setback, side and rear yard requirements and property line requirements.

(3) DEPARTMENT APPROVAL OF ALTERATIONS. No person shall alter an approved modular home in any way prior to or during installation without the approval of the department.

(4) COUNTERFEIT INSIGNIA. No person may falsely or fraudulently make, forge, alter or counterfeit any insignia issued or recognized under ss. 101.73 (7) and 101.74 (7).

History: 1975 c. 405; 2007 a. 11.

101.76 Municipal authority. Except as provided by s. 101.761, cities, villages, towns and counties:

(1) May:

(a) With the approval of the department, exercise jurisdiction over the installation of modular homes for dwellings by passage of ordinances, provided such ordinances are in strict conformance with this subchapter and the on−site inspection is performed by persons certified by the department. Except as provided by s. 101.761, a county ordinance shall apply in any city, village or town which has not enacted such ordinance.

(b) Under s. 66.0301, jointly exercise the jurisdiction granted under par. (a).

(c) By ordinance establish and collect fees to defray the cost of jurisdiction exercised under par. (a) or (b).

(d) By ordinance provide remedies and penalties for violation of the jurisdiction exercised under par. (a) or (b).

(2) Shall contract with the department for on−site installation inspection services which the municipality does not perform under sub. (1) (a) or (b) and reimburse the department for its reasonable and necessary expenses incurred in the performance of such services pursuant to s. 101.73 (12).

(3) Shall use the standard building permit form prescribed by the department and file a copy of each such permit issued with the department.

History: 1975 c. 405; 1981 c. 20; 1999 a. 150 s. 672; 2007 a. 11.

Cross-reference: See also s. SPS 320.06, Wis. adm. code.

101.761 Certain municipalities excepted. (1) In this section, “municipality” means a city, village or town with a population of 2,500 or less.

(2) Except as provided under sub. (6), a municipality is exempt from:

(a) The requirements under s. 101.76 (2).

(b) Any rule adopted under s. 101.73 regarding suspension or revocation of standard building permits.

(3) The department or a county may not enforce this subchapter or an ordinance adopted under s. 101.76 (1) (a) or provide inspection services in a municipality unless requested to do so by a person with respect to a particular modular home or by the municipality. A request by a person or a municipality with respect to a particular modular home does not give the department or a county authority with respect to any other modular home.

History: 1975 c. 405; 1983 a. 20; 1999 a. 150 s. 672; 2007 a. 11.

Cross-reference: See also s. SPS 320.06, Wis. adm. code.
shall be collected under s. 101.76 (1) (c) or ss. 101.73 (12) and 101.76 (2) from the person or municipality making the request.

(4) Municipalities shall furnish statistical data relating to housing starts to the department as requested by the department.

(5) This section does not affect the applicability of or ordinances adopted under this subchapter to manufacturers, builders and owners of modular homes located in a municipality.

(6) Any dwelling not inspected under s. 101.76 shall comply with the rules adopted under s. 101.73 (1) which take into account the conservation of energy in construction and maintenance of dwellings and the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions.


101.77 Penalties. Whoever violates this subchapter shall forfeit to the state not less than $25 nor more than $500 for each violation and each day that such violation continues constitutes a separate offense.

History: 1975 c. 405.

SUBCHAPTER IV

ELECTRICAL WIRING AND ELECTRICIANS

101.80 Definitions. In this subchapter:

(1g) “Electric cooperative” has the meaning given in s. 196.025 (5) (ag).

(1) “Electricity provider” means a public utility, an electric cooperative, or a wholesale merchant plant operator.

(1m) “Electrical wiring” means all equipment, wiring, material, fittings, devices, appliances, fixtures, and apparatus used for the production, modification, regulation, control, distribution, utilization, or safeguarding of electrical energy for mechanical, chemical, cosmetic, heating, lighting, or similar purposes, as specified under the state electrical wiring code. “Electrical wiring” does not include the equipment, wiring, material, fittings, devices, appliances, fixtures, and apparatus used by a public utility, an electric cooperative, or a wholesale merchant operator for the purpose of generating, transmitting, distributing, or controlling heat, light, power, or natural gas to its customers or members.

(1p) “Manufacturing facility” means a facility assessed as manufacturing property under s. 70.995.

(1r) “Municipality” means a city, town, village, or county.

(3) “Public utility” has the meaning given in s. 196.01 (5).

(4) “State electrical wiring code” means the rules promulgated under s. 101.82 (1) for electrical wiring.

(5) “Wholesale merchant plant operator” means the operator of a wholesale merchant plant, as defined in s. 196.491 (1) (w).


101.82 Departmental duties. The department shall:

(1) Promulgate by rule a state electrical wiring code that establishes standards for installing, repairing, and maintaining electrical wiring. The rules shall include separate standards, established in consultation with the [uniform] dwelling code council, that apply only to electrical wiring in camping units that are set in a fixed location in a campground for which a permit is issued under s. 254.47 [s. 97.67], that contain a sleeping place, and that are used for seasonal overnight camping. Where feasible, the rules shall reflect nationally recognized standards.

Note: The “dwelling code council” was renamed the “uniform dwelling code council” by 2015 Wis. Act 29. The correct cross-reference is shown in brackets. Corrective legislation is pending.

(1g) Regulate all of the following types of electricians:

(a) Master electricians, including residential master electricians.

(b) Journeyman electricians, including residential journeyman electricians and industrial journeyman electricians.

(c) Electrical apprentices, including residential electrical apprentices and industrial electrical apprentices.

(d) Registered electricians.

1m Promulgate rules that establish criteria for the enrollment of registered electricians and for the registration of electrical apprentices.

1n Promulgate rules that establish procedures for the enrollment of registered electricians, the registration of electrical apprentices, and the licensing of journeyman electricians and master electricians.

1r Promulgate rules that establish requirements for the supervision of registered electricians. Registered electricians must be supervised by licensed journeyman or master electricians.

1v Promulgate rules that establish criteria and procedures for the licensing of electrical contractors.

2 Promulgate rules that establish criteria and procedures for the certification of electrical inspectors.

2 Promulgate rules that establish standards and a process for the inspection of electrical wiring, including the inspection of electrical wiring for which a municipality does not provide inspection under s. 101.86 (1).

3r Promulgate rules that establish criteria and a process for the suspension or revocation of registrations issued to registered electricians, licenses issued to electricians and electrical contractors, and certifications issued to electrical inspectors.

4 Establish by rule a schedule of fees sufficient to defray the costs incurred under this subchapter.


Cross-reference: See also ch. SPS 316, Wis. adm. code.

101.84 Departmental powers. The department may:

(1) Hold hearings on any matter relating to this subchapter and issue subpoenas to compel the attendance of witnesses and the production of evidence at the hearings.

(3) Promulgate rules to differentiate the scope of installation, repair, or maintenance of electrical wiring that may be performed by electrical contractors, registered electricians, journeyman electricians, master electricians, and any additional types of electricians recognized under sub. (5).

(5) The department may promulgate rules that recognize and regulate different types and subtypes of electricians that are in addition to those specified in s. 101.82 (1g) and that establish criteria and procedures for enrolling, registering, or licensing these electricians.


101.86 Municipal authority. (1) Municipalities may:

(a) Enact an electrical code or otherwise exercise jurisdiction over electrical wiring and inspection of electrical wiring by enactment of ordinances, provided that the electrical code or ordinance strictly conforms with the state electrical wiring code promulgated by the department under s. 101.82 (1). A county ordinance shall apply in any city, village or town which has not enacted such an ordinance.

(b) Under s. 66.0301, jointly exercise the jurisdiction granted under par. (a).

(c) By ordinance, establish and collect fees to defray the cost of jurisdiction exercised under par. (a) or (b).

(d) By ordinance, provide remedies and penalties for violation of the jurisdiction exercised under par. (a) or (b).

3 (a) The cost of inspection services provided by any county that has enacted an ordinance under sub. (1), if not defrayed by fees, shall be charged to or taxed against the property within those cities, villages, and towns in the county that have not enacted an ordinance under sub. (1).
101.861 Municipal licensing authority. (1) Any ordinance enacted by a municipality that relates to licensure or certification of electrical contractors or electricians pursuant to the municipality’s authority under s. 101.865, 2005 stats., or s. 101.87, 2005 stats., and that is in existence on March 19, 2008, shall remain in effect until April 1, 2014, but may not be amended or repealed during this time period. Beginning on April 1, 2014, such an ordinance is no longer in effect, and municipalities may no longer impose any registration, licensing, or certification requirements on electrical contractors, electricians, or electrical inspectors.

(2) Beginning on March 28, 2013, and ending on March 31, 2014, all of the following apply:

(a) Any municipal ordinance that was in existence on March 19, 2008, and that imposed any licensing, registration, or certification requirements on electrical contractors, electricians, or electrical inspectors shall not apply to electrical contractors, electricians, or electrical inspectors who are licensed, registered, or certified by the department under this subchapter.

(b) A municipality that had an ordinance in existence on March 19, 2008, for licensing, registering, or certifying electrical contractors, electricians, or electrical inspectors may issue and renew licenses, registrations, or certifications but such licenses, registrations, and certifications are not valid after March 31, 2014.

History: 2007 a. 63; 2013 a. 4.

101.862 License or registration required. (1) No person may engage in the business of installing, repairing, or maintaining electrical wiring unless the person is licensed as an electrical contractor by the department.

(2) No person may install, repair, or maintain electrical wiring unless the person is licensed as an electrician by the department or unless the person is enrolled as a registered electrician by the department.

(3) No person who is not a master electrician may install, repair, or maintain electrical wiring at all times responsible for the person’s work.

(4) Subsections (1) to (3) do not apply to any of the following:

(a) A residential property owner who installs, repairs, or maintains electrical wiring on premises that the property owner owns and occupies as a residence, unless a license or registration issued by the department is required by local ordinance.

(am) A person engaged in installing electrical wiring within an existing industrial facility or existing manufacturing facility owned or leased by the person or by an entity for which the person is an agent or employee.

(b) A person engaged in maintaining or repairing electrical wiring within an existing facility or on premises owned or leased by the person or by an entity for which the person is an agent or employee.

(c) A person engaged in installing, repairing, or maintaining electrical wiring, apparatus, or equipment for elevators and escalators.

(d) A person engaged in installing, repairing, or maintaining equipment or systems that operate at 100 volts or less.

(e) A person engaged in installing, repairing, or maintaining an electronic system designed to monitor a premises for the presence of an emergency, to issue an alarm for an emergency, or to detect and summon aid for an emergency.

(f) A person engaged in installing, repairing, or maintaining electrical wiring of facilities that support telecommunications service, as defined in s. 182.017 (1g) (cq), that is provided by a telecommunications provider, as defined in s. 196.01 (6p).

(g) A person engaged in installing, repairing, or maintaining manufactured equipment or utilization equipment, including ballasts, electric signs and luminaires, or any other manufactured system that is designed to provide a function that is not primarily electrical in nature if the installation, repair, or maintenance only involves the modification or installation of conductors that are considered part of the equipment or system under this paragraph. For purposes of this paragraph, any conductor going from the disconnecting point or the nearest junction, pull, or device box to the manufactured equipment or utilization equipment or the manufactured system is considered part of the equipment or system.

(h) A person engaged in installing electrical wiring for components of a manufactured home, as defined in s. 101.91 (2), or a manufactured building, as defined in s. 101.71 (6), while the manufactured home or the manufactured building is at or in the facility at which it is being manufactured.

(i) A person employed by an electricity provider, or a subcontractor of an electricity provider, who installs, repairs, or maintains electrical wiring for equipment that is installed in the normal course of providing utility services by the electricity provider.

(j) A person engaged in installing, repairing, or maintaining electrical wiring that provides lighting or signals for public thoroughfares and for public airports.

(k) A person engaged in installing, repairing, or maintaining electric lines on the utility side of substations and other distribution facilities owned or operated by customers or members of electricity providers.

(L) A person employed by an electricity provider, or a subcontractor of an electricity provider, who installs, repairs, or maintains primary voltage electric facilities that are owned by the electricity provider’s customers or members and that operate at greater than 600 volts.

(m) A person employed by an electricity provider, or a subcontractor of an electricity provider, who restores service during an emergency.

(n) A person who installs a replacement for an existing switch or outlet if the replacement switch or outlet has a rating of not more than 20 amperes.

(p) A person engaged in installing, repairing, or maintaining a private on-site wastewater treatment system, as defined in s. 145.01 (12), if the activity only involves installing or modifying a conductor going from the system’s junction, pull, or device box to the nearest disconnecting point and the conductor is buried with the system.

(q) A person engaged in installing, repairing, or maintaining a pump for a well if the activity only involves installing or modifying a conductor going from the pump’s junction, pull, or device box to the nearest disconnecting point and the conductor is buried with the pump.

(5) (a) Subsections (2) and (3) do not apply to a person who was born on or before January 1, 1956, and who has at least 15 years of experience in installing, repairing, or maintaining electrical wiring, subject to par. (b).

(b) The department shall promulgate rules establishing criteria and procedures for issuing licenses to electricians who were born on or before January 1, 1956, and who have at least 15 years of experience in installing, repairing, or maintaining electrical wiring. Upon promulgation of these rules, an electrician who meets these age and experience requirements may not install, repair, or maintain electrical wiring unless he or she is licensed in compliance with these rules or is otherwise licensed or registered as an electrician under this subchapter.

(6) (a) Subsections (2) and (3) do not apply to a person who installs electrical wiring, without receiving payment or other consideration, in a new one-family or two-family dwelling that is being constructed by a qualified nonprofit corporation.
(b) For purposes of par. (a), a qualified nonprofit corporation is one that meets all of the following conditions:

1. The corporation is described in section 501 (c) (3) of the Internal Revenue Code and is exempt from federal income tax under section 501 (a) of the Internal Revenue Code.

2. The corporation has as its purpose the construction and rehabilitation of residential dwellings in a specific community or area.

History: 2007 a. 63; 2013 a. 4 s. 2; 2013 a. 125, 143; 2015 a. 55.

101.868 Requirements for master electricians. (1) An applicant for licensure as a master electrician shall have at least one of the following qualifications:

(a) A bachelor’s degree or master’s degree in electrical engineering, followed by passage of an examination required by the department.

(b) Twelve months of experience in installing, repairing, and maintaining electrical wiring while being licensed as a journeyman electrician, followed by passage of an examination required by the department.

(c) Experience in installing, repairing, and maintaining electrical wiring during a period of not less than 48 months, with at least 10,000 hours of experience over that period, followed by passage of an examination required by the department.

(2) Subsection (1) does not apply to any residential master electrician or to any other type of master electrician that may be recognized under s. 101.84 (5). The qualifying criteria required for licensing residential master electricians and any other such type of master electrician shall be established by the department by rule.

History: 2013 a. 143.

101.87 Requirements for journeyman electricians. (1) An applicant for licensure as a journeyman electrician shall have at least one of the following qualifications:

(a) Completion of a construction electrician apprenticeship program in installing, repairing, and maintaining electrical wiring that has a duration of at least 3 years and that is approved by the U.S. department of labor or by the department of workforce development, followed by passage of an examination required by the department.

(b) Experience in installing, repairing, and maintaining electrical wiring during a period of not less than 48 months, with at least 8,000 hours of experience over that period, followed by passage of an examination required by the department.

(2m) For purposes of meeting the requirement relating to experience under sub. (1) (b), a degree or diploma from a 2−year program in a school of electrical engineering or from a 2−year program in an accredited technical or vocational school in an electrical−related program shall be accepted by the department as being equivalent to 12 months and 2,000 hours of experience.

(3m) Subsection (1) does not apply to any residential or industrial journeyman electricians or to any other type of journeyman electrician that may be recognized under s. 101.84 (5). The qualifying criteria required for licensing residential and industrial journeyman electricians and any other such type of journeyman electrician shall be established by the department by rule.


Cross-reference: See also s. SPS 305.62, Wis. adm. code.

101.874 Reciprocity. (1) In this section, “credential” means a registration, license, certification, or other approval to perform or inspect electrical work.

(2) The department may enter into a reciprocal agreement with another state under which credentials issued to electricians, electrical apprentices, electrical contractors, and electrical inspectors by either state are recognized as comparable credentials by the other state. Under the agreement, the department may recognize credentials from the other state only if the education, experience, and examination requirements are at least equivalent to the education, experience, and examination requirements for being issued credentials under this subchapter.

(3) Upon entering into an agreement under this section, the department may issue a credential only if all of the following apply:

(a) The individual seeking the credential submits an application and pays the applicable fee established under s. 101.82 (4).

(b) The individual holds a valid comparable credential issued by the other state.

History: 2013 a. 143.

101.875 Inspections. (1) All inspections of electrical wiring shall be performed by inspectors certified by the department.

(2) Any rule promulgated under s. 101.82 (2m) may not require the inspection of any of the installation, repair, or maintenance of electrical wiring within an existing industrial facility or an existing manufacturing facility unless the plan for the installation, repair, or maintenance is required to be examined under s. 101.12 (2) by the department or by a municipality that has its examinations accepted by the department under s. 101.12 (3) (a), (am), or (b).

History: 2013 a. 143 ss. 25 to 27.

Cross-reference: See also s. SPS 305.62, Wis. adm. code.

101.88 Compliance and penalties. (1) Every person installing, repairing, or maintaining electrical wiring shall use materials, methods, and equipment that are in conformance with the rules promulgated by the department under this subchapter.

(2) Any person who violates this subchapter or any rule promulgated under this subchapter shall forfeit to the state not less than $25 nor more than $500 for each violation. Each day of violation constitutes a separate offense.


SUBCHAPTER V

MANUFACTURED HOMES AND MOBILE HOMES

101.91 Definitions. In this subchapter:

(1g) “Delivery date” means the date on which a manufactured home is physically delivered to the site chosen by the owner of the manufactured home.

(1i) “Installation standards” means specifications for the proper installation of manufactured homes at their place of occupancy to ensure proper siting, the joining of all sections of the manufactured home, connection to existing utility services and the installation of stabilization, support, or anchoring systems.

(1j) “Installer” means a person who is in the business of installing new manufactured homes.

(1m) “License period” means the period during which a license issued under s. 101.951 or 101.952 is effective, as established by the department under s. 101.951 (2) (b) 1. or 101.952 (2) (b) 1.

(1t) “Licensed installer” means an installer licensed under s. 101.96 (2) (b).

(1v) “Licensed manufacturer” means a manufactured home manufacturer licensed under s. 101.95.

(2) “Manufactured home” means any of the following:

(am) A structure that is designed to be used as a dwelling with or without a permanent foundation and that is certified by the federal department of housing and urban development as complying with the standards established under 42 USC 5401 to 5425.

(c) A mobile home, unless a mobile home is specifically excluded under the applicable statute.

(3) “Manufactured home dealer” means a person who, for a commission or other thing of value, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale or exchange of an interest in, manufactured homes or who is engaged wholly or par-
or business use.

(6) A person transferring a manufactured home used for that person’s personal, family or household purposes, if the transfer is an occasional sale and is not part of the business of the transferor.

(7) “Manufactured home owner” means any person who purchases, or leases from another, a manufactured home primarily for use for personal, family or household purposes.

(5m) “Manufactured home community” means any plot or plots of ground upon which 3 or more manufactured homes that are occupied for dwelling or sleeping purposes are located. “Manufactured home community” does not include a farm where the occupants of the manufactured homes are the father, mother, son, daughter, brother or sister of the farm owner or operator or where the occupants of the manufactured homes work on the farm.

(6m) “Manufactured home community contractor” means a person, other than a public utility, as defined in s. 196.01 (5) (a), who, under a contract with a manufactured home community operator, provides water or sewer service to a manufactured home community occupant or performs a service related to providing water or sewer service to a manufactured home community occupant.

(7) “Manufactured home community occupant” means a person who rents or owns a manufactured home in a manufactured home community.

(8) “Manufactured home community operator” means a person engaged in the business of owning or managing a manufactured home community.

(9) “Manufactured home salesperson” means any person who is employed by a manufactured home manufacturer or manufactured home dealer to sell or lease manufactured homes.

(10) “Mobile home” means a vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit and in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of 45 feet. “Mobile home” includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment carrying a manufacturer’s warranty.

(11) “New manufactured home” means a manufactured home that has never been occupied, used or sold for personal or business use.

(12) “Used manufactured home” means a manufactured home that has previously been occupied, used or sold for personal or business use.

101.9202 Excepted liens and security interests. Sections 101.9203 to 101.9218 do not apply to or affect:

(1) A lien given by statute or rule of law to a supplier of services or materials for the manufactured home.

(2) A lien given by statute to the United States, this state or any political subdivision of this state.

(3) A security interest in a manufactured home created by a manufactured home dealer or manufacturer who holds the manufactured home for sale, which shall be governed by the applicable provisions of ch. 409.

101.9203 When certificate of title required. (1) Except as provided in subs. (3) and (4), the owner of a manufactured home situated in this state or intended to be situated in this state shall make application for certificate of title under s. 101.9209 for the manufactured home if the owner has newly acquired the manufactured home.

(2) Any owner who situates in this state a manufactured home for which a certificate of title is required without the certificate of title having been issued or applied for, knowing that the certificate of title has not been issued or applied for, may be required to forfeit not more than $200. A certificate of title is considered to have been applied for when the application accompanied by the required fee has been delivered to the department or deposited in the mail properly addressed and with postage prepaid.

(3) Unless otherwise authorized by rule of the department, a nonresident owner of a manufactured home situated in this state may not apply for a certificate of title under this subchapter unless the manufactured home is subject to a security interest or except as provided in s. 101.9209 (1) (a).

(4) The owner of a manufactured home that is situated in this state or intended to be situated in this state is not required to make application for a certificate of title under s. 101.9209 if the owner of the manufactured home intends, upon acquiring the manufactured home, to make the manufactured home a fixture to land in which the owner of the manufactured home has an ownership or leasehold interest subject to ch. 706.

101.9204 Application for certificate of title. (1) An application for a certificate of title shall be made to the department or in an automated format prescribed by it and shall be accompanied by the required fee. Each application for certificate of title shall include the following information:

(a) The name and address of the owner.

(b) A description of the manufactured home, including make, model, identification number and any other information or documentation that the department may reasonably require for proper identification of the manufactured home.

(c) The date of purchase by the applicant, the name and address of the person from whom the manufactured home was acquired and the names and addresses of any secured parties in the order of their priority.

(d) If the manufactured home is a new manufactured home being titled for the first time, the signature of the manufactured home dealer. The document of origin shall contain the information specified by the department.
secured parties be named on a certificate of title to perfect their
diction if the  laws of the other jurisdiction do not require that
cate of title issued by the department shall contain all of the fol -
secured party and the assignment or release of a security interest.
(b)  The department may issue a nondistinctive certificate of title if the applicant fulfills either of the following requirements:
1.  The applicant is a manufactured home dealer and is finan-
cially responsible as substantiated by the last financial statement on file with the department, a finance company licensed under s.
2.  The applicant has filed with the department a bond in the
form prescribed by the department and executed by the applicant,
and either accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety busi-
ness in this state.  The bond shall be in an amount equal to 1.5 times
the value of the manufactured home as determined by the depart-
ment and conditioned to indemnify any prior owner and secured
party and any subsequent purchaser of the manufactured home or
person acquiring any security interest in it, and their respective
successors in interest, against any expense, loss or damage,
including reasonable attorney fees, by reason of the issuance of
the certificate of title for the manufactured home or on account of
any defect in or undisclosed security interest upon the right, title
and interest of the applicant in and to the manufactured home.
Any such interested person has a right of action to recover on the
bond for any breach of its conditions, but the aggregate liability
of the surety to all persons shall not exceed the amount of the bond.
The bond, and any deposit accompanying it, shall be returned at
the end of 5 years or prior thereto if, apart from this section, a non-
distinctive certificate of title could then be issued for the manufac-
tured home.
(4)  A certificate of title issued by the department is prima facie
evidence of the facts appearing on it.
(5)  The department may issue a certificate of title in an aut-
omeated format.
101.9207  Lost, stolen or mutilated certificates.  (1)  If a certifi-
cate of title is lost, stolen, mutilated or becomes illegible, the owner or legal representative of the owner named in
the certificate, as shown by the records of the department, shall promptly make application for and may obtain a replacement
upon furnishing information satisfactory to the department.  The replacement certificate of title shall contain the legend “This is a
replacement certificate and may be subject to the rights of a person
under the original certificate”.
(2)  A person recovering an original certificate of title
for which a replacement has been issued shall promptly surrender the
original certificate to the department.
History: 1999 a. 9.
101.9208  Fees.  The following fees shall be determined by the
department by rule under s. 101.19:
1.  Assignment and warranty of title by the owner.
2.  Reassignment and warranty of title by a manufactured
home dealer.
(b)  The certificate of title may contain spaces for application
for a certificate of title by a transferee and for the naming of a
secured party and the assignment or release of a security interest.
(3)  (a)  Unless the applicant fulfills the requirements of par.
(b), the department shall issue a distinctive certificate of title for
a manufactured home last previously registered in another juris-
diction if the laws of the other jurisdiction do not require that
secured parties be named on a certificate of title to perfect their
security interests.  The certificate shall contain the legend “This
manufactured home may be subject to an undisclosed security interest” and may contain any other information that the depart-
ment prescribes.  If the department receives no notice of a security
interest in the manufactured home within 4 months from the
issuance of the distinctive certificate of title, the department shall,
upon application and surrender of the distinctive certificate, issue
a certificate of title in ordinary form.
101.9205  When department to issue certificate and to
whom; maintenance of records.  (1)  The department shall
maintain a record of each application for certificate of title received by it and, when satisfied as to its genuineness and regu-
larity and that the applicant is entitled to the issuance of a certifi-
cate of title, shall issue and deliver a certificate to the owner of the
manufactured home.
(2)  The department shall maintain a record of all applications, and all certificates of title issued by the department, indexed in the following manners:
(a)  According to title number.
(b)  Alphabetically, according to the name of the owner.
(c)  In any other manner that the department determines to be desirable.
(3)  The department shall establish, by rule under s. 101.19, a
fee of not less than $2 for conducting a file search of manufactured home title records.
History: 1999 a. 9, 53, 185; 2005 a. 45.
101.9206  Contents of certificate of title.  (1)  Each certifi-
cate of title issued by the department shall contain all of the fol-
(a)  The name and address of the owner.
(b)  The names of any secured parties in the order of priority as
shown on the application or, if the application is based on another
certificate of title, as shown on that certificate.
(c)  The title number assigned to the manufactured home.
(d)  A description of the manufactured home, including make,
model and identification number.
(e)  Any other data that the department considers pertinent and
desirable.
(2)  (a)  The certificate of title shall contain spaces for all of the following:
1.  Assignment and warranty of title by the owner.
2.  Reassignment and warranty of title by a manufactured
home dealer.
(b)  The certificate of title may contain spaces for application
for a certificate of title by a transferee and for the naming of a
secured party and the assignment or release of a security interest.
(3)  (a)  Unless the applicant fulfills the requirements of par.
(b), the department shall issue a distinctive certificate of title for
a manufactured home last previously registered in another juris-
diction if the laws of the other jurisdiction do not require that
secured parties be named on a certificate of title to perfect their
security interests.  The certificate shall contain the legend “This
Wisconsin Statutes Archive.
may not submit to the department the certificate of title or application for certificate of title naming the manufactured home dealer as owner of the manufactured home. Upon transferring the manufactured home to another person, the manufactured home dealer shall immediately give the transferee, on a form prescribed by the department, a receipt for all title, security interest and sales tax moneys paid to the manufactured home dealer for transmittal to the department when required. Unless the manufactured home has no certificate of title as a result of the exemption under s. 101.9203 (4), the manufactured home dealer shall promptly execute the assignment and warranty of title, showing the name and address of the transferee and of any secured party holding a security interest created or reserved at the time of the resale or sale on consignment, in the spaces provided therefor on the certificate or as the department prescribes. Within 7 business days following the sale or transfer, the manufactured home dealer shall mail or deliver the certificate or application for certificate to the department with the transferee’s application for a new certificate, unless the transferee is exempt from making application for a certificate of title under s. 101.9203 (4). A nonresident who purchases a manufactured home from a manufactured home dealer in this state may not, unless otherwise authorized by rule of the department, apply for a certificate of title issued for the manufactured home in this state unless the manufactured home dealer determines that a certificate of title is necessary to protect the interests of a secured party. The manufactured home dealer is responsible for determining whether a certificate of title and perfection of security interest is required. The manufactured home dealer is liable for any damages incurred by the department or any secured party for the manufactured home dealer’s failure to perfect a security interest that the manufactured home dealer had knowledge of at the time of sale.

(b) Except when all available spaces for a manufactured home dealer’s reassignment on a certificate of title have been completed or as otherwise authorized by rules of the department, a manufactured home dealer who acquires a manufactured home and holds it for resale or accepts a manufactured home for sale on consignment may not apply for a certificate of title naming the manufactured home dealer as owner of the manufactured home when all of the available spaces for a manufactured home dealer’s reassignment on the certificate of title for such manufactured home have been completed.

(2) Every manufactured home dealer shall maintain for 5 years a record of every manufactured home bought, sold or exchanged, or received for sale or exchange. The record shall be open to inspection by a representative of the department or by a peace officer during reasonable business hours. The dealer shall maintain the record in the form prescribed by the department.

(3) Any manufactured home dealer who fails to comply with this section may be required to forfeit not more than $200.

### 101.9211 Involuntary transfers.

(1) If the interest of an owner in a manufactured home passes to another other than by voluntary transfer, the transferee shall, except as provided in sub. (2), promptly mail or deliver to the department the last certificate of title, if available, and any documents required by the department to legally effect such transfer. The transferee shall also promptly mail or deliver to the department an application for a new certificate in the form that the department prescribes, unless the transferee is exempt from making application for a certificate of title under s. 101.9203 (4).

(2) If the interest of the owner is terminated or the manufactured home is sold under a security agreement by a secured party named in the certificate of title, the transferee shall promptly mail or deliver to the department the last certificate of title, unless there
is no certificate of title as a result of the exemption under s. 101.9203 (4), an application for a new certificate in the form that the department prescribes, unless the transferee is exempt from making application for a certificate of title under s. 101.9203 (4), and a statement made by or on behalf of the secured party that the manufactured home was repossessed and that the interest of the owner was lawfully terminated or sold under the terms of the security agreement.

(3) A person holding a certificate of title whose interest in the manufactured home has been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the department upon request of the department. The delivery of the certificate pursuant to the request of the department does not affect the rights of the person surrendering the certificate, and the action of the department in issuing a new certificate of title is not conclusive upon the rights of an owner or secured party named in the old certificate.

(4) (a) In all cases of the transfer of a manufactured home owned by a decedent, except under par. (b), ward, trustee or bankrupt, the department shall accept as sufficient evidence of the transfer of ownership all of the following:

1. Evidence satisfactory to the department of the appointment of a trustee in bankruptcy or of the issuance of letters testamentary or other letters authorizing the administration of a decedent’s estate, letters of guardianship, or letters of trust.

2. The title executed by the personal representative, guardian, or trustee, except that this subdivision does not apply if there is no certificate of title as a result of the exemption under s. 101.9203 (4).

(b) 1. Except as provided under subd. 1m., the department shall transfer the decedent’s interest in any manufactured home to his or her surviving spouse upon receipt of the title executed by the surviving spouse and a statement by the spouse that states all of the following:

a. The date of death of the decedent.

b. The approximate value and description of the manufactured home.

c. That the spouse is personally liable for the decedent’s debts and charges to the extent of the value of the manufactured home, subject to s. 859.25.

1m. The department may not require a surviving spouse to provide an executed title to a manufactured home under subd. 1 if the manufactured home has no certificate of title as a result of the exemption under s. 101.9203 (4).

2. The transfer of a manufactured home under this paragraph shall not affect any liens upon the manufactured home.

3. Except as provided in subd. 4., this paragraph is limited to no more than 5 manufactured homes titled in this state that are less than 20 years old at the time of the transfer under this paragraph.

4. The limit in subd. 3. does not apply if the surviving spouse is proceeding under s. 867.03 (1g) and the total value of the decedent’s property subject to administration in the state, including the manufactured homes transferred under this paragraph, does not exceed $50,000.

(c) Upon compliance with this subsection, the department shall bear neither liability nor responsibility for the transfer of such manufactured homes in accordance with this section.

(d) This subsection does not apply to transfer of interest in a manufactured home under s. 101.9209 (1) (b).

101.9212 When department to issue a new certificate. (1) Except as otherwise provided in this subsection, the department, upon receipt of a properly assigned certificate of title, with an application for a new certificate of title, the required fee and any other transfer documents required by law, to support the transfer, shall issue a new certificate of title in the name of the transferee as owner. The department may not require a person to provide a properly assigned certificate of title if the manufactured home for which the new certificate of title is requested has no certificate of title as a result of the exemption under s. 101.9203 (4).

(2) The department, upon receipt of an application for a new certificate of title by a transferee other than by voluntary transfer, with proof of the transfer, the required fee and any other documents required by law, shall issue a new certificate of title in the name of the transferee as owner. If the transfer constituted a termination of the owner’s interest or a sale under a security agreement by a secured party named in the certificate, under s. 101.9211 (2), the new certificate shall be issued free of the names and addresses of the secured party who terminated the owner’s interest and of all secured parties subordinate under s. 101.9213 to such secured party. If the outstanding certificate of title is not delivered to it, the department shall make demand therefor from the holder of such certificate.

(3) The department shall retain for 5 years a record of every surrendered certificate of title, the record to be maintained so as to permit the tracing of title for the manufactured home designated therein.

History: 1999 a. 9, 53, 185; 2001 a. 16.

101.9213 Perfection of security interests. (1) Unless excepted by s. 101.902, a security interest in a manufactured home of a type for which a certificate of title is required is not valid against creditors of the owner or subsequent transferees or secured parties of the manufactured home unless perfected as provided in ss. 101.902 to 101.918.

(2) Except as provided in sub. (3), a security interest is perfected by the delivery to the department of the existing certificate of title, if any, an application for a certificate of title containing the name and address of the secured party, and the required fee. The security interest is perfected as of the later of the time of its delivery or the time of the attachment of the security interest.

(3) If a secured party whose name and address is contained on the certificate of title for a manufactured home acquires a new or additional security interest in the manufactured home, such security interest is perfected at the time of its attachment under s. 409.203.

(4) An unperfected security interest is subordinate to the rights of persons described in s. 409.317.

(5) The rules of priority stated in s. 409.322, the other sections therein referred to, and subch. III. of ch. 409 shall, to the extent appropriate, apply to conflicting security interests in a manufactured home of a type for which a certificate of title is required, or in a previously certificated manufactured home, as defined in s. 101.9222 (1). A security interest perfected under this section or under s. 101.9222 (4) or (5) is a security interest perfected otherwise than by filing for purposes of s. 409.322.

(6) The rules stated in subch. VI. of ch. 409 governing the rights and duties of secured parties and debtors and the requirements for, and effect of, disposition of a manufactured home by a secured party, upon default shall, to the extent appropriate, govern the rights of secured parties and owners with respect to security interests in manufactured homes perfected under ss. 101.902 to 101.9218.

(7) If a manufactured home is subject to a security interest when brought into this state, s. 409.316 states the rules that apply to determine the validity and perfection of the security interest in this state.

(8) Upon request of a person who has perfected a security interest under this section, as shown by the records of the department, in a manufactured home titled in this state, whenever the department receives information from another state that the manufactured home is being titled in the other state and the information does not show that the security interest has been satisfied, the department shall notify the person. The department shall estab-
lish, by rule under s. 101.19, a fee of not less than $2 for each notification.

History: 1999 a. 9, 53, 185; 2001 a. 10; 2005 a. 45.

101.9214 Duties on creation of security interest. If an owner creates a security interest in a manufactured home, unless the name and address of the secured party already is contained on the certificate of title for the manufactured home:

(1) The owner shall immediately execute, in the space provided thereon of the certificate of title or on a separate form or in an automated format prescribed by the department, an application to name the secured party on the certificate, showing the name and address of the secured party, and cause the certificate, application and the required fee to be delivered to the secured party.

(2) The secured party shall immediately cause the certificate, the application and the required fee to be mailed or delivered to the department.

(3) Upon receipt of the certificate of title, the application and the required fee, the department shall issue to the owner a new certificate containing the name and address of the new secured party. The department shall deliver to the new secured party and to the register of deeds of the county of the owner’s residence memorandum, in such form as the department prescribes, evidencing the notation of the security interest upon the certificate; and thereafter, upon any assignment, termination or release of the security interest, additional memorandum evidencing such action.

(4) The register of deeds may record, and maintain a file of, all memoranda received from the department under sub. (3). Such recording, however, is not required for perfection, release or assignment of security interests, which shall be effective upon compliance with ss. 101.9213 (2), 101.9215 and 101.9216 (1) and (2).

History: 1999 a. 9, 53.

101.9215 Assignment of security interest. (1) Except as otherwise provided in s. 409.308 (5), a secured party may assign, absolutely or otherwise, the party’s security interest in the manufactured home to a person other than the owner without affecting the interest of the owner or the validity of the security interest, but any person without notice of the assignment is protected in dealing with the secured party as the holder of the security interest and the secured party remains liable for any obligations as a secured party until the assignee is named as secured party on the certificate.

(2) Subject to s. 409.308 (5), the assignee may but need not, to perfect the assignment, have the certificate of title endorsed or issued with the assignee named as secured party, upon delivering to the department the certificate and an assignment by the secured party named in the certificate in the form that the department prescribes.

History: 1999 a. 9, 53; 2001 a. 10.

101.9216 Release of security interest. (1) Within one month, or within 10 days following written demand by the debtor, after there is no outstanding obligation and no commitment to make advances, incur obligations or otherwise give value, secured by the security interest in a manufactured home under any security agreement between the owner and the secured party, the secured party shall execute and deliver to the owner, as the department prescribes, a release of the security interest in the form and manner prescribed by the department and to the owner stating in no less than 10-point boldface type the owner's obligation under sub. (2). If the secured party fails to execute and deliver the release and notice of the owner’s obligation as required by this subsection, the secured party is liable to the owner for $25 and for any loss caused to the owner by the failure.

(2) The owner, other than a manufactured home dealer holding the manufactured home for resale, upon receipt of the release and notice of obligation shall promptly cause the certificate and release to be mailed or delivered to the department, which shall release the secured party’s rights on the certificate and issue a new certificate.

(3) The department may remove information pertaining to a security interest perfected under s. 101.9213 from its records when 20 years after the original perfection has elapsed unless the security interest is renewed in the same manner as provided in s. 101.9213 (2) for perfection of a security interest.

(4) Removal of information pertaining to a security interest from the records of the department under sub. (3) does not affect any security agreement between the owner of a manufactured home and the holder of security interest in the manufactured home.

History: 1999 a. 9, 53, 185.

101.9217 Secured party's and owner's duties. (1) A secured party named in a certificate of title shall, upon written request of the owner or of another secured party named on the certificate, disclose any pertinent information as to the party’s security agreement and the indebtedness secured by it.

(2) (a) An owner shall promptly deliver the owner’s certificate of title to any secured party who is named on it or who has a security interest in the manufactured home described in it under any other applicable prior law of this state, upon receipt of a notice from such secured party that the security interest is to be assigned, extended or perfected. Any owner who fails to deliver the certificate of title to a secured party requesting it under this paragraph shall be liable to such secured party for any loss caused to the secured party thereby and may be required to forfeit not more than $200.

(b) No secured party may take possession of any certificate of title except as provided in par. (a). Any person who violates this paragraph may be required to forfeit not more than $1,000.

(3) Any secured party who fails to disclose information under sub. (1) shall be liable for any loss caused to the owner by the failure to disclose information.

History: 1999 a. 9, 53, 185.

101.9218 Applicability of manufactured home security provisions. (1) METHOD OF PERFECTING EXCLUSIVE. Subject to s. 409.311 (4) and except as provided in sub. (2), the method provided in ss. 101.921 to 101.9217 of perfecting and giving notice of security interests subject to ss. 101.921 to 101.9217 is exclusive. Security interests subject to ss. 101.921 to 101.9217 are exempt from the provisions of law that otherwise require or relate to the filing of instruments creating or evidencing security interests.

(2) FIXTURES EXCLUDED. Notwithstanding ss. 101.921 to 101.9217, the method provided in ss. 101.921 to 101.9217 of perfecting and giving notice of security interests does not apply to a manufactured home that is a fixture to real estate or to a manufactured home that the owner intends, upon acquiring, to permanently affix to land that the owner of the manufactured home owns.

History: 1999 a. 9, 53, 185; 2001 a. 10, 16.

101.9219 Withholding certificate of title; bond. (1) The department may not issue a certificate of title until the outstanding evidence of ownership is surrendered to the department.

(2) If the department is not satisfied as to the ownership of the manufactured home or that there are no undisclosed security interests in it, the department, subject to sub. (3), shall either:

(a) Withhold issuance of a certificate of title until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant’s ownership of the manufactured home and that there are no undisclosed security interests in it; or

(b) Issue a distinctive certificate of title pursuant to s. 101.9206 (3) or 101.9222 (3).
The end of 5 years or prior thereto if, apart from this section, a non-recover on the bond. The bond, and any deposit accompanying it, shall be returned at the department has been notified of the pendency of an action to manufactured home is surrendered to the department, unless the bond for any breach of its conditions, but the aggregate liability Any such interested person has a right of action to recover on the certificate to the department. The department may seize and impound any certificate of the certificate of title was fraudulently procured, erro- and either accompanied by the deposit of cash with the department in itself, affect the validity of a security interest noted on it. The department shall suspend or revoke a certificate of title 1. Until its perfection lapses under the law under which it was perfected, or until its perfection would lapse in the absence of a further filing or renewal of filing, whichever occurs sooner. 2. If, before the security interest lapses as described in subd. 1., there is a transfer of ownership of the manufactured home. 2. If, before the security interest lapses as described in subd. 1., there is a transfer of ownership of the manufactured home. 2. If, before the security interest lapses as described in subd. 1., there is a transfer of ownership of the manufactured home.

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municipalities, for the purpose of supporting environmentally sound disposal practices.  

(b) The department may make grants under this section to provide financial assistance to individuals who reside in manufactured homes that are in need of critical repairs. An individual is eligible for a grant under this paragraph only if the individual is otherwise unable to finance the critical repairs.  

(3) ADMINISTRATION. The department shall contract with one or more entities that are exempt from taxation under section 501 (a) of the Internal Revenue Code and that employ individuals with technical expertise concerning manufactured housing for the administration of the grant program under this section. The department shall promulgate rules to establish the grant program under this section. To the extent feasible, the department shall coordinate the program under this section with the state housing strategy plan under s. 16.302.  

History: 2005 a. 45; 2011 a. 32 ss. 3380m to 3381f; Stats. 2011 s. 101.934.  

Cross-reference: See also ch. SPS 456, Wis. adm. code.  

101.935 Manufactured home community regulation.  

(1) The department shall license and regulate manufactured home communities. The department may investigate manufactured home communities and, with notice, may enter and inspect private property.  

(2) (a) The department or a village, city or county granted agent status under par. (e) shall issue permits to and regulate manufactured home communities. No person, state or local government who has not been issued a permit under this subsection may conduct, maintain, manage or operate a manufactured home community.  

(b) The department may, after a hearing under ch. 227, refuse to issue a permit or suspend or revoke a permit for violation of this section or any regulation or order that the department issues to implement this section.  

(c) 1. Permits issued under this subsection are valid for a 2-year period that begins on July 1 of each even-numbered year and that expires on June 30 of the next even-numbered year. If a person applies for a permit after the beginning of a permit period, the permit is valid until the end of the permit period.  

2. The department shall establish, by rule under s. 101.19, the permit fee and renewal fee for a permit issued under this subsection. The department may establish a fee that defrays the cost of administering s. 101.937. An additional penalty fee, as established by the department by rule under s. 101.19, is required for each permit if the biennial renewal fee is not paid before the permit expires.  

(d) A permit may not be issued under this subsection until all applicable fees have been paid. If the payment is by check or other draft drawn upon an account containing insufficient funds, the permit applicant shall, within 15 days after receipt of notice from the department of the insufficiency, pay by cashier's check or other certified draft, money order or cash the fees to the department, late fees and processing charges that are specified by rules promulgated by the department. If the permit applicant fails to pay all applicable fees, late fees and the processing charges within 15 days after the applicant receives notice of the insufficiency, the permit is void. In an appeal concerning voiding of a permit under this paragraph, the burden is on the permit applicant to show that the entire applicable fees, late fees and processing charges have been paid. During any appeal process concerning a payment dispute, operation of the manufactured home community in question is considered to be operation without a permit.  

(e) Section 97.615 (2), as it applies to an agent for the department of agriculture, trade and consumer protection in the administration of s. 97.67, applies to an agent for the department of safety and professional services in the administration of this section.  

(2m) (a) The department shall inspect a manufactured home community in the following situations:  

1. Upon completion of the construction of a manufactured home community.  

2. Whenever a manufactured home community is modified, as defined by the department by rule.  

3. Whenever the department receives a complaint about a manufactured home community.  

(b) The department may, with notice, inspect a manufactured home community whenever the department determines an inspection is appropriate.  

(3) The department may promulgate rules and issue orders to administer and enforce this section.  

History: 1991 a. 39, 1993 a. 16, 27, 491; 1995 a. 27 s. 9126 (19); 1999 a. 9 ss. 64g 64h; Stats. 1999 s. 101.935; 1999 a. 53; 2001 a. 16; 2005 a. 45; 2007 a. 11; 2007 a. 20 s. 9121 (6) (a); 2011 a. 32; 2015 a. 55. 

Cross-reference: See also ch. SPS 326, Wis. adm. code.  

101.937 Water and sewer service to manufactured home communities.  

(1) RULES. The department shall promulgate rules that establish standards for providing water or sewer service by a manufactured home community operator or manufactured home community contractor to a manufactured home community occupant, including requirements for metering, billing, depositing, arranging deferred payment, installing service, refusing or discontinuing service, and resolving disputes with respect to service. Rules promulgated under this subsection shall ensure that any charge for water or sewer service is reasonable and not unjustly discriminatory, that the water or sewer service is reasonably adequate, and that any practice relating to providing the service is just and reasonable.  

(2) PERMANENT IMPROVEMENTS. A manufactured home community operator may make a reasonable recovery of capital costs for permanent improvements related to the provision of water or sewer service to manufactured home community occupants through ongoing rates for water or sewer service.  

(3) ENFORCEMENT. (a) On its own motion or upon a complaint filed by a manufactured home community occupant, the department may issue an order or commence a civil action against a manufactured home community operator or manufactured home community contractor to enforce this section, any rule promulgated under sub. (1), or any order issued under this paragraph.  

(b) The department of justice, after consulting with the department, or any district attorney may commence an action in circuit court to enforce this section.  

(4) PRIVATE CAUSE OF ACTION. Any person suffering pecuniary loss because of a violation of any rule promulgated under sub. (1) or order issued under sub. (3) (a) may sue for damages and shall recover twice the amount of any pecuniary loss, together with costs, and, notwithstanding s. 14.04 (1), reasonable attorney fees.  

(5) PENALTIES. (a) Any person who violates any rule promulgated under sub. (1) or any order issued under sub. (3) (a) shall forfeit not less than $25 nor more than $5,000. Each violation and each day of violation constitutes a separate offense.  

(b) Any person who intentionally violates any rule promulgated under sub. (1) or order issued under sub. (3) (a) shall be fined not less than $25 nor more than $5,000 or imprisoned not more than one year in the county jail or both. Each violation and each day of violation constitutes a separate offense.  

History: 2001 a. 16 ss. 2541, 3003 to 3007; 2005 a. 45.  

101.94 Manufactured home and mobile home manufacturers, distributors and dealers: design and construction of manufactured homes and mobile homes.  

(1) Mobile homes manufactured, distributed, sold or offered for sale in this state shall conform to the code promulgated by the American national standards institute and identified as ANSI 119.1, including all revisions thereof in effect on August 28, 1973, and further revisions adopted by the department and the department of health services. The department may establish standards in addition to those required under ANSI 119.1. This subsection
applies to units manufactured or assembled after January 1, 1974, and prior to June 15, 1976.

(2) No person may manufacture, assemble, distribute or sell a manufactured home unless the manufactured home complies with 42 USC 5401 to 5425 and applicable regulations.

(7) The department shall hear and decide petitions brought under this subchapter in the manner provided under s. 101.02 (6) (e) to (i) and (8) for petitions concerning property.

(8) (a) Except as provided in par. (c), a person who violates this subchapter, a rule promulgated under this subchapter or an order issued under this subchapter shall forfeit not more than $1,000 for each violation. Each violation of this subchapter constitutes a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required by this subchapter, except the maximum forfeiture under this subsection may not exceed $1,000,000 for a related series of violations occurring within one year of the first violation.

(b) Any individual or a director, officer or agent of a corporation who knowingly and willfully violates this subchapter in a manner which threatens the health or safety of a purchaser may be fined not more than $10,000 or imprisoned for not more than 9 months or both.

(c) A person who violates s. 101.935, a rule promulgated under s. 101.935 or an order issued under s. 101.935 may be required to forfeit not less than $10 nor more than $250 for each violation. Each day of continued violation constitutes a separate violation.

101.95 Manufactured home manufacturers regulated.

The department shall by rule prescribe the manner by which a manufacturer shall be licensed for the manufacture, distribution or selling of manufactured homes in this state, including fees for the licensing of manufacturers.

History: 1973 c. 116; 1977 c. 29; 1979 c. 221 ss. 552 to 556, 2203 (25); 1983 a. 27 ss. 1375r to 1375s, 2200 (25); 1989 a. 31; 1995 a. 27 ss. 9126 (19); 1997 a. 283; 1999 a. 9, 53; 2001 a. 109; 2005 a. 45; 2007 a. 20 ss. 9121 (6) (a).

101.951 Manufactured home dealers regulated. (1) No person may engage in the business of selling manufactured homes to a consumer or to the retail market in this state unless first licensed to do so by the department as provided in this section.

(2) (a) Application for a license or a renewal license shall be made to the department on forms prescribed and furnished by the department, accompanied by the license fee required under par. (bm).

(b) 1. The department shall, by rule, establish the license period under this section.

2. The department may promulgate rules establishing a uniform expiration date for all licenses issued under this section.

(bm) Fees for licensing of persons under this section shall be established by the department by rule under s. 101.19.

(3) The department shall issue a license only to a person whose character, fitness and financial ability, in the opinion of the department, are such as to justify the belief that the person can and will deal with and serve the buying public fairly and honestly, will maintain a permanent office and place of business in this state during the license year and will abide by all of the provisions of law and lawful orders of the department.

(5) A licensee shall conduct the licensed business continuously during the license year.

(6) The department may deny, suspend or revoke a license on any of the following grounds:

(a) Proof of unfitness.

(b) A material misstatement in the application for the license.

(c) Filing a materially false or fraudulent income or franchise tax return as certified by the department of revenue.

(d) Willful failure to comply with any provision of this section or any rule promulgated by the department under this section.

(e) Willfully defrauding any retail buyer to the buyer’s damage.

(f) Willful failure to perform any written agreement with any retail buyer.

(g) Failure or refusal to furnish and keep in force any bond required.

(h) Having made a fraudulent sale, transaction or repossession.

(i) Fraudulent misrepresentation, circumvention or concealment, through any subterfuge or device, of any of the material particulars or the nature thereof required hereunder to be stated or furnished to the retail buyer.

(j) Use of fraudulent devices, methods or practices in connection with compliance with the statutes with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods.

(k) Having indulged in any unconscionable practice relating to the business of selling manufactured homes to a consumer or to the retail market.

(m) Having sold a retail installment contract to a sales finance company, as defined in s. 218.0101 (34) (a), that is not licensed under ss. 218.0101 to 218.0163.

(n) Having violated any law relating to the sale, distribution or financing of manufactured homes.

(7) (a) The department of safety and professional services may, without notice, deny the application for a license within 60 days after receipt thereof by written notice to the applicant, stating the grounds for the denial. Within 30 days after such notice, the applicant may petition the department of administration to conduct a hearing to review the denial, and a hearing shall be scheduled with reasonable promptness. The division of hearings and appeals shall conduct the hearing. This paragraph does not apply to denials of applications for licenses under s. 101.02 (21).

(b) No license may be suspended or revoked except after a hearing thereon. The department of safety and professional services shall give the licensee at least 5 days’ notice of the time and place of the hearing. The order suspending or revoking such license shall not be effective until after 10 days’ written notice thereof to the licensee, after such hearing has been had; except that the department of safety and professional services, when in its opinion the best interest of the public or the trade demands it, may suspend a license upon not less than 24 hours’ notice of hearing and with not less than 24 hours’ notice of the suspension of the license. Matters involving suspensions and revocations brought before the department of safety and professional services shall be heard and decided upon by the department of administration. The division of hearings and appeals shall conduct the hearing. This paragraph does not apply to licenses that are suspended or revoked under s. 101.02 (21).

(c) The department of safety and professional services may inspect the pertinent books, records, letters and contracts of a licensee. The actual cost of each such examination shall be paid by such licensee so examined within 30 days after demand therefor by the department, and the department may maintain an action for the recovery of such costs in any court of competent jurisdiction.

(8) Any person who violates any provision of this section shall be fined not less than $25 nor more than $100 for each offense.

101.952 Manufactured home salespersons regulated. (1) No person may engage in the business of selling manufactured homes to a consumer or to the retail market in this state without a license therefor from the department. If a manufactured home dealer acts as a manufactured home salesperson the dealer shall secure a manufactured home salesperson’s license in addition to the license for engaging as a manufactured home dealer.

(2) (a) Applications for a manufactured home salesperson’s license and renewals thereof shall be made to the department on such forms as the department prescribes and furnishes and shall
be accompanied by the license fee required under par. (bm).

The application shall include the applicant’s social security number. In addition, the application shall require such pertinent information as the department requires.

(b) 1. The department shall, by rule, establish the license period under this section.

2. The department may promulgate rules establishing a uniform expiration date for all licenses issued under this section.

(bm) Fees for licensing of manufactured home salespersons shall be established by the department by rule under s. 101.19.

(3) Every licensee shall carry his or her license when engaged in his or her business and display the same upon request.

(5) The provision of s. 218.0116 relating to the denial, suspension and revocation of a motor vehicle salesperson’s license shall apply to the denial, suspension and revocation of a manufactured home salesperson’s license so far as applicable, except that such provision does not apply to the denial, suspension or revocation of a license under s. 101.02 (21) (b).

(6) The provisions of ss. 218.0116 (9) and 218.0152 shall apply to this section, manufactured home sales practices and the regulation of manufactured home salespersons, as far as applicable.


101.953 Warranty and disclosure. (1) A one−year warranty is required for every new manufactured home sold, or leased to another, by a manufactured home manufacturer, manufactured home dealer or manufactured home salesperson in this state, and for every new manufactured home sold by any person who induces a resident of the state to enter into the transaction by personal solicitation in this state or by mail or telephone solicitation directed to the particular consumer in this state. The warranty shall contain all of the following:

(a) A statement that the manufactured home meets those standards prescribed by law or administrative rule of the department of administration or of the department of safety and professional services that are in effect at the time of the manufacture of the manufactured home.

(b) A statement that the manufactured home is free from defects in material and workmanship and is reasonably fit for human habitation if it receives reasonable care and maintenance as defined by rule of the department.

(c) 1. A statement that the manufactured home manufacturer and manufactured home dealer shall take corrective action for defects that become evident within one year from the delivery date and as to which the manufactured home owner has given notice to the manufacturer or dealer not later than one year and 10 days after the delivery date and at the address set forth in the warranty; and that the manufactured home manufacturer and manufactured home dealer shall make the appropriate adjustments and repairs, within 30 days after notification of the defect, at the site of the manufactured home without charge to the manufactured home owner. If the manufactured home dealer makes the adjustment, the manufactured home manufacturer shall fully reimburse the dealer.

2. If a repair, replacement, substitution or alteration is made under the warranty and it is discovered, before or after expiration of the warranty period, a statement that the repair, replacement, substitution or alteration has not restored the manufactured home to the condition in which it was warranted except for reasonable wear and tear, such failure shall be considered a violation of the warranty and the manufactured home shall be restored to the condition in which it was warranted to be at the time of the sale except for reasonable wear and tear, at no cost to the purchaser or the purchaser’s assignee notwithstanding that the additional repair may occur after the expiration of the warranty period.

(d) A statement that if during any period of time after notification of a defect the manufactured home is uninhabitable, as defined by rule of the department, that period of time shall not be considered part of the one−year warranty period.

(e) A list of all parts and equipment not covered by the warranty.

(2) Action by a lessee to enforce the lessee’s rights under this subchapter shall not be grounds for termination of the rental agreement.

(3) The warranty required under this section shall apply to the manufacturer of the manufactured home as well as to the manufactured home dealer who sells or leases the manufactured home to the consumer, and shall be in addition to any other rights and privileges that the consumer may have under any instrument or law. The waiver of any remedies under any law and the waiver, exclusion, modification or limitation of any warranty, express or implied, including the implied warranty of merchantability and fitness for a particular purpose, is expressly prohibited. Any such waiver is void.

(4) The transfer of a manufactured home from one manufactured home owner to another during the effective period of the warranty does not terminate the warranty, and subsequent manufactured home owners shall be entitled to the full protection of the warranty for the duration of the warranty period as if the original manufactured home owner had not transferred the manufactured home.

History: 1999 a. 9, 53, 185; 2011 a. 32.

101.954 Sale or lease of used manufactured homes. In the sale or lease of any used manufactured home, the sales invoice or lease agreement shall contain the point of manufacture of the used manufactured home, the name of the manufacturer and the name and address of the previous owner of the manufactured home.

History: 1999 a. 9, 53.

101.955 Jurisdiction and venue over out−of−state manufacturers. (1) The importation of a manufactured home for sale in this state by an out−of−state manufacturer is considered an irrevocable appointment by that manufacturer of the department of financial institutions to be that manufacturer’s true and lawful attorney upon whom may be served all legal processes in any action or proceeding against such manufacturer arising out of the importation of such manufactured home into this state.

(2) The department of financial institutions upon whom processes and notices may be served under this section shall, upon being served with such process or notice, mail a copy by registered mail to the out−of−state manufacturer at the nonresident address given in the papers so served. The original shall be returned with proper certificate of service attached for filing in court as proof of service. The service fee shall be $4 for each defendant so served. The department of financial institutions shall keep a record of all such processes and notices, which record shall show the day and hour of service.

History: 1999 a. 9, 53.

101.957 Nonjudicial resolution of manufactured housing industry disputes. The department, by rule, shall establish an alternative dispute resolution program for the timely resolution of any dispute that concerns a defect in a manufactured home, or in the installation of a manufactured home, reported to the department within one year of the date on which the manufactured home was installed and that occurs between parties, each of which is a manufacturer of manufactured homes, manufactured home salesperson, manufactured home dealer, or installer. The rules may require the parties to submit to an alternative dispute resolution program before bringing an action in another forum. This section does not affect the rights of any consumer to commence an action or the rights of any person to commence an action against a consumer.

History: 2005 a. 45.
101.96 Manufactured home installation regulated. 
(1) INSTALLATION STANDARDS. (a) Promulgation of standards. The department shall, by rule, establish installation standards for the safe installation of manufactured homes in this state. In promulgating rules under this paragraph, the department shall consider the recommendations of the manufactured housing code council under s. 101.933.

(b) Enforcement of standards. The department shall, by rule, establish a method for ensuring compliance with the rules promulgated under par. (a). The department shall require inspections of manufactured home installations by 3rd-party inspectors licensed by the department. The department shall, by rule, establish criteria for the licensure of 3rd-party inspectors that include a requirement that an individual may not serve as a 3rd-party inspector if the individual is, is employed by, or is an independent contractor of any of the following:
1. A manufactured home manufacturer who was directly involved in the sale of the particular manufactured home.
2. A manufactured home salesperson who was directly involved in the sale of the particular manufactured home.
3. An installer who was directly involved in the sale of the particular manufactured home.

(2) MANUFACTURED HOME INSTALLERS. (a) License required; exceptions; liability. Except as otherwise provided in this paragraph, beginning on January 1, 2007, no person may act as an installer in this state unless the person is a licensed installer or employs one or more licensed installers to generally supervise each of the person’s installations of manufactured homes in this state. This requirement does not apply to an individual who installs a manufactured home on his or her own property for his or her personal use or to an individual who installs a manufactured home under the general supervision of a licensed installer. A licensed installer is liable for all acts and omissions related to the installation of each individual who performs an installation under the licensed installer’s general supervision.

(b) License eligibility. The department may issue an installer’s license only to an individual to whom all of the following apply:
1. The individual is at least 18 years old.
2. The individual files with the department a license application on a form prescribed by the department.
3. The individual complies, to the satisfaction of the department, an examination approved by the department that tests the skills necessary to properly install manufactured homes and knowledge of the laws applicable to manufactured home installation.
4. The individual has not been found responsible in any judicial or administrative forum for any violation of this section during the 2 years before the date on which the individual’s license application is submitted.
5. The individual has not been found responsible in any judicial or administrative forum during the 2 years before the date on which the individual’s license application is submitted for any failure to perform an installation of a manufactured home as required under contract or for defrauding any person with regard to the provision of installation services.
6. The individual meets the standards of financial responsibility established by rule of the department.

(b) Examination waiver. The department shall, by rule, establish a procedure under which it may waive the examination requirement under par. (b) 3. for individuals that demonstrate sufficient experience installing manufactured homes including active participation in the installation of at least 10 manufactured homes. This paragraph does not apply after June 1, 2007.

(c) License term and fee. The department, by rule shall establish the term of installers’ licenses and the conditions under which the department may revoke or suspend installers’ licenses. The department shall establish an initial installer’s license fee and license renewal fee by rule under s. 101.19.

101.965 Penalties. (1) Any person who violates ss. 101.953 to 101.955, or any rule promulgated under ss. 101.953 to 101.955, may be fined not more than $1,000 or imprisoned for not more than 6 months or both.

(1P) Any person who violates s. 101.96 or any rule promulgated under that section may be required to forfeit not less than $25 nor more than $500 for each violation. Each day of continued violation constitutes a separate violation.

(1T) Upon request of the department, the attorney general may commence an action in a court of competent jurisdiction to enjoin any installer from installing a manufactured home in violation of s. 101.96 (2).

(2) In any court action brought by the department for violations of this subchapter, the department may recover all costs of testing and investigation, in addition to costs otherwise recoverable, if it prevails in the action.

(3) Nothing in this subchapter prohibits the bringing of a civil action against a manufactured home manufacturer, manufactured home dealer or manufactured home salesperson by an aggrieved consumer. If judgment is rendered for the consumer based on an act or omission by the manufactured home manufacturer, manufactured home dealer or manufactured home salesperson, that constituted a violation of this subchapter, the plaintiff shall recover actual and proper attorney fees in addition to costs otherwise recoverable.

History: 1999 a. 9, 53, 185; 2005 a. 45.

SUBCHAPTER VI
MULTIFAMILY DWELLING CODE

101.971 Definitions. In this subchapter:
(1) “Dwelling unit” has the meaning given in s. 101.61 (1).
(2) “Multifamily dwelling” means an apartment building, rowhouse, town house, condominium, or modular home, as defined in s. 101.71 (6), that does not exceed 50 feet in height or 6 stories and that consists of 3 or more attached dwelling units the initial construction of which is begun on or after January 1, 1993. “Multifamily dwelling” does not include a facility licensed under ch. 50.

(3) “Owner” means a person having a legal or equitable interest in a multifamily dwelling.

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

History: 1991 a. 269; 2007 a. 11.
Cross-reference: See also chs. SPS 360, 361, 362, 363, 364, and 365, Wis. adm. code.

101.973 Department duties. The department shall:
(1) Promulgate rules that establish standards for the construction of multifamily dwellings and their components.
(2) Biennially review the rules promulgated under this subchapter.

(3) Issue any special order that it considers necessary to secure compliance with this subchapter.
(4) Prescribe and furnish to political subdivisions a standard building permit format for all multifamily dwellings subject to this subchapter.

(5) Collect and publish the data secured from the building permits.

(6) Hear under s. 101.02 (6) (e) to (i) and (8) petitions regarding the rules promulgated and special orders issued under this subchapter.
(7) Establish by rule a schedule of fees sufficient to defray the costs incurred by the department under this subchapter.

(8) Deposit the moneys received from the fees under sub. (7) in the appropriation under s. 20.165 (2) (j).

(9) Incorporate by reference in the rules promulgated under this subchapter all rules promulgated under subch. I that apply to multifamily dwellings.

(10) Establish a program of quality control training for all inspectors who inspect multifamily dwellings for compliance with this subchapter.


101.974 Department powers. The department may:

(1) Hold hearings on any matter relating to this subchapter and issue subpoenas to compel the attendance of witnesses and the production of evidence at such hearings.

(2) Promulgate the rules under this subchapter.

(3) Provide for or engage in the testing, approval and certification of materials, methods and equipment of construction.

(4) Promulgate rules prescribing procedures for approving new building materials, methods and equipment.

(5) Study the administration of the rules promulgated under this subchapter and other laws related to the construction of multifamily dwelling units to determine their impact on the cost of building construction and their effectiveness in ensuring the health, safety and welfare of the occupants.

History: 1991 a. 269; 2015 a. 35.

Cross-reference: See also chs. SPS 360, 361, 362, 363, 364, and 365, Wis. adm. code.

101.975 Local government authority. (1) A political subdivision may regulate the construction and installation of windows and doors in multifamily dwellings if the regulation is related to preventing illegal entry.

(2) A political subdivision shall use the standard building permit format prescribed and furnished by the department under s. 101.973 (4) and file a copy of each permit issued with the department.


101.976 Fire chief and inspector powers and duties. This subchapter does not restrict the duties and powers of fire chiefs or inspectors under s. 101.14 (2).

History: 1991 a. 269.

101.977 Compliance. (1) Except as provided in sub. (2), a person who constructs a multifamily dwelling shall use building materials, methods, and equipment that are in conformance with the standards prescribed under s. 101.973 (1).

(2) (a) No person may use in a multifamily dwelling load-bearing dimension lumber that has not been tested and approved for conformance as required by the department unless the lumber is approved for use as provided under par. (c) and if one of the following applies:

1. The lumber has been milled at the request of the person owning the lumber for use in the construction of the multifamily dwelling, a dwelling unit of which will be inhabited by that person.

2. The person milling the lumber sells the lumber directly to a person who will inhabit the dwelling unit in the multifamily dwelling, or to a person acting on his or her behalf and for whom a building permit has been issued for the multifamily dwelling.

(b) The lumber shall be milled so that it meets or exceeds the requirements of the standards prescribed in s. 101.973. The person milling the lumber shall provide to the person receiving the lumber a written certification that the lumber meets or exceeds these requirements. The department shall design and provide forms for this purpose.

(bn) A person may not provide a written certification under par. (b) unless the person has been issued a certificate of accomplishment evidencing certification or recertification under the lumber grading training program under s. 36.25 (48) and the person has received the certificate within the 5 years before providing the written certification. The person shall attach to the written certification a copy of his or her certificate of accomplishment.

(c) Upon receipt of a copy of the certification required under par. (b), an inspector who inspects multifamily dwellings for compliance with this subchapter may either authorize the use of the lumber, reject the use of the lumber, or authorize its use subject to more restrictive construction requirements, including requirements as to size, spacing, length of spans, and design.


101.978 Penalties. Any person who violates this subchapter or any rules promulgated under this subchapter shall forfeit not less than $25 nor more than $500 for each offense. Each day of continued violation constitutes a separate offense.

History: 1991 a. 269.

SUBCHAPTER VII

ELEVATORS, ESCALATORS, AND OTHER CONVEYANCES

101.981 Definitions; modification by rule. (1) Except as provided in sub. (2), in this subchapter:

(a) “Amusement or thrill ride” has the meaning given s. 101.19 (1b) (b).

(b) “Belt manlift” means a power–driven, looped belt equipped with steps or platforms and a hand hold for the transportation of people from one floor of a building or structure to another.

(c) “Conveyance” means an elevator, an escalator, a dumbwaiter, a belt manlift, a moving walkway, a platform lift, and a stairway chair lift, and any other similar device, such as an automated people mover, used to elevate or move people or things, as provided in the rules of the department. “Conveyance” does not include a personnel hoist; a material hoist; a grain elevator; a lift as defined in s. 167.33 (1) (f); an amusement or thrill ride; or a vertical platform lift, inclined platform lift, or a stairway chair lift that serves an individual residential dwelling unit.

(d) “Dumbwaiter” means a hoisting and lowering mechanism that satisfies all of the following conditions:

1. Is equipped with a compartment that moves in guides in a substantially vertical direction and has a floor area of not more than 9 square feet.

2. Has a maximum lifting and lowering capacity of not more than 500 pounds.

3. Is used exclusively for carrying materials

(e) “Elevator” means a hoisting or lowering machine, other than a dumbwaiter, equipped with a compartment or platform that moves in guides and serves 2 or more floors or landings of a building or structure.

(f) “Escalator” means a power–driven, moving stairway used for raising and lowering people.

(g) “Material hoist” means a hoist, other than a personnel hoist, that is used to raise or lower materials during construction, alteration, or demolition of a building or structure.

(h) “Personnel hoist” means a hoist that is installed inside or outside a building or structure during the construction, alteration, or demolition of the building or structure and that is used to raise and lower workers, other personnel, and materials which the hoist is designed to carry.

(2) The department shall promulgate rules establishing additional definitions to the extent the department deems necessary for the proper administration and enforcement of this subchapter. The department, by rule, may modify definitions established under sub. (1). To the extent practicable, the department shall ensure that any definitions or modifications promulgated under...
this subsection are consistent with national, industry-wide safety standards governing matters regulated by this subchapter.

**History:** 2005 a. 456; 2011 a. 32, 199, 209.

### 101.982 Conveyance safety code.

The department shall promulgate rules establishing standards for the safe installation and operation of conveyances. In promulgating rules under this section the department shall consider the recommendations of the conveyance safety code council under s. 101.986. The rules shall be consistent, to the extent practicable, with national, industry-wide safety standards applicable to conveyances. The rules shall require any testing of conveyances or related equipment required under the rules to be performed by an elevator mechanic licensed under s. 101.985 (2). The rules shall require any person who installs a new conveyance to give the owner of the building in which the conveyance is installed, before the conveyance is placed in operation, a written certification indicating that the installation complies with the rules promulgated under this section. The rules shall include an enforcement procedure and a procedure pursuant to which the department may grant a variance from the rules if the variance would not jeopardize public safety.

**History:** 2005 a. 456.

### 101.983 Approvals and permits for conveyances required.

**1. Construction, Installation, and Alteration.**

(a) Approval required. No person may construct, install, or alter a conveyance in this state unless an elevator contractor licensed by the department under s. 101.985 (1) has received an approval for the construction, installation, or alteration from the department.

(b) Application. A person applying for an approval under par. (a) shall include, along with the application, copies of specifications and accurately scaled and fully dimensioned plans showing the location of the construction, installation, or alteration in relation to the plans and elevation of the building; the location of the applicable machinery room, if any, and the equipment to be constructed, installed, or altered; and all structural supporting members relevant to the construction, installation, or alteration, including foundations. The specifications and plans shall be sufficiently complete to illustrate all details of design and construction, installation, or alteration. The application shall specify all materials to be used and all loads to be supported or conveyed. The department may authorize a person to include the application and other information required under this paragraph with any submission required under s. 101.12 (1) to avoid duplicative filing of information.

(c) Revocation. The department may revoke an approval issued under this subsection if the department finds any of the following:

1. That information submitted under par. (b) by the person obtaining the approval contains false statements or misrepresentations of material fact.

2. That the approval was issued in error.

3. That the work performed under the approval is not consistent with information submitted under par. (b) by the person obtaining the approval or is in violation of this subchapter or rules promulgated under this subchapter.

(d) Expiration. An approval issued under this subsection expires under any of the following circumstances:

1. If the work authorized under the approval is not commenced within 6 months after the date on which the approval is issued, or within a shorter period of time as specified by the department at the time the approval is issued.

2. If the work authorized under the approval is suspended or abandoned for 60 consecutive days at any time following the commencement of the work, or for a shorter period of time as specified by the department at the time the approval is issued.

(e) Operating permit required. No person may allow a conveyance to be operated on property owned by the person unless the person has received a permit under this subsection from the department that authorizes its operation.

(b) Application. For a newly installed conveyance, the elevator contractor that contracted to perform the installation shall apply for the initial permit required under par. (a) on behalf of the owner of the building in which the conveyance is located. Applications for renewal of the permit shall be made by the owner.

(c) Inspections. The department may not issue or renew a permit for a conveyance under this subsection unless the department or an independent inspector has conducted an inspection of the conveyance and has prepared an inspection report certifying that the conveyance complies with this subchapter and any applicable rules promulgated under this subchapter. Any inspection under this subchapter or sub. (3) shall be performed by an inspector who is licensed under s. 101.985 (3).

(cm) Instruction on operation. When issuing or renewing a permit under this subsection, the department shall give the owner notice of relevant conveyance safety requirements and shall instruct the owner as to the procedure for obtaining periodic inspections and renewing the permit under which the conveyance is operated.

(d) Term and posting requirements. A permit issued under this subsection has a term of one year. The owner of the building or residence in which a conveyance is located shall display the permit under par. (a) applicable to the conveyance on or in the conveyance or, if applicable, in the machinery room.

(e) Exemption. This subsection does not apply to elevators or dumbwaiters that serve individual residential dwelling units.

(3) INSPECTIONS; INDIVIDUAL RESIDENTIAL DWELLING UNITS. If the owner and a prospective buyer of an individual residential dwelling unit that is served by a dumbwaiter or an elevator enter into a contract of sale for the unit that includes a provision requiring that the dumbwaiter or elevator be inspected, the inspection shall be performed by an elevator inspector licensed under s. 101.985 (3).

### 101.984 Licenses and supervision required.

**1. Elevator contractor.** No person may engage in the business of constructing, installing, altering, servicing, replacing, or maintaining conveyances in this state unless the person is licensed as an elevator contractor under s. 101.985 (1).

**2. Elevator mechanic.** (a) Generally. Except as provided in par. (c), no individual may erect, construct, alter, replace, maintain, repair, remove, or dismantle any conveyance in this state unless the individual is licensed as an elevator mechanic under s. 101.985 (2) or is under the direct supervision of a person licensed as an elevator contractor under s. 101.985 (1).

(b) Electrical construction. Except as provided in par. (c), no individual may wire any conveyance in this state from the main-line feeder terminals on the controller unless the individual is licensed as an elevator mechanic under s. 101.985 (2) or is under the direct supervision of a person licensed as an elevator contractor under s. 101.985 (1).

(c) Exceptions. 1. Paragraph (a) does not apply to an individual who removes or dismantles a conveyance that is destroyed as a result of a complete demolition of a building or where the hoistway or wellway is demolished back to the basic support structure such that the hoistway or wellway is inaccessible.
2. Paragraphs (a) and (b) do not apply to any of the following:
   a. An individual who is enrolled in and performing tasks that are
      within the scope of an elevator mechanic’s apprenticeship pro-
      gram that is approved by the U.S. department of labor or by the
      department of workforce development.
   b. An individual performing tasks under the direct supervi-
      sion of and as a helper to an individual licensed as an elevator
      mechanic under s. 101.985 (2).
   c. An individual who performs work described under par. (a)
      or (b) during the 5-day period preceding the date on which
      the individual is issued an emergency elevator mechanic’s license
      under s. 101.985 (2) (c).

3. ELEVATOR INSPECTOR. No individual may perform an
inspection of a conveyance in this state unless the individual is
licensed as an elevator inspector under s. 101.985 (3).

101.985 Licensing qualifications and procedure.

1. ELEVATOR CONTRACTOR. Except as otherwise provided in this
subsection, the department shall issue an elevator contractor’s license
to each person who demonstrates to the satisfaction of the
department that the person is adequately qualified and able to
engage in business as an elevator contractor. The department may
summarily issue an elevator contractor’s license to a person who is
licensed as an elevator contractor under the laws of another
state, if, in the opinion of the department, that state’s regulation of
elevator contractors is substantially the same as this state’s. Every
person who applies for a license under this subsection shall pro-
vide the department with a certificate of insurance issued by one
or more insurers authorized to do business in this state, indicating
that the person is insured in the amount of at least $1,000,000 per
occurrence because of bodily injury to or death of others, is
insured in the amount of at least $500,000 per occurrence because
of damage to the property of others, and is insured to the extent
required under ch. 102. A person who is issued a license under this
subsection shall notify the department in writing of any material
change in these insurance coverages at least 10 days before the
change takes effect.

2. ELEVATOR MECHANICS’ LICENSES. (a) Issuance. The
department shall issue an elevator mechanic’s license to each indi-
vidual who meets the requirements in either par. (ab) or (ad).

   (ab) Requirements; apprenticeship and journeyman level. An
individual is eligible for an elevator mechanic’s license if he or she
satisfactorily completes an elevator mechanic’s apprenticeship
program that is approved by the U.S. department of labor or by the
department of workforce development or if he or she satisfies all
of the following requirements:
   1. During the 3 years preceding the date of application, he or
she was continuously employed in a position requiring the indi-
vidual to perform work that is at a journeyman level and that is rel-
   evant to the erection, construction, alteration, replacement,
   maintenance, repair, or servicing of conveyances, as verified by
   the individual’s employers.
   2. He or she satisfactorily completes a written examination
administered by the department covering the provisions of this
subchapter, and rules promulgated under this subchapter, that are
relevant to the license applied for or satisfactorily completes an
elevator mechanic’s examination approved by the department and
administered by a nationally recognized training program estab-
lished by the elevator industry.

   (ad) Requirements; training program. 1. An individual is eli-
geeligible for an elevator mechanic’s license if he or she satisfies all of
the following requirements:
   a. He or she verifies to the department that he or she has been
certified as having successfully completed a 4-year program
established by the National Elevator Industry Educational Pro-
gram or an equivalent nationally recognized 4-year training pro-
gram that is approved by the department.

   2. In order to meet the requirement under subd. 1. b. for an
elevator mechanic’s license, an individual applying for a license
shall satisfy one of the following requirements:
   a. He or she verifies to the department that, during the 5 years
   immediately preceding the date of the license application, he or
she was employed for at least 1,000 hours in each of the 5 years
performing work described under s. 101.984 (2) (a) or (b).
   b. He or she verifies to the department that he or she has con-
tinuous experience in the elevator industry for at least 5 years
   immediately preceding the date of the license application in a
capacity, other than in the capacity of performing work described
under s. 101.984 (2) (a) or (b), that has allowed him or her to
remain familiar with elevator equipment, technology, and indus-
try practices. This experience may include performing manage-
ment activities for a company that engages in the sale, installa-
   tion, repair, or maintenance of conveyances, being involved in elevator
industry labor relations, or supervising elevator mechanics.
   c. He or she verifies to the department that he or she, during
any 5 years preceding the date of the license application, was
employed for at least 1,000 hours in each of those 5 years perform-
ing work that is relevant to the erection, construction, alter-
   tation, replacement, maintenance, repair, or servicing of convey-
ances and that this work included work described under s.
101.984 (2) (a) or (b). If the 5 years were not the 5 years im-
mediately preceding the date of application, the applicant shall verify that this
is due to the applicant’s work being disrupted by high unemploy-
ment in the elevator industry, military service, illness, disability,
or another factor beyond the applicant’s control in order to meet
the requirement under this subd. 2. c.

   (am) Requirements for individuals with prior experience. The
department shall promulgate rules that establish requirements for
issuing an elevator mechanic’s license to an individual who has
performed work described under s. 101.984 (2) (a) or (b) within
the scope of his or her employment before June 1, 2007, but who
does not satisfy the requirements under par. (ab) or (ad) to be
issued a license. The rules may contain a deadline before which
an individual must apply for a license issued under this paragraph.

   (b) Licensing out-of-state mechanics. The requirements
under pars. (ab) and (ad) do not apply to an individual who is
licensed as an elevator mechanic under the laws of another state,
if, in the opinion of the department, that state’s regulation of eleva-
tor mechanics is substantially the same as this state’s. The depart-
ment may summarily issue an elevator mechanic’s license to such an
individual.

   (c) Emergency licensing. If the governor declares that a state
of emergency exists in this state under s. 323.10 and the depart-
ment determines that the number of individuals in the state who
hold an elevator mechanic’s license issued by the department
under this section on the date of the declaration is insufficient to
cope with the emergency, the department shall summarily issue an
emergency elevator mechanic’s license to any individual who is
certified by an elevator contractor licensed under this subchapter
as adequately qualified and able to perform the work of an elevator
mechanic without direct and immediate supervision, who the
department determines is so qualified and able, and who applies
for an emergency elevator mechanic’s license on a form pre-
scribed by the department. An individual certified by a contractor
under this paragraph may perform work as an elevator mechanic
for up to a total of 5 days preceding the date the individual is issued
the license. An emergency elevator mechanic’s license has a term
of 30 days and may be renewed by the department in the case of a
continuing emergency. The department shall specify on an
emergency elevator mechanic’s license the geographic area in
which the licensee may provide services under the license. The
requirements under pars. (ab) and (ad) do not apply to an indi-
vidual who applies for an emergency elevator mechanic’s license.
(d) Temporary licensing. If there are no elevator mechanics licensed under this subchapter available to provide services contracted for by an elevator contractor licensed under this subchapter, the elevator contractor may notify the department and request the issuance of a temporary elevator mechanic’s license to any individual who is certified by the elevator contractor as adequately qualified and able to perform the work of an elevator mechanic without direct and immediate supervision and who applies for a temporary elevator mechanic’s license on a form prescribed by the department. A temporary elevator mechanic’s license has a term of 30 days and may be renewed by the department in the case of a continuing shortage of licensed elevator mechanics. The department shall specify on a temporary elevator mechanic’s license the elevator contractor in whose employ the licensee must remain to provide services under the temporary elevator mechanic’s license. The requirements under pars. (ab) and (ad) do not apply to an individual who applies for a temporary elevator mechanic’s license.

(3) ELEVATOR INSPECTOR. The department shall issue an elevator inspector license to each individual who demonstrates to the satisfaction of the department that the individual is adequately qualified and able to provide inspection services of conveyances as required under s. 101.983 (2). The department shall promulgate rules that establish the qualifications required for issuance of an elevator inspector license.

(4) CRIMINAL BACKGROUND CHECK. Upon receipt of an application for a license under sub. (1), (2) (ab) or (ad), or (3), the department, with the assistance of the department of justice, shall conduct a background investigation of the applicant to determine if the information provided by the applicant under sub. (7) (a) is true and if the applicant has any arrests or convictions tending to indicate that the applicant is not adequately qualified and able to provide services authorized under the license applied for.

(5) ISSUANCE, TERM, RENEWAL, AND CONTINUING EDUCATION.

(a) Issuance and term. Except as provided under s. 101.02 (20) (b) and (21) (b), the department shall issue a license to any applicant who satisfies the applicable requirements of subs. (1) to (3) and any rules promulgated under subs. (1) to (3) and who pays any applicable fee required by rule of the department under s. 101.19 (1g) (k). Except as provided under sub. (2) (c) and (d), the term of each license is 2 years.

(b) Renewal and continuing education. 1. An applicant for renewal of a license under sub. (2) (ab), (ad), or (b), or (3) shall provide to the department a certificate indicating that, during the term of the license, the applicant has satisfactorily met the education requirements established by rule under subd. 2.

2. The department shall promulgate rules that establish the education requirements for purposes of subd. 1. The rules shall include all of the following:
   a. Standards for certification of specific programs.
   b. The number of hours of education required.
   c. Criteria for receiving a waiver from the department of the education requirements.

(6) REVOCATION AND SUSPENSION. The department may revoke or suspend a license issued under subs. (1) to (3) if the department finds any of the following:

(a) That the licensee made a false statement of material fact in an application submitted to the department.

(b) That the license was obtained by fraud, misrepresentation, or bribery.

(c) That the licensee failed to notify the department and the owner or lessee of a conveyance that the conveyance failed to meet any of the requirements of this subchapter or of the rules promulgated under this subchapter.

(d) That the licensee violated this subchapter or any rule promulgated under this subchapter.

(7) APPLICATION. (a) Each application for a license under subs. (1), (2) (ab) or (ad), or (3) shall be made on a form prescribed by the department, and each application shall contain at least the following information:

1. If the applicant is an individual, the applicant’s name and residential address.

2. If the applicant is a sole proprietorship, the applicant’s name and residential and business addresses.

3. If the applicant is a partnership, the name and business address of the partnership and the names and residential addresses of each partner.

4. If the applicant is a corporation, the name and principal business address of the corporation and the name and address of the corporation’s registered agent for service of process.

5. If the applicant is a limited liability company, the name and principal business address of the limited liability company and the name and address of the limited liability company’s registered agent for service of process.

6. The number of years the applicant has performed work or engaged in the business to be authorized under the license.

7. If the applicant is for an elevator contractor’s license, the approximate number of individuals, if any, the applicant will employ upon licensure.

8. If the application is for an elevator contractor’s license, a certification that all work described in s. 101.984 (2) (a) and (b) that the person will contract to perform under the license will be performed by elevator mechanics licensed under sub. (2).

9. Satisfactory evidence that the applicant is or, upon licensure, will be insured to the extent required under sub. (1) or (3).

10. A description of each of the applicant’s criminal arrests and convictions, if any.

(b) Each application for a license under sub. (2) (am) shall be made on a form prescribed by the department, and each application shall contain the relevant information necessary to issue the license, as determined by the department.


101.986 Conveyance safety code council duties. The conveyance safety code council shall review this subchapter and rules promulgated under this subchapter and recommend a statewide conveyance safety code for promulgation by the department. The council shall consider and make recommendations to the department pertaining to rules for the enforcement of this subchapter, the granting of variances, administrative appeal procedures, fees, and any other matter under this subchapter.


101.988 Enforcement and penalties. (1) INVESTIGATIONS. (a) Initiated by department. The department may perform investigations to aid in the enforcement of this subchapter and rules promulgated under this subchapter.

(b) Initiated by public. Any person may file a written notice with the department, requesting the department to investigate an alleged violation of this subchapter or rules promulgated under this subchapter or a dangerous condition involving a conveyance. The notice shall set forth the specific grounds for the request and shall be signed by the person filing the notice. Upon request of the person filing the notice, the department shall keep the person’s name confidential and shall withhold the name from public inspection under s. 19.35 (1), except that the department may disclose the name to a law enforcement officer for official purposes. If the department determines that there are reasonable grounds to believe that the alleged violation or dangerous condition exists, the department shall investigate to determine if the alleged violation or dangerous condition exists. If the department determines that there are no such reasonable grounds, the department shall notify the person filing the notice.

(2) ORDERS OF THE DEPARTMENT. The department may issue orders to enforce this subchapter and rules promulgated under this subchapter.
(3) Penalties. Any person who violates this subchapter or rules promulgated under this subchapter may be fined not more than $1,500 or imprisoned for not more than 30 days or both, except that, notwithstanding s. 939.61 (1), the owner of a private residence in which a conveyance is located may not be fined or required to pay a forfeiture to this state as a result of any violation involving that conveyance.